

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 192 of 2017

- Shraddhesh Gupta S/o Dinesh Kumar Gupta, Aged About 24 Years, R/o Near F.C.I. Chowk, Tarbahar, Bilaspur, P.S. Tarbahar, District Bilaspur (Chhattisgarh)

---- Petitioner

Versus

1. Bilaspur University Through : Registrar, Old High Court Building, Near Gandhi Chowk, Bilaspur, District Bilaspur, Chhattisgarh.
2. D. P. Vipra Law College, Bilaspur, Through Principal, Ashok Nagar Sarkanda, Behind R. K. Petrol Pump, Bilaspur, District Bilaspur (Chhattisgarh)

---- Respondents

For Petitioner	Shri Hemant Gupta, Advocate
For Respondent No.1	Shri Sudeep Agrawal, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

17/02/2017

1. Petitioner is a student of LLB Course in D. P. Vipra Law College, Bilaspur under the Bilaspur University, the respondent No.1. Petitioner has failed in one paper in the 3rd Semester Examination, although he has cleared the 4th Semester Examination. For sometime, the petitioner was allowed to attend classes in the 5th Semester Examination, but later on he was denied permission to attend and appear in regular examination for the reason that he has not cleared all the examinations up to

4th Semester.

2. In this petition, the petitioner has prayed for a direction to the respondent University to allow him to attend classes and appear in the 5th Semester Examination and at the same time to appear in one backlog paper of 3rd Semester Examination. It is argued that if the petitioner is not allowed to appear and take up the examination of 5th Semester, he shall suffer irreparable loss and a precious year of his career would be wasted.
3. Shri Agrawal, learned counsel for the respondent University, has placed before this Court copy of the Ordinance No.110, as amended in the year 2010, to argue that under Clause 4.06 and 4.07 of the said Ordinance, only such students are entitled to appear in the LLB Final Year Examination (5th and 6th Semester Examination) who have cleared LLB Part-I (1st and 2nd Semester Examination) and LLB Part-II (3rd and 4th Semester Examination).
4. Clause 4.06 and 4.07 of the Ordinance No.110 are reproduced hereunder for reference:-

“4.06 A candidate who has been declared unsuccessful in a semester examination may re-appear in the same subsequent semester examination as Ex-student without being required to attend regular course of study for the same semester and he/she will be eligible for regular admission in the next semester session only after passing the examination meant for the previous semester.

4.07 A candidate who has failed in one paper/subject in a semester shall be allowed to take admission in the subsequent semester session and shall appear in the paper/subject in which

he/she has been unsuccessful in the previous semester along with the all paper/subject of next semester in which he is admitted on regular basis. Such a repeater candidate will be provided facility of clearing all the paper up to LLB Part-II (Second Semester). No candidate will be allowed for regular admission in the LLB Part-III (First Semester) until he/she clears all the papers/subjects from LLB Part-I (First Semester) to LLB Part-II (Second Semester).”

5. A conjoint reading of the above quoted clause of the Ordinance would make it explicit that when a candidate fails to clear a particular semester, he will be allowed to appear in the next semester examination, but at the same time while appearing in the next semester examination, he has cleared the previous semester examination. It is also apparent that if the candidate has not cleared all the semester examination of LLB Part-I and LLB Part-II, he will not be allowed for regular admission in the LLB Part-III Examination.
6. At this Stage, Shri Gupta, learned counsel for the petitioner, would argue that if provisional admission is allowed to the petitioner, he will clear the backlog paper of the 3rd Semester Examination as well as the 5th Semester Examination, therefore, in exercise of extra ordinary equitable jurisdiction, this Court should direct the respondents to allow the petitioner to take up both the above said examinations.
7. The Ordinance framed by the University has statutory force, therefore, while exercising power under Article 226 of the Constitution of India, this Court cannot issue a mandamus contrary to the statute. Academic institutions should be left to be

administered by the university and colleges as per their own procedure rather than making interference on the basis of sympathy. When the subject Ordinance admits of only one interpretation and there is no ambiguity, this Court may not exercise the writ jurisdiction to direct the university or the college contrary to what the statute prescribes, therefore, the writ petition is dismissed. However, it will remain open for the petitioner to appear in the backlog paper in accordance with the Rules of the University.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA

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