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

+ LPA 294/2018

ANKITA MEENA

..... Appellant

Through: Ms. Padma Priya, Mr. Ashish
Virmani and Mr. Himanshu Dhuper,
Advs.

versus

UNIVERSITY OF DELHI

..... Respondent

Through: Mr. Mohinder J.S. Rupal and Mr.
Prang Newmai, Advs. for University
of Delhi.
Mr. Priyam Mehta, Adv.for Bar
Council of India.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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07.09.2018

1. This Intra-Court Appeal has been filed by the appellant challenging the order of the learned Single Judge dated 15th May, 2018 whereby the learned Single Judge has dismissed the writ petition filed by the appellant herein. The writ petition was filed by the appellant seeking a direction to the respondent to permit her to appear in the 4th Semester LL.B Examination being conducted w.e.f. 16th May, 2018. The reason for denying the appellant to appear in the 4th Semester LL.B Examination was because the

appellant did not have the requisite attendance. It is a conceded fact that that the attendance of the appellant was only 49.19% as against the mandatory attendance of 70% prescribed for every Semester of LL.B Course under Rule 12 of Rules of Legal Education of the Bar Council of India. The learned Single Judge by relying upon the judgments of this court in the case of *University of Delhi and Anr. v. Vandana Kandari and Anr. LPA 662/2010 and Sukriti Upadhyaya v. University of Delhi, LPA 539/2010*, wherein this Court had stated that the relaxation sought by the appellants cannot be granted in view of Rule 12 of the Rules of Legal Education of Bar Council of India which prescribes mandatory attendance of 70% in each of the Semester of the LL.B Examination, had dismissed the writ petition.

2. Ms. Padma Priya, learned counsel appearing for the appellant at the outset would contend that the appellant is entitled to the similar benefit as was granted to writ petitioners in a batch of writ petitions decided by the learned Single Judge vide order dated 6th July, 2018. She states that this court in the Intra-Court Appeals filed by the University of Delhi has not interfered with the judgement dated 6th July, 2018 and in fact recorded the submission made by the University that the respondents therein, i.e., the candidates shall be allowed to sit in the supplementary examination. We are

unable to accept the said plea of Ms. Priya for the simple reason that the appellant cannot equate her with the candidates who were the petitioners in the batch of writ petitions decided by the learned Single Judge on 6th July, 2018, inasmuch as the petitioners / candidates therein were not allowed to write the examination as they did not fulfil the attendance criteria not for the reason for which the appellant herein has been denied. Hence, this submission of Ms. Priya is liable to be rejected.

3. It is also her submission that the appellant having passed in 15 papers is liable to be promoted to the 5th Term in terms of the Promotion Rules at Page 112 of the paper book. Even this submission of Ms. Priya is without any merit for the simple reason that Rule (i) under the Heading “*Promotion Rules*” clearly stipulates that no students shall be promoted to the next Term, if he / she has been detained in the examination for shortage of attendance. The plea that has been urged by Ms. Priya, is in fact seeking the appellant’s promotion to the next Semester, which in view of Rule (i) is impermissible. Even the reliance placed on Rule (iii) under the Heading “*Promotion Rules*” is not applicable in the case of the appellant inasmuch as the said Rule stipulates promotion to the 5th Term if a candidate has passed at least 15 papers in the 1st, 2nd, 3rd and 4th Term Examination taken together.

In other words, it is in the eventuality that the appellant had sat in the 4th Term Examination, but could not pass in any of the papers / passed in few papers, but still if she had cleared 15 papers, in such eventuality, she is liable to be promoted, but not in a case where the appellant did not appear in 4th Term Examination at all.

4. Ms. Priya has made extensive submissions to the effect that the directions of this Court in *Vandana Kandari and Anr. (Supra) and Sukriti Upadhyaya (Supra)* needs to be re-looked into, by referring the same to a Larger Bench, in view of the judgements of different High Courts including the International Conventions as ratified by the Government of India to state that a married woman pursuing her studies is entitled to, as a matter of right, the maternity leave, which needs to be excluded for the purpose of attendance. In this regard, we may only state that in the compilation filed, the counsel for the appellant has annexed the following judgments / materials in support of her contentions:

1. *Air India v. Netgesh Meerza and Ors. AIR 1981 SC 1829*
2. *Nithya v. University of Madras and Ors. 1994 SCC Online Mad 339*
3. *Kavitha Rajagopal v. Registrar, Tamil Nadu 2008 (1) CTC*

4. *A. Arulin Ajitha Rani v. State and Ors. W.P.(C) 2012, Madras High Court.*
5. *Jennifer A. v. ESIC College of Nursing and Ors. ILR 2016 Karnataka 4649*
6. *Jyoti v. Registrar, Punjab University, Chandigarh and Ors. W.P(C) 2016, P&H High Court.*
7. *Dr. L.A. Meena v. National Board of Examinations & Ors. WP(C) 2017, Delhi High Court.*
8. *Sharmila Yadav v. Union of India, W.P.(C) 2017, Delhi High Court*
9. *Suchitra Srivastava & Ors. v. Chandigarh Administration (The Medical Termination of Pregnancy Act, 1971) (2009) 9 SCC1*
10. *45 days maternity leave for college students by Haryana Government (News report-The Times of India)*
11. *Calicut University grants pregnant students maternity leave (News report-the Hindu)*
12. *Convention of the Elimination of All Forms of Discrimination against Women, ratified by General.*
13. *Equality Act 2010 (UK)*
14. *Sex Discrimination Act, 1984 (Australia)*
15. *Title IX Legal Manual (US) Department of Justice Civil Rights Division*
16. *Policy and Pregnancy and Human Rights in the work place (Canada).*

5. We are unable to accept the submissions made by Ms. Priya in view of the clear stipulation of Rule 12 of the Rules of Legal Education of Bar Council of India (which was not the subject matter in the Judgments relied upon), which reads as under:

"12. End Semester Test

No student of any of the degree program shall be allowed to take the end semester test in a subject if the student concerned has not attended minimum of 70% of the classes held in the subject concerned as also the moot court room exercises, tutorials and practical training conducted in the subject taken together. Provided that if a student for any exceptional reasons fail to attend 70% of the classes held in any subject, the Dean of the University or the Principal of the Centre of Legal Education , as the case may be, may allow the student to take the test if the student concerned attended at least 65% of the classes held in the subject concerned and attended 70% of classes in all the subjects taken together. The similar power shall rest with the Vice Chancellor or Director of a National Law University, or his authorized representative in the absence of the Dean of Law. Provided further that a list of such students allowed to take the test with reasons recorded be forwarded to the Bar Council of India."

6. There is no dispute that that the Bar Council of India regulates the standard of the Legal Education in the country and the University is bound by the Rules as framed by the Bar Council of India. The learned Single Judge has rightly dismissed the petition.

We do not see any merit in the petition. The same is dismissed.

CM. Nos. 21482/2018, 21485/2018, 21486/2018 and 34074/2018

In view of the order passed in the appeal, these applications have become infructuous and dismissed as such.

CHIEF JUSTICE

V. KAMESWAR RAO, J

SEPTEMBER 07, 2018/jg