

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No.477 of 2020****Judgment reserved on 21.01.2021****Judgment delivered on 02.02.2021**

1. Parag Gardia S/o Anil Gardia, Aged About 30 Years, R/o Dhebarcity, House No. C-8/11, Bhatagaon, Raipur Chhattisgarh.
2. Neelkanth Matawle, S/o Shri Moharat Ram Matawle, Aged About 29 Years, R/o Village Chaitra, Post Fingeshwar, Tahsil Rajim, District Gariyaband Chhattisgarh.
3. Sibtainraza, S/o Mohammad Hasim, Aged About 38 Years, R/o Balmiki Avaskabir Nagar, Raipur Chhattisgarh.
4. Ranjana Thakur, D/o Late Shri Basant Kumar Thakur, Aged About 34 Years, R/o D.K. Hospital Qr. Line Kali Badichowk, District Raipur Chhattisgarh.
5. Khuman Kurre S/o Nakul Ram Kurre, Aged About 29 Years, R/o. Rajim, District Gariyaband Chhattisgarh.
6. Ritu Rajput, D/o Shri Chandrika Singh Rajput, Aged About 29 Years, R/o. Bhimnagar, Ashwaninagar Mahadevghat Road, Raipur Chhattisgarh.
7. Amarlal Premchandani, S/o Gokuldas Premchandani, Aged About 35 Years, R/o House No. R/144, Maharanpratap Udyan, Shyamnagar, District Raipur Chhattisgarh.
8. Pramod Pandey S/o Motilal Pandey, Aged About 26 Years, R/o Ward No. 4, Mararparagulli, Gunderdehi, District Balod Chhattisgarh.
9. Vivek Yadav S/o Surajdev Yadav, Aged About 30 Years, R/o House No. 02, Bazarpara, Wadrafnagar, Pandari Wadrafnagar, District Surguja Chhattisgarh.
10. Kalpana Suryavanshi, D/o Milau Ram Suryavanshi, Aged About 37 Years, R/o. Rest House, Banglapara, Narayanpur, District Narayanpur Chhattisgarh.
11. Surbhi Soni, D/o Gajendrasoni, Aged About 26 Years, R/o House No. 40 Ayodhya Nagar, Beside Electricity Office, New Changorabhata, District Raipur Chhattisgarh.
12. Kaushal Kishor S/o K.K. Chaudhary Aged About 49 Years, R/o. A-25 Chugani, Near Ring Road, Changorabhata, District Raipur Chhattisgarh.

---- Appellants**Versus**

1. State of Chhattisgarh Through Secretary, High Education Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, New Raipur, District Raipur Chhattisgarh.
2. Pandit Ravishankar Shukla University Through Its Registrar, Great Eastern Road, Raipur Chhattisgarh.

---- Respondents

For Appellants	:	Shri Vivek Mishra, Advocate
For State/Respondent No.1	:	Shri Ashish Tiwari, Govt. Advocate
For Respondent No.2	:	Shri Sharad Mishra, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

C A V Judgement

Parth Prateem Sahu, Judge

1. Challenge in this writ appeal is to the order dated 23/11/2020 passed by learned Single Judge in Writ Petition (C) No.2937 of 2020 whereby writ petition filed by appellants/writ petitioners, who are students of LLM 1st Semester came to be disposed off with a direction that examination scheduled for LLM 1st year from 24.11.2020 to be extended by three weeks' giving an opportunity to the appellants/writ petitioners for their preparation.
2. Case of the appellants are that, appellants took admission with the respondent/Pandit Ravishankar Shukla University (hereinafter referred to as 'University') in LLM 1st Semester (P.G. Course), which started in the year 2019. 1st Semester was scheduled in the December 2019, but for some reason, it could not be commenced and new date has been notified for the month of March 2020, but

unfortunately due to COVID-19 pandemic situation and lock-down, University was closed, due to which, examination scheduled in March 2020 could not be completed. After normalizing COVID-19 pandemic situation, all of a sudden University declared the date on 11.11.2020 for holding of examination to be commenced from 24.11.2020 for LLM 1st Semester Part-I and LLM 1st Semester Part-II. This notification of time-table for conducting examination of LLM 1st Semester of Part-I and Part-II made the appellants/writ petitioners to approach this Court by way of filing Writ Petition (C) No.2937 of 2020 with following reliefs :

“10.1 That, this Hon'ble Court may kindly be pleased to issue writ/writs, order/orders, direction/directions to respondent university for considering queries of the petitioner and issue appropriate declaration/direction in relation to course, loss of education year, fees of the students pursuing masters of law in academic year 2019-2020 and 2020-2021.

