

APOT/837/1998
IA No.GA/1/1998 (Old No.GA/4076/1998)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

RAJORSHI DE

-Versus-

UNIVERSITY OF CALCUTTA

BEFORE:

The Hon'ble JUSTICE SOUMEN SEN
The Hon'ble JUSTICE ANIRUDDHA ROY
Date : 19th January, 2021.

(Via Video Conference)

Appearance:
Mr. Biswaroop Bhattacharya, Adv.
Ms. Reshmi Ghosh, Adv.
...for University of Calcutta.

The Court : In spite of service of notice, the appellant is not represented.

In our earlier order dated 22nd December, 2020, while directing service of notice by the department upon the advocate-on-record of the appellant as well as on the appellant, we had clearly stated that in the event the appellant is not represented, we shall pass necessary order. The report filed by the department shows that the advocate engaged in the matter by the appellant, namely, Mr. Suranjit Ghosh, has refused to accept service of notice, while the appellant, Mr. Rajorshi De has received the notice. In view thereof, we proceed to decide the matter.

The appeal is arising out of an order dated 7th October, 1998 in a writ petition filed by the appellant in which the recalculation of internal assessment of the matter was referred to the Vice Chancellor of the University of Calcutta in accordance with law.

The grievance of the petitioner was that due to the frail health condition of the appellant, he could not attend classes regularly, as a result whereof he was not allowed to sit in the examination. The internal assessment made by the university did not take into consideration his health condition and the reason for him not being able to attend required number of classes. The Vice Chancellor, on consideration of the two schemes in operation at the relevant point of time, observed that in absence of any power given to the Vice Chancellor or the authority concerned to extend such benefit to the appellant, the Vice Chancellor is unable to apply the guidelines relied upon by the appellant for extending such benefit. The Vice Chancellor observed that the regulations regarding first professional medical examination demands from a student high standard of academic efficiency in all the spheres connected with medical study in tune with the expectation of the public at large from a qualified doctor. The Vice Chancellor also rightly observed that in absence of any such power, no discretion can be exercised in favour of the appellant to declare him successful, although he is an unsuccessful student and did not qualify to sit for the examination concerned. The

petitioner was not allowed to appear in the first MBBS examination. The petitioner was not allowed by the three departments of Anatomy, Physiology and Biochemistry to sit in the MBBS examination commencing on 19th March, 1997.

The learned Single Judge, on consideration of the material on record and taking into consideration that the petitioner is an unsuccessful candidate, dismissed the writ petition having arrived at a conclusion that the writ petitioner has not been able to make out a case to justify interference in the writ jurisdiction.

Although the appellant has filed the appeal, but it seems that he has lost interest in the matter. On the basis of the available record, we do not find any reason to interfere with the order passed almost 22 years back. This appeal, for all practical purposes, has lost its force and accordingly, we dismiss the appeal. The connected application also stands dismissed. However, there shall be no order as to costs.

(SOUMEN SEN, J.)

(ANIRUDDHA ROY, J.)