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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5770/2017**
ANKIT KUMAR

..... Petitioner
Through Mr. Vivek Bakshi, Mr. Gagan
Gandhi, Ms. Heena Mongia, Mr.
Anita Dahiya and Mr. Quaisar Alam,
Advs.

Versus

UNIVERSITY OF DELHI

..... Respondent
Through Mr. Mohinder J.S. Rupal and Mr.
Prang Newmai, Advs

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **30.10.2017**

1 The prayer made in the present petition has been perused.

2 The petitioner is seeking a prayer that the Delhi University should be directed to arrange for a special examination (in the month of July) for the petitioner in order that he is eligible to take admission in the Masters Program and does not lose out on one year. His additional submission is that he should be granted a provisional admission to the Master course in Physical Education of the respondent University. He could not appear in the examination on the scheduled date for the reason that the petitioner being a national level player and also employed as a Coach in the Netball Team of Jesus and Mary College was participating in a championship held between

09.12.2016 to 11.12.2016 which had thus made it impossible for the petitioner to appear in the sports psychology and sociology examination which had been scheduled on 09.12.2016. He has accordingly sought for a re-examination. Learned counsel for the petitioner has placed reliance upon a judgment of Division Bench of this Court in W.P.(C) No.5666/2017 titled Court on its own motion Vs. Union of India & Others. Submission is that the Writ Court has ample and wide powers to mould the relief having regard to the facts and circumstances of the case.

3 Counter affidavit of the respondent is on record. The prayer made by the petitioner has been opposed by the University. It is pointed out that this petition has become infructuous as the petitioner had sought a re-examination in the month of July and we are presently in the month of November. The Rules of the University do not in any manner provide for a re-examination. It was only because of the fault of the petitioner when he opted for a vacation as per his own choice and did not give the examination scheduled on 09.12.2016 i.e. the paper for sports psychology and sociology. He can now reappear at the time when the examination is re-held which is going to be in the month of November-December, 2017. The respondent has also placed reliance upon a Division Bench judgment delivered in LPA No.708/2013 Shakti Garg & Others Vs. Delhi University and Another. Submission is that such a submission was also noted by the Division Bench and no relief had been granted to the students who

4 Record shows that the petitioner is a final year student of Physical Education (BP.ED) in Indira Gandhi Institute of Physical Education and Sports Science, University of Delhi. He is stated to be a national level champion of netball. As per his own submission between 09.12.2016 to 11.12.2016, the petitioner being a fourth Semester student had participated in the championship of netball. He could not give the scheduled examination of sports psychology and sociology on 09.12.2016 for the aforementioned reason. The fact that the petitioner was aware that this examination was scheduled on 09.12.2016 is not in dispute. He however chose to participate in the championship. He thus lost out his right to appear in the aforementioned examination. It was because of his own volition. Counter affidavit of the respondent categorically states that the petitioner may re-appear in the prescribed paper during the supplementary examination which is scheduled in the month of November-December, 2017. Paragraph 6 clarifies that a student who has to re-appear in a paper prescribed for Semester I/III/V may do so in the month of November-December. A student who has to re-appear in a paper prescribed for Semester II/IV/VI may do so in the examination to be held in the month of April/May.

5 There is no provision in Delhi University Statute or the Ordinance of the University which permits a special examination to be held for the petitioner in such an eventuality. The judgment relied upon by the petitioner is distinct on its own facts. The judgment relied upon by the respondent in Shakti Garg comes to his aid. The date list

of supplementary examination having being detailed in the counter affidavit of the respondent, the prayer made by the petitioner that a special examination should be held by the University is a prayer which cannot be answered in his favour. He may take the benefit of the supplementary examination as and when it is scheduled.

6 Petition disposed of in the above terms.

INDERMEET KAUR, J

OCTOBER 30, 2017

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