

17th February, 2022
(D/L No.06)
(SKB)

W.P.A. 19034 of 2021
(Via Video Conference)

Tahiti Sinha Roy
Versus
The State of West Bengal and others

Mr. Kajal Ray,
Mr. Ujjal Ray
... for the petitioner.

Mr. Swapan Kumar Datta,
Mr. Pradyot Kumar Das
... for the State.

Mr. Raghunath Chakraborty,
Mrs. Amrita De
... for the University.

The petitioner is presently studying for the three year B.A. (Hons.) degree in English in the University of Burdwan. The petitioner seeks a direction on the respondents to give an opportunity to the petitioner to clear the European Classical Literature (CC2) paper for Semester I of her under graduate course.

The admitted facts are that the petitioner could not clear the European Classical Literature (CC2) paper in Semester I in English which was held in 2018. The mark-sheet for the said examination reflects “N.A.” against the European Classical Literature subject, which means “Not Awarded”. The petitioner thereafter sat for the Semester II and III examinations in the Honours course and has approached this court after being denied the admit card for Semester VI

examination. The Semester IV and V examinations were not held by the University by reason of the pandemic.

According to learned counsel appearing for the petitioner, the petitioner applied for review of the European Classical Literature (CC2) paper, which did not lead to any enhancement of the marks in the paper. This is also the position taken by the University. The petitioner applied for enhancement of her marks through the Right to Information Act route which also did not yield any success. The petitioner's present grievance arises from the fact that the petitioner was denied of her admit card for Semester VI examination on the ground of the uncleared paper in the Semester I examination. Learned counsel relies on the Regulations of the University of Burdwan relating to the B.A./B.Sc./B.Com. Examinations under the Choice Based Credit System and particularly Regulation 5 of the U.Reg.(CBCS). According to counsel, a candidate would have to complete the Honours/General examinations for Semester I to IV within seven consecutive years including his/her original year of enrollment in Semester I examination. Counsel submits that since the Semester I examination was taken by the University in 2018, the petitioner has time till 2025 taking into consideration the seven consecutive years. However, since the petitioner did not avail all the three consecutive chances after 2018, the petitioner is now

being allowed to sit for the Semester I examination in 2022.

Counsel appearing for the University submits that although the petitioner has sat for Semester II and III examinations thereafter and has also been declared pass in Semester IV and V examinations, the petitioner cannot take the opportunity of appearing for the European Classical Literature (CC2) paper in Semester I after the lapse of three consecutive chances under Regulation 5.

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 examinations. 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 examinations 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.

In view of the above reasons, the University being the respondent nos.3 and 4 and the concerned College being the respondent nos.5, 6 and 7 are directed to allow the petitioner to sit for the European Classical Literature (CC2) paper in February, 2022 or whenever the University deems it fit to conduct the said examination and give an opportunity to the petitioner to clear the said paper. Needless to say, the petitioner's result in the said paper shall be independently assessed

by the College and the University regardless of the decision in this writ petition.

W.P.A.19034 of 2021 is allowed and disposed of in terms of the above.

Urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Moushumi Bhattacharya, J.)