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

% Date of Decision : 11<sup>th</sup> January, 2021

+ LPA 14/2021

JYOTI THAKUR & ANR.

..... Appellants

Through: Mr. Mohammad Ali, Mr. Manoj  
Goswami, Mr. Vishal Thakur and  
Mr. Bipin Choudhary, Advocates.

versus

IGNOU & ANR.

..... Respondents

Through: Mr. Apoorv Kurup and Ms. Nidhi  
Mittal, Advocate for R-2.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**JUDGMENT**

: **D. N. PATEL, Chief Justice (Oral)**

Proceedings in the matter have been conducted through video conferencing.

**CM APPL. 800/2021 & CM APPL. 802/2021** (both for exemption)

Allowed, subject to all just exceptions.

The applications are disposed of.

**LPA 14/2021 & CM APPL. 801/2021** (addl docs.)

1. Being aggrieved and feeling dissatisfied by the judgment and order of the learned Single Judge dated 25.11.2020 in W.P.(C) 9420/2020, original

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petitioners have preferred the present Letters Patent Appeal.

2. Counsel appearing for the appellants (original petitioners) at the outset submitted that the appeal is not pressed for appellant no.2 (original petitioner no.2). Thus, this appeal is being decided only with respect to appellant no.1.

3. Grievance of appellant No.1 (original petitioner No.1) is that the learned Single Judge has not directed respondent No.1/IGNOU to grant 16 grace marks to appellant No.1 in Course Code - LSE4L, which is the final year Biology practical examination, conducted for students undergoing the Degree Course in BSc (Life Sciences) at Indira Gandhi National Open University (hereinafter referred to as 'IGNOU' for the sake of brevity).

4. Much has been argued by the learned counsel for appellant No.1 that she is a brilliant student. In support of the submission learned Counsel has taken this court to various annexures and the previous marks obtained by appellant No.1 in the earlier practical examinations, wherein she has scored over 85 marks out of 100. It is further submitted by counsel for appellant No.1 that she has also appeared in the LL.B. Entrance Examination and has secured a high rank and thus the appellant deserves to be given 16 grace marks in the Biology Practical Examination to enable her to clear the examination. It is submitted that in the Biology practical examination appellant has secured 20 marks, whereas passing marks are 36 and therefore a direction should have been given by the learned Single Judge to the University, to award grace marks by 16, while exercising powers under Article 226 of the Constitution of India.

5. Having heard counsel for appellant No.1 and looking to the facts and circumstances of the case, we see no reason to entertain this appeal, mainly for the following facts and reasons:-

- (i) Appellant No.1 had appeared in the B.Sc Final Examination, held by IGNOU, and secured only 20 marks in Biology Practical Examination, whereas the passing marks / qualifying marks are 36.
- (ii) Counsel for the appellant prays for a direction to the University to grant 16 grace marks, which direction is impermissible in the eyes of law.
- (iii) There are no rules, regulations or bye-laws of the University which permit the grant of 16 grace marks and hence in our view no error has been committed by the learned Single Judge while deciding the writ petition preferred by the appellant herein being W.P.(C) 9420/2020, which was decided vide order dated 25.11.2020.
- (iv) Counsel appearing for the appellant submitted that appellant is a brilliant student and has also cleared Entrance Examination for the Law Degree. While the Court does not have any doubt on the brilliance or calibre of the appellant No.1, however, the fact remains that the appellant has not cleared the practical examination held for the third year in the BSc Degree course and therefore clearing the LL.B. Entrance Examination cannot enure to the advantage of the appellant.
- (v) We see no reason to direct the University to grant the grace marks or interfere with the order of the learned Single Judge as we find no infirmity in the said order, passed in exercise of jurisdiction

under Article 226 of the Constitution of India. We cannot be more charitable than law. The highest charitable person is the law. Charity beyond law is a cruelty to others. There is no law or rules or regulations which permit us to pass any such direction.

6. In view of the aforesaid facts and reasons, we see no reason to entertain the present appeal as no error has been committed by the learned Single Judge while deciding W.P.(C) 9420/2020 vide order dated 25.11.2020. Hence, this appeal along with the applications is hereby dismissed.

**CHIEF JUSTICE**

**JYOTI SINGH, J**

**JANUARY 11, 2021**  
**kks**