

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI

WRIT APPEAL NO.479 OF 2018

JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the learned Single Judge in WP.No.4134 of 2018 dated 14.03.2018. The appellants herein filed the said Writ Petition seeking a mandamus to declare the action of the respondent-University, in not permitting the petitioners to attend the next higher class based on the backlogs and permitting other students to attend higher classes, as wholly illegal and unconstitutional, to set aside the order of detention dated 25.11.2017, to permit the petitioners to attend the next higher classes, and to allow them to appear in all internal examinations, the mid-semester, and the end-semester examinations scheduled to be held in the months of March and April 2018; and, based on the same, to promote them to the next higher classes.

The petitioners are all students of the first respondent-University, the only National Law University in the State of Andhra Pradesh. The Damodaram Sanjivayya National Law University, Visakhapatnam, Examination Rules prescribes, among others, the promotion scheme for the Five year B.A., LL.B. (Hons) Programme. Clause 2.1 thereunder stipulates that the University would offer ten subjects in a year, except in the first two semesters where the students shall have twelve subjects (from academic year 2014-15). Clause 2.2 provides that the promotion scheme for the student is

based on the criteria prescribed thereunder. Under Clause 2.2.1, a student shall be promoted to the third year only after he/she clears all the subjects offered in the first year. Under Clause 2.2.2, a student shall be promoted to the fourth year only after he/she clears all the subjects offered in the second year. In terms of Clause 2.2.3, a student shall be promoted to the fifth year only after he/she clears all the subjects offered in the third year. Clause 2.3 stipulates that, if a student fails to clear as per Rule (2.2), he/she shall not be promoted to the next year. He/she shall repeat the year, after seeking re-admission to the same class, on payment of the yearly fees according to the fees structure of the year. Clause 19.1 of the Rules confers power on the Vice Chancellor, on the recommendation of the Examination Committee, and in consultation with the Committee consisting of the Head, Academic Affairs and two senior faculty members, to make provision for all matters not provided in the Rules. The said clause also enables the Vice-Chancellor to decide on special rules, including deviations from the existing rules to suit special situations, provided he shall report on them to the Academic Council in its next meeting.

The petitioners' grievance is that the Examination Committee, consisting of five faculty members, met on 02.11.2017 and resolved to grant 1% moderation marks per semester, to promote students to the next semester who have only one backlog by taking an undertaking from him/her that they should clear it by next year; since English subject is a non-credit paper, those who could not qualify in that subject need not be detained; students, who secured less than twenty marks in internals, shall

be permitted to re-submit their projects (resubmission of projects and their evaluation should be completed on or before 07.11.2017); these three recommendations should be implemented with immediate effect; and the results of the 2012 batch students should be declared immediately.

While Clause 2.2 of the Examination Rules requires a student to be detained in the second year if he does not clear all the backlog papers of the first year by the end of the second year, and likewise for the next higher classes, the Examination Committee, in its meeting held on 02.11.2017, has, contrary to the Rules, recommended that students, with one backlog paper plus English, be promoted to the next higher class. This recommendation, which was later approved by the Vice-Chancellor, has emboldened the petitioners, all of whom have more than one backlog paper which they failed to clear even in the next Academic year, to approach this Court contending that a similar benefit should be extended for more than one paper also; there is no rational basis to restrict clearance of backlog papers, for promotion to higher classes, only to one subject; and the petitioners herein, all of whom have backlog of more than one paper which they failed to clear even in the next academic year, should be exempted from the rigor of the Rule, and be promoted to the next higher classes.

In the order under appeal, the learned Single Judge observed that, even if an illegality had been committed by the University, the said illegality cannot be perpetrated; and a deviation of the rule would not confer any right on the petitioners to claim a similar

benefit. The minutes of the meeting, of the Executive Committee, held on 02.12.2017 does not disclose any reason for exempting students from the rigor of Rule 2.2 which stipulates that, if a student does not clear the backlog papers of a particular academic year, by the end of the next academic year, he would not be entitled to be promoted to higher classes till he clears the backlog papers. The power conferred by Clause 19.1 of the Rules on the Vice-Chancellor, to decide on deviations from the existing Rules to suit special situations, can only be exercised in exceptional circumstances and for just and valid reasons, and not for the mere asking. The Vice-Chancellor must record reasons for having approved the deviation from the Examination Rules, and detail the special situation which necessitated exercise of the power conferred on him under Clause 19.1 of the Rules. The Examination Rules necessitate adherence and save special situations, which justify deviation, the Rules should be strictly implemented.

The very object of establishing institutions of excellence is to ensure that students, who pass out therefrom, achieve the high standards of excellence expected of students from National Law Universities. Permitting students to be promoted to higher classes, contrary to the Examination Rules and despite their having one or more backlog papers of the previous year, would only result in dilution of the high standards of academic excellence which National Law Universities are expected to maintain. While we are satisfied that the Examination Committee ought not to have extended this benefit to students who have backlog of even one paper, as that is not only in contravention of Clause 2.2 of the

Examination Rules, but is also in violation of Clause 19.1 which enables the Examination Committee to recommend deviation of the Rules only in special situations, and the minutes dated 02.12.2017 do not disclose any special situation justifying recommendation of such deviation, we do not propose to interfere with the said decision, for the present academic year, as more than four months have elapsed since then, and examinations are due to be held shortly.

Suffice it to direct the first respondent-University to strictly abide by the Examination Rules from the next academic year onwards and, save special situations, not to make any exception thereto, as it results not only in dilution of the high standards of excellence which National Law Universities are expected to maintain, but also results in heartburn among other students and emboldens them to seek further relaxation. The very object of undergoing a Five Year B.A. LL.B (Hons) course from a National Law University is not just to secure a degree, but is primarily intended as an elaborate process of learning, to enable students to equip themselves to become competent members of the legal profession in future. There is no shame in a student repeating a class, if he has not passed in the examination, as his/her focus should be on learning the subjects, taught in these institutions of learning, and not just in obtaining the degree. Subject to the aforesaid observations we see no reason to interfere with the order under appeal.

The Writ Appeal fails and is, accordingly, dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand dismissed.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

22nd March 2018
RRB

