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

% Judgment delivered on: 02.12.2016

+ W.P.(C) 11289/2016 & CM No. 44188/2016

GURSHEEN AHUJA & ORS Petitioners

versus

GURU GOBIND SINGH INDRAPRASTHA
UNIVERSITY & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Manish Raghav, Adv.

For the Respondent : Mr. Vaibhav Kalra and Mr. Jasbir Bidhuri, Advocates for R-1 to 3
Mr. Saket Sikri, Ms. Shiva Tokas, Mr. Ajay Pal and Ms. Adwaita
Sharma, Advocates for R-4
Ms. Shraddha Bhargava, Adv. for R-5

**CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA**

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioners seek a mandamus against the respondents to allow the petitioners to take the third semester examinations scheduled in November and December, 2016. The petitioners had taken admission in their respective courses for the academic session 2015-16.

2. It is the contention of the petitioners that though the petitioner were admitted to the third semester, they are not being permitted to appear in the third semester examination which have commenced for some courses on 29.11.2016 and for other is commencing from 07.12.2016.

3. Learned counsel for the respondents submits that in terms of the Ordinance 11 of the University as amended and notified by notice dated 31.07.2015, all students who have been admitted for the academic session 2015-16 onwards have to satisfy the requirement stated therein, which inter-alia, requires a student to acquire at least 50% of the total credits of the ensuing academic year from which the promotion to next academic year is sought.

4. It is contended that admittedly none of the petitioners satisfy the requirement of at least 50%. It is further contended that the mere fact that the petitioners were granted provisional admission would have no consequence as the Ordinance has to be strictly applied. It is further submitted that normally the Institutes/Colleges grant admission awaiting the result of the qualifying examination.

5. It is contended that the result of some of the qualifying examinations was finalised as late as on 19.10.2016 and accordingly on 20.10.2016, the petitioners were put to notice that they have not been promoted. Learned counsel appearing for the respondents further submit that in October 2016, the petitioners were required to fill up the examination form for the examinations which were to commence in November and December, 2016. The petitioners were only permitted to fill up the examination form as "first semester re-appear candidates" and not as a "regular candidates" for the third semester.

6. It is contended that the examination form was filled up as far back as on 19.10.2016 and the petitioners were informed that they would not be permitted to appear for the third semester.

7. He further submits that the admit cards have already been issued to the petitioners who filled up the forms, as re-appear candidates for the first semester.

8. The Ordinance was amended in 2015 and was notified by notice dated 31.07.2015. The ordinance stipulated that all students on the rolls of the university during the academic year 2014-2015 would be governed by the un-amended ordinance. The amended ordinance was specifically made applicable for academic year 2015-16 onwards. The ordinance *inter alia* stipulated that the students require at least 50% of the total credits of the ensuing academic year from which the promotion to the next academic year is being sought. The petitioner admittedly do not satisfy the said requirement.

9. The mere fact that the petitioners have been permitted to attend classes of third semester, in my view is of no consequence. First of all the said action is contrary to the ordinance as amended. Secondly, it is a normal practice that a student who is awaiting the result of the previous semester is provisional permitted to attend the next semester subject to the students passing the qualifying examination. The mere fact that petitioners have been permitted to attend the classes, will not grant the petitioners any special equity.

10. In my view, the mandamus sought by the petitioners, thereby directing the respondents to permit them to appear in the third semester Final End Examination cannot be issued.

11. The petitioners have already been issued admit cards as reappear candidates for the first semester. Apart from the Final End Semester

examinations, the petitioners are also required to appear in the internal examination.

12. There is some merit in the contention of the learned counsel for the petitioners that because of being admitted to the third semester (Though provisionally), some of the petitioners in anticipation, that they would be permitted to appear in the third Final End Semester examinations, did not take the internal examinations of the first semester and this is going to cause serious prejudice to the petitioners.

13. Accordingly, the respondent institutes/colleges are directed to allow the petitioners, who had not appeared in the internal examinations of the first semester, to appear for the internal examination of the first semester. This opportunity to appear be given to the petitioners after the Final End Semester examination of the first semester is over.

14. In so far as the fee paid by the petitioners for the third semester is concerned, the respondents shall be liable to refund the same or at the option of the petitioners adjust the same for the subsequent semester/year in which the petitioners take regular admission.

15. The writ petition is accordingly disposed of. No costs.

16. Copy of the order be given dasti under signatures of the Court Master.

SANJEEV SACHDEVA, J

DECEMBER 02, 2016

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