

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 2094 of 2018**

1. Vikash Banjare S/o Shri Sagarchand Banjre, Aged About 24 Years Occupation Student in B.Ed. Special Education (H.I.), R/o Indira Colony, Nagar Panchayat, Palari, Post Palari, Police Station Palari, Civil And Revenue District Balodabazar Bhatapara Chhattisgarh.

---- Petitioner**Versus**

1. Guru Ghasidas Vishwavidyalaya Through Vice - Chancellor, Koni Bilaspur, District Bilaspur Chhattisgarh.
2. Controller Of Examination, Confidential Section, Guru Ghasidas Vishwavidyalaya, Bilaspur Chhattisgarh.
3. Dean, Department Of Education, Guru Ghasidas Vishwavidyalaya, Bilaspur, District Bilaspur Chhattisgarh.

---- Respondent

For Petitioner	Shri Punit Ruparel, Advocate
For Respondents	Shri R.S. Baghel, Advocate

Order On Board**By****Prashant Kumar Mishra, J.****28/11/2018**

1. Petitioner would assail the decision of the respondent University, who has cancelled his examination of 2nd semester of B.Ed. (HI) course, which has the effect of disallowing him to appear in the 3rd semester examination scheduled to commence from 3rd December, 2018.

2. After perusal of the pleadings, documents and hearing learned counsel for the parties, it appears during the second shift examination of the concerned subject on 7-5-2018 the petitioner allegedly misbehaved with the Examiner for the reason that the question paper was distributed to him 8 minutes after the commencement of examination and the petitioner's request for allowing 8 minutes extra time was not granted. On this the petitioner allegedly threatened to tear the answer sheet and see the Examiner outside the examination hall. The Examiner, thereafter, made a complaint against the petitioner and a show cause notice was issued to the petitioner vide Annexure – P/2, to which the petitioner replied vide Annexure – P/3. Subsequently, the impugned order dated 11-7-2018 (Annexure – P/4) has been passed.
3. The questioned behaviour of the petitioner is not specifically included as one of the categories of use of unfair means during the examination, however, his case has been treated to be under the residuary clause 'H' which says that if the case is not covered under the described category, the competent committee may take appropriate action in each case.
4. Even if the contents of the show cause notice and the alleged behaviour of the petitioner is taken to be true, the punishment awarded to him appears to be harsh and disproportionate to the nature of allegation. Without approving the conduct of the petitioner for which he should seek written apology from the concerned Examiner with assurance that he shall not repeat the mistake in future, ends of justice would be served if the petitioner is allowed to appear in the 3rd semester examination scheduled to commence from 3rd December, 2018. The petitioner shall submit letter of

apology and undertaking before the concerned Examiner by 30th November, 2018.

5. In the result, the impugned order dated 11-7-2018 (Annexure – P/4) is set aside. The respondent University shall declare petitioner's result in respect of 2nd semester examination of the subject course and allow him to appear in the 3rd semester examination from 3rd December, 2018 depending upon his result in the 2nd semester.
6. Accordingly, the writ petition stands disposed of.
7. Certified copy today.

Sd/-

Judge
Prashant Kumar Mishra

Gowri