10.2 that, this Hon'ble Court may kindly be pleased to grant any other relief(s), which is deemed fit and proper in the aforesaid facts and circumstances of the case.”

3. Learned Single Judge after taking into consideration the pleadings and documents placed on record as well as submissions made on behalf of respective parties, disposed off the writ petition by observing following :

“5. As it has been submitted that the University is ready to consider to give the breather time to the students, pursuant to it, it is directed that the examination may be conducted and further 3 weeks' time may be given to the petitioners to hold the LLM examination for the 1st Semester. So far as

compensation is concerned for not holding examination, the respondents cannot be held responsible for the pandemic situation and lock-down. Since the situation emerged due to vis major i.e. the act of God. Therefore, considering the issue in hand, no order for promotion by a simplicitor method of examination can be ordered for however taking into submission made by University that they are ready to consider give a breather time to the students, the University is directed to give further 3 weeks' time to start the examination from today."

4. Shri Vivek Mishra, learned counsel for the appellants submits that learned Single Judge has erroneously disposed off the writ petition without considering the pleadings and reliefs sought for by the writ petitioners therein. The query made to the Registrar of University by the appellants was not yet replied. He further submits that in all other streams of education, general promotions have been granted by the University, but for LLM course even for the 1st Semester, University is holding exams, which is discriminatory. He pointed out that University has not followed the guidelines issued by University Grants Commission (hereinafter referred to as 'UGC') as well as State of Chhattisgarh Higher Education Department granting general promotion to students of Intermediate Semester/1st Semester. He further argued that appellants have taken admission in the year 2019, but till date, examination of 1st Semester was not taken by the University, whereas course of LLM is of two years of having four Semesters and course of LLM itself is to be concluded in the month of June 2021. University has not answered the query as to how all

other remaining three Semesters examination can be concluded by six months and how the appellants will be compensated for loss of their educational year. Unless and until these queries are answered by the respondent/University, University cannot hold the Semester examination. It is contended that UGC has issued the guidelines for grant of general promotion without holding examination on considering internal assessment etc. University cannot bypass the guidelines issued by the UGC, hence, impugned order passed by learned Single Judge required to be interdicted. It is also submitted that the respondent No.2 has not followed the order of the State Government Annexure A/2 dated 01/06/2020 and declaring result only on the basis of internal assessment. He places his reliance on the verdict passed by Hon'ble Supreme Court in case of **Praneeth K. and others v. University Grants Commission (UGC) and others** reported in **AIR 2020 SC 5510** to buttress his submission.

5. Per contra, Shri Sharad Mishra, learned counsel for Respondent No.2/University submits that submission made by learned counsel for the appellants is not correct. The University has made all arrangements in accordance with guidelines issued by UGC for holding examination and learned Single Judge has directed to extend the time by three weeks', which will be complied with. He further argued that appellants have approached the Court only after publishing of time-table of holding the examination and Learned Single Judge taking into consideration the difficulties as projected by

the appellants has issued a direction for extending/postponing the examination by three weeks'.

6. We have heard learned counsel for the respective parties and perused the record of the case.
7. From perusal of relief sought for by the appellants/writ petitioners in writ petition, it is apparent that appellants wanted a direction on the application made by them to respondent No.2/University for queries made by them and also sought direction in relation to the loss of education year and fees of the students pursuing course of Masters of Law. Bare perusal of relief Clause 10.1 would show that no specific relief has been sought for by the writ petitioners in the writ petition, unless and until the specific relief is sought for by raising grievance, the appellants could not be granted any relief.
8. So far as the guidelines issued by UGC is concerned, UGC while issuing the guidelines on 29.04.2020 have directed the Universities to complete the examinations by 30.07.2020 and relevant portion of guidelines has been extracted in case of **Praneeth K.** (supra), which is reproduced below for easy reference :

“1. Maintaining the sanctity of academic expectations and integrity of examination process, the universities may adopt alternative and simplified modes and methods of examinations to complete the process in shorter period of time in compliance with CBCS requirements as prescribed by UGC from time to time. These may include MCQ/OMR based examinations,

Open Book Examination, Open Choices, assignment/ presentation based assessments etc.

2. The universities may adopt efficient and innovative modes of examinations by reducing the time from 3 hours to 2 hours assigned to each examination, if need arises but without compromising the quality, so that the process may be completed in multiple shifts and, at the same time, sanctity to evaluate the performance of a student is also maintained.

