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

+ LPA 391/2017

DIGVIJAY SINGH CHAUHAN

..... Appellant

Through: Mr. Vijay Kasana, Manu Padalla,
Bhanu and Mohit Singh, Adv.

versus

UNIVERSITY OF DELHI AND ANR

..... Respondent

Through: Mr. Mohinder JS Rupal and Ms.
Disha Malhotra for DU

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

19.05.2017

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C.M. No. 19139/2017

By this application, the petitioner wishes to place on record additional documents as Annexures A12 to A15. The same are taken on record. The application stands disposed of.

LPA 391/2017

The appellant has preferred the present LPA to assail the order dated 12.05.2017 passed by the learned Single Judge in W.P. (C.) No. 2925/2017. The learned Single Judge has dismissed the appellant's writ petition, wherein he had raised a grievance that he was not being permitted to appear

in the 6th semester LLB examination by the respondents i.e. Faculty of Law, University of Delhi.

The admitted position is that the appellant did not attend classes of the 5th semester of the aforesaid course, which started in July 2016. He did not take examination of the 5th semester which was held in December 2016. This was on account of the fact that the appellant got selected as Excise Inspector in the Central Excise Department. It appears that he took admission in the 6th semester which started in January 2017. Admittedly, the appellant did not attend even a single lecture in the month of January 2017. It appears that he attended lectures in the month of February 2017 and March 2017.

We may observe that according to the respondents, the name of the appellant had wrongly been shown as a student of the 6th semester since he was not entitled to be promoted to the 6th semester/ term in terms of Rule 11, which is the promotion rule applicable to the appellant. The said rule, inter alia, states that no student shall be promoted to the next term if he/ she has been detained in the examination for shortage of attendance. Since the appellant did not attend even a single lecture in the 5th semester, he could not have taken the examination of the 5th semester even if he so desired and, therefore, he could not have been promoted to the 6th term.

During the 6th term, the appellant preferred the aforesaid writ petition. Along with the writ petition, he also moved an application to seek interim relief that he be permitted to attend classes of the 6th semester. No interim relief was granted to him and, thus - though he claims to have actually attended the classes, he is shown to have not attended classes in April 2017.

The requirement of minimum attendance is 70% semester/ term wise.

Firstly, the appellant was not entitled under the rules to be promoted to the 6th semester. He cannot take advantage of the fact that inadvertently his name was included amongst the promoted students. When the said mistake was discovered, his name has been removed from the 6th term. Admittedly, the appellant had attended some classes in February, March and April 2017. However, the said attendance is of no avail considering the fact that he had not been promoted to the 6th semester.

The submission of counsel for the appellant is that on account of some agitation in the university, students who were short of attendance during 5th semester were not detained and they were permitted to undertake the examination for 5th semester and were also promoted to the 6th semester. Learned counsel submits that the appellant is entitled to the same treatment.

In our view, there is no merit in this submission. The appellant is not similarly situated as other students who were otherwise regularly attending classes during the 5th semester and were prevented from attending classes due to the agitation in the university campus.

In *S.N. Singh v. Union of India*, 106 (2003) DLT 329(DB), a Division Bench of this court underlined the rationale for requirement of laying down the minimum attendance in a professional course like LL.B. In para 21 of the said decision, the Division Bench observed as follows:

“21. We find force in the submission of the learned counsel for the petitioner in respect of the first four submissions noted by us above. A law course cannot be equated with a normal academic course. Attendance of lectures, tutorials and seminars is very essential to train the law students. Under the Advocates Act 1961, the Bar Council of India has been empowered, amongst others, "to promote legal education and to lay down standards of such education". The Bar Council of India has

framed statutory rules which bind all institutions conferring LL.B. Degree Course which are recognised by the Bar Council of India. Section 4 of the Delhi University Act 1922 empowers the University to confer degrees of students who have pursued a course of study in the University or in any college attached or affiliated to the University. No student can be deemed to have pursued a course of study who does not comply with the various requirements prescribed under the Act, Statute, Ordinances or Rules framed by the Academic Council. Needless to state that the Academic Council is the Supreme Academic Body of the University. Clause 8 of Ordinance 7 clearly provides that no student shall be deemed to have pursued a regular course of study unless he has attended at least two-thirds of the total number of lectures delivered in each year. The proviso permits relaxation of shortage of attendance up to 10%. Thus, as per the attendance norms prescribed under the Ordinances, pertaining to LL.B. Degree Course, shortage of attendance beyond 10% is not permissible. However, the Academic Council in exceptional cases is empowered to grant a further relaxation. The examination Rule framed by the Bar Council of India also provides for relaxation, but makes a different provision for relaxation. The Bar Council of India Rule requires 66% attendance in each paper and empowers relaxation in a particular paper, provided however total attendance in all the papers is 66%. The Academic Council decision to accept the Justice V.S. Deshpande Committee recommendation is thus a resolution limiting the exercise of power of relaxation unanimously adopted by the Academic Council. The Academic Council would thus be bound by its own resolution. The decision not to grant relaxation was a conscious decision taken for which even a high powered Committee was constituted and was taken in the interest of legal education”.

The requirement of minimum attendance has since been revised from 66% to 70% by the Bar Council.

In view of the aforesaid position, we find no merit in the present petition. Dismissed.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 19, 2017

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