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

Date of Decision: 18th July, 2022

+ W.P.(C) 3409/2021

IQRA PARVEEN

..... Petitioner

Through: Mr. Arpit Bhargava, Advocate.

versus

SATYAWATI COLLEGE AND ANR

..... Respondents

Through: Mr. Ankur Chhibber and Mr. Nikunj Arora,
Advocates for R-2.
Mr. Jitender Verma, Advocate for R-1.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

CM APPL. 31306/2022 (for interim directions)

1. By way of this application, interim directions are sought for declaration of results of the Petitioner as per order of this Court dated 4th April, 2022. During the course of submissions, counsel for the parties agreed that instead of the present application, the main petition itself be heard and decided. Accordingly, with the consent of both counsel, the court proceeded to hear the main petition, today itself.

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2. Before adverting to the question that arises for consideration, a brief narration of facts would be apposite. Petitioner enrolled for the three-year



B.A. (H) Urdu course (morning shift) [hereinafter the '*course*'] in Respondent No.1 – Satyawati College [hereinafter the '*College*'], which has two semesters each year, totalling to six semesters.

3. In November/December, 2018, she appeared for her first semester examinations, wherein, as per the results declared by Respondent No. 2 – University of Delhi [hereinafter the '*University*'], she cleared three out of four subjects and failed in one. Thereafter, she neither filled up the form, nor appeared in the second semester examinations held in May/June 2019. It is contended that she was unable to take her second semester examination as she was pregnant.

4. She attended classes for the third, fourth and fifth semester and appeared for the examination for the same, yet her results for third and fifth semesters were not declared. As regards the fourth semester, at that point of time, due to the pandemic, the University was promoting students on the basis of internal assignments submitted by them, and thus, she was duly promoted.

5. In this background, the Petitioner approached this Court as a sixth semester student, praying that her name be restored to the attendance list of sixth semester; she be allowed to submit internal assignments; be allowed to sit for the final sixth semester examinations as well as second semester examinations; and that her marksheets for the third and fifth semester be released. She is also aggrieved by the marksheet issued by the University at the end of 1st year of her course on 17th December, 2020, wherein she was declared to have failed the paper "English – A" in first semester, which, she



contends, she had retaken along with her third semester examination, the result of which has also been withheld.

6. Both the University as well as the College filed their counter affidavits and strongly opposed the relief sought.

7. In the counter affidavit of Respondent No. 2, it has been contended that the Petitioner has rightly been declared to have failed as per the applicable rules. The Petitioner was not eligible to be admitted in the third semester and has to be readmitted to the first year of the course. Reliance is placed upon Notification No. Acad.- I/Semester/2011/368 dated 03rd January 2012 read with Notification No. Acad-I/Semester/2011 dated 07th September 2011. The relevant extract of Notification No. Acad.-I/Semester/2011/368, dated 03rd January 2012 is reproduced as follows:

“(...) it is further clarified that the students who are detained from appearing in any semester examination of any Under-graduate/ Post-graduate course, due to shortage of attendance or for any other reason, will not be eligible for promotion to the next semester and will have to be re-admitted in the next academic session to the same semester of the course in which they were detained.”

8. Mr. Ankur Chhibber, counsel for Respondent No. 2, argues that since the Petitioner did not appear in the second semester examination in May/ June, 2019, she was ineligible to be admitted directly to the third semester. He further contends that as per the ordinance of the University, a student is eligible for promotion from the first year to the second year only if he/she has passed at least fifty percent of the papers of the first year. Since the Petitioner has failed to do so, she is ineligible to be promoted to the second year. In this regard, attention is invited to a notification dated 20th December 2020,



wherein, under the head “Promotion Rules”, it is provided that:

“A student shall be eligible for promotion from 1st year to 2nd year/III semester provided that he/she has passed 50% papers of I and II semester taken together and similarly for promotion from 2nd year to 3rd year/V semester.”

9. Mr. Chhibber emphasises that the Petitioner had no legal right whatsoever to appear in the third semester examination, and she engineered admission to appear in same in connivance with an employee of the College. Therefore, no right can vest in her favour on that basis. No relief should be granted to the Petitioner who has indulged in unlawful means to appear in an examination. Granting any relief to the Petitioner would set a bad precedent and encourage other students to flout the norms. Mr. Chhibber additionally adds that the Petitioner also cannot take advantage of having cleared the fourth semester examination as the same was on account of the lockdown conditions due to COVID-19 whereby the University had allowed the students to be promoted on the basis of the assignments submitted by them.

