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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 10192/2016

NAYANIKA CHUGH

..... Petitioner

Through: Ms.Kajal Chandra, Ms.Swati Sinha,
Advs. along with petitioner in person.

versus

UNIVERSITY OF DELHI & ANR

..... Respondents

Through: Mr.Mayank Yadav, Adv. for R-1
Mr.Amit Bansal, Ms.Seema Dolo, Ms.Surbhi
Mehta, Advs. for R-2

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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22.12.2016

CM 47659/2016

This is an application filed by the petitioner under section 151 CPC for early hearing of the writ petition.

For the reasons stated in the application, with the consent of the learned counsel for the respondents, the hearing of the writ petition is expedited and the matter is taken up today itself. The application is allowed.

W.P.(C) 10192/2016

1. The present petition has been filed by the petitioner with the following prayers:

(a) *Allow the writ petition;*

- (b) *Quash the Transcript dated 17.08.2016 and declare petitioner as 'passed';*
- (c) *The petitioner be promoted as a regular student to IInd year B.Com (H);*
- (d) *Allow her to attend the classes and be permitted to appear for examination of Ist Semester along with the IIIrd Semester as a regular student.*
- (e) *Such other further order (s) be passed as this Hon'ble Court may deem fit and proper.*

2. Some of the relevant facts necessary for deciding the petition are that the petitioner was admitted to three years Bachelor of Commerce Undergraduate Course in 2015 as a foreign student. She could not appear in the Ist Semester Exams held in the month of November, 2015 due to medical condition. However, she was promoted to the IInd Semester. It is her case that she was informed that she can appear in Ist Semester Papers along with IIIrd Semester Exam. She appeared in the IInd Semester Exam in April-May, 2016. In the meantime, classes for the IIIrd Semester (2nd Year) had already started and the petitioner started attending the same. The result of the IInd Semester exam was declared in August 17, 2016 and she had cleared 3 out of 4 papers and obtained 4.45 SGPA which according to her is over 40% of the aggregate and was covered under Ordinance IX dated 14th July, 2015. However, she was declared failed in the Ist Semester.

3. It is the submission of the learned counsel for the petitioner that the

petitioner having secured more than 40% marks in the IInd Semester exam, she should have been promoted to the IIIrd Semester (2nd Year). She also states that she has appeared in the two papers of the Ist Semester in the month of December, 2016 and the marks as would be obtained by her, should also be considered for computing the 40% for promoting the petitioner to the IIIrd Semester (2nd Year).

4. On the other hand, Mr. Mayank Yadav, learned counsel appearing for the respondent no.1 would submit that the petitioner has secured CGPA of 2.23%. This he says by drawing my attention to running page 52 to state that as per the provisions of the Ordinance, the cumulative of the marks in all the eight papers (of the Ist Semester and IInd Semester) should be 40% which the petitioner has not secured. He would draw my attention to page 20 of the petition, Ordinance 12 (1) (b) in support of his contention. Noting the Ordinance referred by Mr. Yadav, which I reproduce as under, it is clear that a student must have 40% by taking together all the papers in theory and practical examination separately conducted in Ist and IInd Semester.

“12 (1)

(a) xxxxxxxxxxxx

(b) A student who has obtained 40% on the aggregate taking together all the papers in theory examination (including internal assessment / project work) and practical examination separately in Ist and IInd Semester shall be promoted to the second academic year / IIIrd Semester.

(c) xxxxxxxxxxxx”

5. Admittedly, the petitioner does not have 40% aggregate, the CGPA being 2.23% does not translate to 40% aggregate. Noting the position of the Ordinance, this submission of the learned counsel for the petitioner needs to be rejected.

6. In so far as the submission of the learned counsel for the petitioner that the marks to be obtained by the petitioner in two papers of the Ist Semester in the exam written by her in December, 2016, be also taken into consideration for computing the aggregate of 40% is also not appealing for the reason that the exam was held in the month of December, 2016 and the said marks cannot be considered for the admission in the IIIrd Semester (2nd Year) retrospectively w.e.f. July, 2016. This submission is also rejected.

7. In view of my discussion above, the petitioner is not entitled to the relief as prayed for. Suffice to state that the transcript issued in the name of the petitioner cannot be faulted as the same is in accordance with the

Ordinance, which I have reflected above.

The petition is dismissed. The date of 11th January, 2017 stands cancelled.

CM. NO. 40254/2016 (for interim direction

Dismissed as infructuous.

V. KAMESWAR RAO, J

DECEMBER 22, 2016

jg