

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble **Justice Kausik Chanda**

W.P.A. No.14366 of 2021

PRITHWISH MALLICK

-VERSUS-

THE STATE OF WEST BENGAL AND OTHERS

For the petitioner : Mr. Bishajib Ghosh, Adv.,
Mr. Sumitava Chakraborty, Adv.

For the State : Mr. Swpan Kumar Dutta, Adv.,
Mr. Rajat Dutta, Adv.

For the University : Mr. Nilotpal Chatterjee, Adv.,
Mr. Sourabh Sengupta, Adv.,
Mr. Satyaki Banerjee, Adv.

Hearing concluded on : 05.09.2022

Judgment on : 12.09.2022

Kausik Chanda, J.:-

The petitioner was an M. Tech student of evening course in Electrical Engineering at Calcutta University. He got admission in the said course in the year, 2016. He cleared his first semester in the month of December 2016. He was due to appear in the second semester in the month of May 2017, but he did not appear.

2. He was readmitted for the next academic session of 2017-2018 in terms of Clause-11 of the Regulation for 3-year 6-semester part time M. Tech. Course in Electrical Engineering (in short, the said regulations).

3. The petitioner, thereafter, appeared for the second semester in May 2018, but failed in the paper namely, “Embedded Systems.” He was allowed to take the said paper in May 2019. The petitioner again failed in the said paper. Though the petitioner cleared his third semester as well as fourth semester, the University did not allow him to continue with his studies on the ground that the petitioner has failed to earn his due credit as he could not clear the “Embedded Systems” paper in two consecutive chances. Challenging the said stand of the University, the petitioner has filed this writ petition in September 2021.

4. Mr. Bishajib Ghosh, learned advocate appearing for the petitioner, by referring to Clause-12 (a) of the said regulations suggested that the “corresponding semester in the next academic session” would mean a candidate will get total three chances after readmission. The first chance will be available in the academic session in which he was readmitted and

another two chances may be availed by the candidate by appearing at the corresponding semesters in the next academic session.

5. Mr. Nilotpall Chatterjee, learned advocate appearing for the University, on the other hand, submits that the petitioner in effect has been given three chances. He had an opportunity to take admission in the year, 2017 but he did not appear in the said examination.

6. Thereafter again he availed his chances to clear the said paper in 2018 and 2019. Despite providing two consecutive chances, the petitioner could not clear the second semester and as such, the petitioner could not be allowed any more chances to clear the said paper. Mr. Chatterjee submits that the University has acted in compliance with Clauses 11, 12, and 13 of the said regulations. No interference is called for by this Court.

7. I have failed to persuade myself to accept the argument of Mr. Biswajib Ghosh, learned advocate appearing for the petitioner, that a candidate will get again three chances after his readmission. I am of the view that a candidate is entitled to three chances in total to clear a semester.

8. The relevant clauses of the said regulations are quoted below:

“10. Candidates of 1st to 5th Semester examinations will be allowed to continue in the next semester classes provided he/she secures at least the following credit respectively and for the 6th semester, he /she has to secure the following credit:

Semester	Minimum Credit to be obtained

1	08
2	08
3	08
4	08
5	16
6	16

11. A candidate earning credit less than that mentioned in clause number 10 in any semester will be declared as 'unsuccessful' candidate in that semester examination. He/she will have to take readmission in the corresponding semester in the next academic session as per CU rules and he/she will be allowed two (2) such consecutive chances to earn the minimum credit.

12. (a) The shortfall in credit, being termed as 'due credits' (the candidate being unsuccessful in one or more papers) of a semester will have to be earned by the candidate by appearing in the said paper(s) at the examination of the corresponding semester in the next academic session and he/she will have two (2) such consecutive chances to earn his/her due credit(s).

(b) If he/she fails to earn the due credits within permissible chances (as per clause 12(a)), he/she will be declared as 'failed' candidate. In such a case he/she will have to take readmission in the first semester class as per CU rules.

13. (a) For a candidate who fails to earn all the 'credit' of a semester but continues to the next semester by virtue of earning minimum credits (clause number 10), it is necessary that, total accumulation of shortfall in credit carried by the candidate does not exceed 12 at any stage. In such a case he/she shall not be allowed to continue the course any further.

(b) In order to complete the M. Tech. course, a candidate will have to utilize all the allowed chances within five (5) years from the date of first admission. A candidate who fails to earn all the credits of the M. Tech. course within

the permissible chances will not be allowed to continue the course any further.

(c) If a candidate is unable to appear at any of the theory or practical examination(s), he/she will earn zero (0) credit in that paper(s)."

9. A bare reading of the aforesaid provisions makes the following things clear:

A. A candidate earning credit less than that mentioned in Clause No.10 in any semester will be declared as an unsuccessful candidate in that semester. This is his first chance.

B. He will have to take readmission in the corresponding semester in the next academic semester.

C. He will have another two consecutive chances to earn his due credit.

D. If a candidate is unable to appear at any theory or practical examination, he will earn Zero (0) credit in that paper.

10. In the present case, the petitioner did not appear for the second-semester examination held in May 2017. Therefore, he earned Zero credit in the second semester. This is how he lost his first chance in terms of 13 (c) of the said regulations.

11. He had to take readmission in the corresponding semester in the next academic session and clear all the papers in two consecutive chances and accordingly, he was allowed to take readmission in the corresponding semester in the next academic session (2017-2018).

12. He failed in “embedded systems” paper in the second semester held in May 2018. Therefore, he lost his second chance to earn credit for the said paper.

13. He availed his third chance to clear the said paper for the second semester held in May 2019, but unfortunately, he again failed in the said paper.

14. Therefore, it cannot be said that the University has acted in violation of the said regulations.

15. Despite being sympathetic to the petitioner, this Court cannot grant any relief dehors the said regulations.

16. Accordingly, W.P.A. No. 14366 of 2021 is dismissed.

17. Urgent certified website copies of this judgment, if applied for, be supplied to the parties subject to compliance with all the requisite formalities.

(Kausik Chanda, J.)