3. The universities may conduct Terminal/ Intermediate Semester/Year examinations in offline/online mode, as per their Ordinances/ Rules and Regulations, Scheme of Examinations, observing the guidelines of “social distancing” and keeping in view the support system available with them and ensuring fair opportunity to all students.

4. Terminal semester/year examinations for PG/UG courses/programmes may be conducted by universities as suggested in the academic calendar keeping in mind the protocols of “social distancing”.

5. For intermediate semester/year students, the universities may conduct examinations, after making a comprehensive assessment of their level of preparedness, residential status of the students, status of COVID-19 pandemic spread in different region/state and other factors.”

9. In the guidelines, it has been mentioned that in case, situation does not appear to be normal, then grading system to be applied as mentioned therein. Looking to COVID-19 pandemic situation and its spread, amended guidelines have been issued on 06.07.2020. The said guidelines were challenged on the ground of unreasonableness and arbitrariness and is violative to Article 14 of the Constitution of India. The Hon'ble Supreme Court while considering the guidelines issued by UGC as well as office memorandum of Ministry of Human

Resource Development Department held that guidelines issued by UGC being expert body to prevail over any order/guideline/office memorandum issued by any other Department and relevant portion of conclusion arrived at by Hon'ble Supreme Court in case of **Praneeth K.** (supra) is extracted below for ready reference :

“111. In view of our foregoing discussion and conclusion, this batch of cases is disposed of in the following manner:

(1) The prayer to quash the revised guidelines dated 06.07.2020 issued by the University Grants Commission and OM dated 06.07.2020 issued by the Ministry of Human Resource Development and letter dated 06.07.2020 issued by the Ministry of Home Affairs is refused.

(2) The decision taken by the State Disaster Management Authority/State not to hold final year/terminal semester examination by 30.09.2020 in exercise of power under Disaster Management Act, 2005 shall prevail over deadline fixed by the University Grants Commission i.e. 30.09.2020 in respect to the concerned State.

(3) The decision of the State/State Disaster Management Authority to promote the students in the final year/terminal semester on the basis of previous performance and internal assessment being beyond the jurisdiction of Disaster Management Act, 2005 has to give way to the guidelines of UGC dated 06.07.2020 directing to hold examination of final year/terminal semester. The State and University cannot promote the students in the final year/terminal semester without holding final year/terminal examination.

(4) If any State/Union Territory in exercise of jurisdiction under Disaster Management Act, 2005 has taken a decision that it is not possible to conduct the final year/terminal semester examination by 30.09.2020, we

grant liberty to such State/Union Territory to make an application to the University Grants Commission for extending deadline of 30.09.2020 for that State/Union Territory which shall be considered by UGC and rescheduled date be communicated to such State/Union Territory at the earliest.”

10. Coming back to the case at hand, appellants are the students of LLM i.e. Post Graduate Course and respondent No.2/University has decided to conduct the examination looking to COVID-19 pandemic situation under control within the State, hence, submission made by learned counsel for the appellants referring to Annexure A/2 order issued by State Government on 01.06.2020 that grant of general promotion to students of intermediate Semester is mandatory, is not acceptable. Hon'ble Supreme Court has held that guidelines issued by the UGC being expert body will have to give importance than the order/guidelines issued by other authority. Annexure A/2 was issued based on UGC guidelines therefore, the University if adopted the guidelines of UGC and decided to hold exam then it can not be said that respondent No.2 has acted arbitrarily. In fact, perusal of paragraph-106 of **Praneeth K.** (supra) and guidelines dated 30.05.2020 would show that option was granted to the Universities in particular to conduct examination online/offline even for Intermediate Semesters. The appellants are pursuing their master degrees of Law, hence, they cannot seek a relief for getting promotion in passing the course without appearing in examination unlike students of primary and middle schools. As such, submission made by learned counsel

for the appellants that appellants ought to have been given general promotion, is not sustainable.

11. So far as other submission made by learned counsel for the appellants with regard to loss of education year and fees considering the COVID-19 pandemic situation which was not within the control of respondent No.2/University, no relief can be granted in exercise of jurisdiction under Article 226 of the Constitution of India and if the appellants/writ petitioners want to assert their right, if any, having with them in this unavoidable COVID-19 pandemic situation, they may approach any other appropriate forum if available to them under the law. Learned Single Judge while considering their difficulty in preparing themselves for appearing in the examination within a short notice, has already directed for extension of examination for a further period of three weeks'.

12. For the foregoing reasons, we do not find any merit in the appeal. The appeal is liable to be and is hereby dismissed.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge