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

Date of Decision: 06th August, 2021

+ LPA 222/2021 & CM APPL. 24182/2021 (Interim directions)

KARAN CHAUDHRY

..... Appellant

Through

Mr. Kuber Boddh, Mr. V. S. Dubey &
Ms. Kalyani Lal Advocates

versus

INDIRA GANDHI NATIONAL OPEN
UNIVERSITY AND ORS

..... Respondents

Through

Mr. Aly Mirza, Advocate for IGNOU

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

D.N. PATEL, CHIEF JUSTICE (ORAL)

Proceedings have been conducted through video conferencing.

1. The Appellant herein assails the judgement dated 28.07.2021 passed by the learned Single Judge in W.P. (C) No. 7150/2021, whereby the writ petition was dismissed on the ground that the Appellant is not eligible to appear in the third-year examination scheduled to be held in August, 2020 on account of his belated registration for the third year in January, 2021.
2. The Appellant was enrolled as a student in the B.A. Programme in Indira Gandhi National Open University/Respondents in 2018. As per the

case set out by the Appellant, in June, 2019, the Appellant filled the examination form for the first year but could not appear in the written examination scheduled in June, 2019, on account of some personal difficulty. Between March to July, 2019, Respondents informed the students for Re-registration process for the second year and accordingly, the Appellant deposited the Re-registration fee and the registration started for the second year. In March, 2020, Appellant filled the examination form on due dates for both the first and the second year, to be held in June, 2020 and also submitted all the assignments.

3. On 11.03.2020, Covid-19 was declared as a Pandemic and on 24.03.2020, a nationwide lockdown was declared, which continued till 31.05.2020. Ultimately, the Appellant took the first-year examination only in February-March, 2021 on account of the postponement of the exams due to Covid-19 Pandemic. As far as the second-year examinations are concerned, they were not held in June, 2020 and the students were promoted to the third year pursuant to a Notification of the University dated 10.12.2020.

4. The Appellant registered for third year course in January, 2021. The Respondents issued a Notification dated 09.07.2021, scheduling the examination for the final/end-semester, students in August, 2021 and the students were required to register for the same between 17.05.2021 and 12.07.2021. Appellant was informed on 14.07.2021 that registration for the final year examination to be held in August, 2021 was closed and that he would be eligible to appear only in December, 2021. Feeling aggrieved, the Appellant filed a writ petition seeking a direction to the Respondents to accept the Appellant's third year Re-registration from July, 2020 instead

from January, 2020 and allow him to fill the examination form for the examination scheduled in August, 2021.

5. The learned Single Judge, vide the impugned judgement, dismissed the writ petition primarily on the ground that the period of enrolment in each year of the B.A. Programme is one year, which the Appellant had not completed till August, 2021 and none of the stipulations in the Ordinance to that effect had been challenged. Learned Single Judge did not find force in the reasons put forth by the Appellant for failure to re-register i.e. the Appellant tried several times to fill the online examination form, but his third year courses were not shown on the online portal and he was, thus, unable to register.

6. Learned counsel for the Appellant impugns the judgement of the learned Single Judge and contends that the learned Single Judge failed to take into consideration that the Appellant had tried his best to access the online portal for admission to final year (June-TEE) Exam, 2021, but was unable to register as the choice of his subjects for the B.A. Programme was not displayed on the selection option on the portal. Thus, the non-registration was on account of a technical lapse of the University's portal.

7. It is further contended that the admission to the B.A. Programme for three years had been taken by the Appellant in the year 2018 and the Re-registration procedure was a mere formality for depositing fee. It is also submitted that the admission and subsequent Re-registration of the Appellant is governed by the Prospectus issued by Respondent No. 1 in the year 2018 and not the one issued in 2021, upon which the learned Single Judge has erroneously relied. There is a difference in the two Prospectus inasmuch as in the Prospectus issued in 2018, it was stated in Clause 6.6 that

students/learners are “duly advised” for Re-registration and, therefore, there was no mandate to re-register and more particularly, Re-registration is not linked with the start of an academic year.

8. Learned counsel for the Respondents, on the other hand, contends that in order to be eligible to take the third-year examination, the Appellant had to complete a minimum period of one academic year between registration for a particular year and taking the Term-End Examinations. Since the Appellant registered himself in January, 2021, he did not have the requisite one academic year and was thus not permitted to take the examination scheduled in August, 2021. Insofar as the Re-registration on the online portal is concerned, Mr. Mirza argues that the entire process was online and the Appellant could have easily Re-registered himself in July, 2020 and the online registration was not impacted by the Pandemic Covid-19. He further submits that as many as 3.5 lac students registered themselves at the relevant time and the Appellant was well aware of the requirement of the Re-registration, which is evident from the averments in the appeal and the writ petition that he had completed the procedure for Re-registration for the second-year between the period of March to July, 2019.

