

Ct.
No.
26

U/L
akb

16.03
2021

W.P.A. 7336 of 2021
Aniruddha Nath
- Versus -
State of West Bengal & Ors.

Mr. Rajarshi Basu
Mr. Bitasok Banerjee

...For the Petitioner

Mr. Nayan Chand Bihani

...For the Burdwan University

1. By consent of the parties, the matter is taken up for hearing by treating the same as on day's list of this Bench.

2. The peculiar set of facts have emerged in this writ petition. A student of Hooghly Mohsin College, Chinsurah, Hooghly sat for his Semester-IV examination in the month of November 2020. Peculiarly, he was allowed to sit in the examination without having filled up the University form for the B.Sc. (General) Semester-IV examinations. The reasons for the same are that the petitioner had contacted the COVID-19 pandemic disease and also suffered a knee injury in the month of September 2020.

3. The facts are lucid enough to be understood that an inadvertent mistake was committed by the petitioner by not filling up the form within the time prescribed.

4. It is undisputed that the petitioner sat for the internal examinations and his answer scripts have also been corrected by the agencies (College) employed by the University. However, since he had not filled up the form his results have been withheld by the College and University. Furthermore, the petitioner is now unable to take the Semester-V examinations that are to begin from tomorrow, that is, March 17, 2021.

5. Mr. Nayan Chand Bihani, learned counsel appearing on behalf of the Burdwan University, submits that as the petitioner never filled up the form, he could not be treated as an examinee and therefore, his results were never published. He further submits that the University may allow him to take his Semester-IV examinations in the months of May and June and Semester-V examinations at the end of the year 2021, if he complies with all the formalities. He further relies upon the Regulations of the University to buttress his argument.

6. Mr. Bihani has further submitted that no formal examinations were conducted by the University during March 2020 to December 2020 due to the COVID-19 pandemic. He has further submitted on instruction that students were passed in the Semester-IV examinations based on 50% marks awarded on internal assessment and 50% marks awarded based on the results of the previous Semester-III examinations.

7. It is to be further noted that the petitioner did fill up the form for Semester-IV examinations on February 9, 2021 and paid fees for the same. Subsequently, he has written to the University of Burdwan on February 13, 2021 and March 8, 2021 informing the University of his predicament and requesting the University to consider his late filling up of the form and for publication of his results for the Semester-IV examinations. However, no reply has been received by the petitioner with reference to the letters written to the University.

8. If one were to accept the proposal given by Mr. Bihani with regard to the student taking the Semester-IV examinations once again in the months of May and June and

subsequently for the Semester-V examinations at the end of this year, the same would clearly result in the student losing out on one year. Owing to the COVID-19 pandemic, most of the students have missed out their normal college education by not being able to attend college physically. This by itself has caused enough mental stress and harassment to the students. If one were to add a further delay of one year for the petitioner, in my view, the same would not just be unfair but shall also result in further mental trauma to the petitioner. These are hard times, and accordingly, the Courts have to bend the rules when required for the benefit of the citizens of this country.

9. I make it absolutely clear that this order has been passed in the peculiar facts and circumstances of the case keeping in mind the COVID-19 pandemic situation and further keeping in mind the fact that the petitioner had himself been a patient of COVID-19.

10. In light of the above reasons, I direct the University of Burdwan to declare the results of the petitioner for the Semester-IV examinations and also allow him to take part in the Semester-V examinations starting from tomorrow onwards.

11. Mr. Bihani is directed to communicate directly to the Controller of Examination, University of Burdwan to allow the petitioner to sit for the examinations starting from tomorrow onwards.

12. In the event, the form cannot be uploaded online, a physical copy of the form may be accepted by the University of Burdwan in the peculiar facts and circumstances of this case.

13. It is to be further noted that this order cannot be used as a precedent unless the facts are absolutely same.

14. With the above observations and directions, the writ petition is disposed of.

15. There shall be no order as to costs.

16. Photostat plain copy of this order duly counter-signed by the Assistant Registrar (Court) be made available to the learned Counsel appearing on behalf of the parties on their usual undertakings.

(*Shekhar B. Saraf, J.*)