

23.06.2022
Item No. 147
Crt.No.11
b.r.

MAT 279 of 2022
with
IA No. CAN 1 of 2022

The University of Burdwan & Anr.
-vs-
Tahiti Sinha Roy & Ors.

Mr. Raghunath Chakraborty
Ms. Amrita De
..... for the appellants.

Mr. Rajendra Banerjee
Mr. Subhendu Roycoudhury
.....for the Respondent-writ petitioner.

Mr. Swapan Kumar Dutta
Mr. Pradyot Kumar Das
..... for the State-Respondents.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

Under challenge in this appeal is the Order of the Hon'ble Single Bench dated 17th February, 2022 in the writ petition being WPA 19034 of 2021.

By the said impugned order, the Hon'ble Single Bench directed the Respondents/University of Burdwan (referred to herein for short only as the University) to permit the writ petitioner/Respondent No.1 in this appeal to appear for the examination in European Classical Literature (CC2) in respect of which the writ petitioner was unsuccessful during Semester- I of her under graduate course.

Mr. Chakraborty, Learned Counsel appearing for the appellant/the University, relies on Regulation 5 of the University Regulations and submits that the Hon'ble Single Bench had failed to appreciate that the writ petitioner was under an obligation to clear her failed paper in CC2 within three consecutive chances permitted in each Semester.

Mr. Banerjee, Learned Counsel appearing for the writ petitioner, submits that the Hon'ble Single Bench correctly noticed that the University itself had reasons to modify and stretch the period granted under Regulation 5 (*supra*) considering the situation created by the Pandemic. Furthermore, the Hon'ble Single Bench took notice of the fact that Regulation 5 itself provided that the time available to the writ petitioner to clear her Semester examinations requires to be fulfilled within seven consecutive years which expires in 2025.

For the benefit of this discussion, the opinion expressed by the Hon'ble Single Bench stated below:-

“Upon hearing learned counsel appearing for the parties, this court is of the view that Regulation 5 has to be construed in the background of the University modifying the said Regulation by reason of the pandemic. Admittedly, after holding Semester I, II and III examinations for the B.A.(Hons.) course, the University did not conduct the Semester IV and V examinations by reason of the pandemic and declared all the candidates have passed their

Semester IV and V examination. These documents are on record.

Hence, the requirement of a candidate to avail of three consecutive chances for completing each semester examination must be stretched and extended owing to the Semester IV and V examination not being held by the University. The petitioner already falls within the seven consecutive years requirement, since the petitioner has time till 2025 from the year in which the petitioner took the Semester I examination which was held in 2018. The requirement of the petitioner availing of the three consecutive chances from the Semester I examination would mean that the petitioner would have to clear the Semester I examination within 2021. Since, the Semester IV and V examinations which were due to be held in 2020 and 2021 respectively did not take place, the length of time for the petitioner to clear her Semester-I examination stood naturally extended.

In these facts, the University having itself modified and/or given different time-frame to Regulation 5, cannot deprive the petitioner from appearing for her Semester I examination in 2022. This is all the more logical since the petitioner has appeared and passed the Semester II and III examinations subsequently and has been declared passed in the Semester IV and V examinations by the University thereafter. If the University does not permit the petitioner to get an opportunity of clearing her Semester I examination, the petitioner will be irrevocably prejudiced.”

This Court has no reason to disagree with the views expressed by the Hon'ble Single Bench.

Accordingly, the order of the Hon'ble Single Bench stands affirmed having regard to the particular facts and circumstances of this case.

The University shall now make arrangements for the writ petitioner to appear for the remaining Semester-VI Examination and grant her an opportunity to complete the papers, including CC2, for which she could not appear due to pendency of this appeal.

Since affidavits are not invited, all other allegations are deemed to be denied and disputed.

All parties are to act on a gist of the communication of this order.

MAT 279 of 2022 with **IA No. CAN 1 of 2022** stand accordingly **disposed of**.

All parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance with all necessary formalities.

(Lapita Banerji, J.)

(Subrata Talukdar, J.)