

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2642 of 2017**

Manish Chandrakar, S/o Late Shri Mahendra Kumar Chandrakar, aged about 21 years, R/o Q. No.14/B, Street 36, Sector-5 Bhilai, Civil & Revenue District – Durg (C.G.)

---- Petitioner

Versus

1. Guru Ghasidas Central University, Through its Registrar, Koni, Distt. Bilaspur (C.G.)
2. Examination Controller, Guru Ghasidas University, Koni, Distt. Bilaspur (C.G.)
3. University Grant Commission, Through, Chairman, New Delhi

---- Respondents

For Petitioner : Mr. Prafull N. Bharat, Advocate.
 For Respondents No. 1 & 2 : Mr. Shashank Thakur, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

04/10/2017

(1) This petition is directed against the order dated 3.7.2017 by which petitioner's examination of B.A.LL.B (second semester) course has been cancelled and he has been directed to appear in the next full examination with all subjects.

(2) Learned counsel appearing for the petitioner would submit that the impugned order passed by the respondents No. 1 & 2/University is bad and unsustainable in law as the extreme penalty of cancelling the petitioner's examination of B.A.LL.B

(second semester) has been imposed upon him holding that he has violated the instructions No. 7 of the Rules incorporated in the answer sheet, which the petitioner was supposed to be follow as the petitioner has written the answers of ten questions in the question paper itself. He would further submit that the respondents No. 1 & 2/University had made up its mind for debarring the petitioner from attending the classes for the whole academic year while issuing show cause notice and the imposition of penalty was only the formality. He would also submit that the petitioner has wrongly been awarded penalty of category 'C' for alleged Unfairmeans, which is liable to be set aside.

(3) On the other hand, counsel for the respondents No. 1 & 2 would submit that since the petitioner, while appearing in the examination of B.A.LL.B (second semester) course, has failed to observe instructions No. 7 which is incorporated in the answer sheet, which he was supposed to follow and by which penalty of grade "C" has been imposed upon him, therefore, the respondent/University has rightly debarred the petitioner from attending the classes for the whole academic year by the impugned order, which does not call for any interference by this Court in the instant writ petition.

(4) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and also gone through the record with utmost circumspection.

(5) Regulation No. 11 has been framed for the disposal of cases of “use or attempt to use unfair means” and disorderly conduct at an examination by a candidate.

Regulation 6 (c) of the said Regulation states as under :-

Category	Nature of U.F.M	Punishment
C	The Material is relevant to the subject and used.	Cancellation of Examination, be permitted to appear in the next full examination with all subjects.

(6) A careful perusal of the aforesaid nature of unfair means would show that there must be material, which is relevant to the subject in which examinee is appearing and he must have used that material for his examination, then only the cancellation of examination is permissible.

(7) Instruction No. 7, which is incorporated in the answer sheet states as under:-

“7. परीक्षार्थी द्वारा प्रश्न-पत्रों या स्याही सोख पर कुछ भी लिखना मना है”

(8) Nature of unfair means, for which penalty is imposed against the petitioner is that he was found with the material in the examination hall and he has used the material whereas facts of the case would show that petitioner has written 10 answers in the question paper itself. It is not the case of the respondent/University that some objectionable material was found in possession of the

petitioner, which is connected and relevant with the subject matter and he was found using those materials in the examination hall and, therefore, category 'C' is not at all attracted and, therefore, cancellation of examination is impermissible in law.

(9) So far as writing in the question paper is concerned, it is not the case of the respondents that after answering the question in the question paper, petitioner has circulated the said question paper to the other students and even then it is not the unfair means included in category "C" of the said regulation. Therefore, the respondents/University is absolutely unjustified in imposing extreme penalty of cancelling the petitioner's examination of B.A.LL.B (second semester) course.

(10) As a fallout and consequence of the aforesaid discussion, the writ petition is allowed. Impugned order dated 03.07.2017 passed by the respondent/University is hereby quashed. Respondent/ University is directed to declare the result of the petitioner within a period of 15 days from today and communicate the same to the petitioner, and if the petitioner is declared pass, then he will also be entitled to appear in the next semester examination.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-