9. We have heard the learned counsels for the parties at great length.

10. It is an undisputed fact between the parties that the Appellant Re-registered himself for the third year B.A. Programme in January, 2021 and that the examination with respect to which the writ petition was filed was scheduled in August, 2021. The Appellant does not dispute that the conduct of the examination in question is governed by the University’s Ordinance on Conduct of Examinations and Evaluation of Student’s Performance. In accordance with Clause 9(1) of the Ordinance, the Term-

End Examinations are ordinarily conducted twice in a year on such dates in the months of June and December as notified by the University from time to time. A candidate who has prosecuted the course of study for the required duration and submitted required number of assignments is eligible to appear in the examination. Clause 9(1) reads as follows:-

“The term-end examinations shall ordinarily be conducted twice a year in each course for each programme on such dates in the months of June and December and at such places as may be notified by the University from time to time. A candidate who has prosecuted the course of study for the required duration and who has submitted the required number of assignments shall be eligible to appear at the term-end examination in the course concerned.”

11. Clause 5(e)(v) provides that a candidate admitted to a programme can sit for the Term-End Examination only after completing the full academic year. The said Clause is as follows:-

“A candidate admitted to a programme can sit for the term-end examination only after completing the full academic year on the programme as well as the prescribed number of assignments, term papers etc. for it.”

12. A plain reading of the aforesaid Clauses leaves no doubt that in order to be eligible to appear in the Term-End Examinations, a student must have completed the minimum time period i.e. a full academic year. There is undisputedly no challenge to the provisions of the Ordinance by the Appellant. Further, in the notice dated 09.07.2021 issued by the University, it was clearly provided that the examinations will be conducted subject to fulfilling the University norms on admission year and registration validity period. Relevant para reads as follows:

“1. In view of the nation-wide Covid-19 pandemic situation, the Indira Gandhi National Open University is conducting Term End-Examination (TEE), June, 2021 from 3rd August, 2021 for the final year/final semester students of Master’s Degree, Bachelor’s Degree, Post-Graduate Diploma, Diploma and Certificate Programmes subject to fulfilling the University norms on admission year and registration validity period.”

(Emphasis supplied)

13. The Appellant admittedly registered himself for the third-year course only in January, 2021 and therefore has not completed the minimum one-year academic period in August, 2021, to be eligible for the examination scheduled in August, 2021. If this Court was to agree with the Appellant and permit him to take the Term-End Examination in August, 2021, it would amount to altering the eligibility criteria laid down in the Ordinance and shortening the academic year by six months, which is legally impermissible.

14. This Court cannot accept the contention of the Appellant that there was no requirement for Re-registration upto any cut-off period each year and that IGNOU being an open University, Re-registration has no link to the start of the academic year. We may note that the Appellant is now seeking to raise an argument which is contrary to his own pleadings in the writ petition as well as in the present appeal. Appellant has clearly pleaded that in 2018, IGNOU had issued a Prospectus for admission to the B.A. Programme which included yearly fee for three years. A student had to pay the Re-registration fee of Rs. 2,400/- each for the second and third year, respectively and that after admission to the B.A. Programme in 2018, Appellant had deposited the Re-registration fee for the second-year. It is further pleaded that in July, 2020, Appellant was supposed to fill the Re-registration form for the third-year but could not do so, due to the

Pandemic as he could not step out of his home and was also confused as to what will be the Re-registration process for the third year. The Appellant is, therefore, clearly aware of the fact that for each of the three years, there was a Re-registration procedure and the contention now sought to be raised is wholly misplaced and contrary to the Prospectus and to the Appellant's own stand in the pleadings.

15. Learned counsel for the Appellant strenuously contended that he was unable to register on the online portal due to the technical lapse of the University's online portal. In our view, as rightly held by the learned Single Judge, the reasons put forth are completely untenable. The Registration process was completely online and, therefore, the plea of the Appellant that on account of the Pandemic and consequent lockdown he was unable to register, cannot be accepted. Mr. Mirza has also pointed out that 3.5 lac students had Re-registered at the relevant time and this fact is enough indication that the online portal had no technical defect and the non-registration of the Appellant by the required cut-off date i.e. 12.07.2021 was entirely on account of his own lapse. There is yet another reason why this Court cannot accept the *alibi* raised by the Appellant. It does not appeal to reason that if the Appellant was unable to access the online portal, he made no attempts to communicate with the office of the University and seek necessary assistance, as the students were required to register between 17.05.2021 and 12.07.2021 and this gave a window of nearly two months for registration. It cannot be accepted that for nearly two months, the online portal of the University had a technical issue and the University took no steps to redress the same.

16. In view of the aforesaid facts and reasons, we see no reason to entertain this Appeal. No error or infirmity has been committed by the Learned Single Judge in dismissing the writ petition of the Appellant and declining to grant relief.

17. Accordingly, the Appeal along with the pending application is hereby dismissed.

CHIEF JUSTICE

JYOTI SINGH, J

AUGUST 06, 2021/rk