10. Mr. Jitender Verma, counsel for the Respondent No. 1 adopts the submissions advanced by Mr. Chhibber and additionally submits that indeed the Petitioner is not entitled to any such relief as prayed for. He places reliance on the counter affidavit wherein it has been specifically averred as under:

“3. (...) During this period the petitioner with the help of an employee filled her form for the examination and as the examination and annual fee are to be submitted through online mode; therefore, the petitioner taking advantage of this mode deposited her fee and the same was not pointed out even to the dealing employee and because of this the petitioner succeed in getting the examination ticket despite being ineligible for the same. The relevant excerpts of the ordinance IX clause 12 governing the passing and promotion rules for all the under-Graduate courses under choice based credit system in University of Delhi is annexed herewith and marked as Annexure R-1.”

11. To buttress the submissions advanced by Mr. Chhibber, Mr. Verma has



submitted that the Petitioner has managed to appear in the third semester examination by colluding with an employee of the college which resulted in issuance of an admit card. He submits that the College, realising this, has even charge-sheeted the said employee, and an enquiry is underway. Along with the counter affidavit, a copy of a reply submitted by the said employee is also annexed. Additionally, reliance is also placed on an office order dated 15th July, 2021, whereby an Enquiry Committee has been set up by the College.

ANALYSIS

12. The Court has considered the above submissions. Before giving an opinion on the contentions advanced, it would also be appropriate to take note of the interim order passed herein on 27th April, 2021, where the Court directed as under:

“8. For the reasons aforesaid, it is directed that the petitioner be permitted to take the sixth semester examinations for the B.A. (Hons.) Urdu course, if they are held prior to the next date of hearing, subject to the result of the writ petition. The result of the said examinations will not be declared and will be kept by the University’s authorities in a sealed cover. It is made clear that this will be without prejudice to the rights and contentions of the parties, and the petitioner will not be entitled to claim any special equities as a result thereof.”

13. Thereafter on 28th September, 2021, the Court passed the following order:

“The proceedings in the matter have been conducted through video conferencing.

1. The stand taken by the respondents is that the petitioner was permitted to take third, fourth and fifth semester examinations despite being ineligible to do so, due to the wrongful action of a single employee of respondent no. 1- Satyawati College [“the College”]. It is, prima facie, difficult to appreciate that one employee could subvert the system in this manner on three occasions i.e. third, fourth and fifth semester examinations of the petitioner. Despite a specific direction in the order dated 27.04.2021, the affidavit filed by the respondent no.2- University of Delhi [“the University”] does not explain this position at all. The University’s affidavit only dilates upon the rule position without any advertence to the fact that the petitioner was permitted to take three sets of examinations while not being entitled



to do so.

xx ... xx ... xx

4. Mr. Arpit Bhargava, learned counsel for the petitioner, requests that the petitioner's result be declared in the meantime. However, it is evident from the order dated 27.04.2021 that the petitioner was permitted to take the sixth semester examinations without prejudice to the rights and contentions of the parties, and without any specific equities being created in her favour. The affidavit filed by the College raises grave allegations against her with regard to the manner in which she was able to take the third, fourth and fifth semester examinations, in collusion with an employee of a college against whom disciplinary proceedings have also been commenced. These have yet to be examined. Any directions to release the petitioner's result at this stage will virtually tantamount to allowing the writ petition. I do not find the said request of Mr. Bhargava to be reasonable as an interim measure, and the same is therefore rejected."

14. On 4th April, 2022, the Court passed the following order:

"4. In my considered view, even though respondent no.2 may be justified in taking this stand, the fact remains that the petitioner was permitted to appear in the examination, and has cleared the examinations conducted by respondent no.1/college. It, therefore, prima facie appears to be unjust to now require the petitioner to repeat all the 6 semester in one go. It has been put to learned counsel for the respondent no.2 to obtain instructions as to whether, in the peculiar facts of the present petition coupled with the fact that for the last two years, the academic career of students have been seriously impacted on account of the Covid-19 pandemic, the result for the examinations taken by the petitioner, which are presently kept in a sealed cover, can be declared."

15. The controversy surrounds the Petitioner taking her third semester examination, despite being ineligible. In terms of the rules and the ordinance cited by Mr. Chhibber, there cannot be any dispute that Petitioner had not cleared the requisite number of examinations required to be promoted to the next year. Nevertheless, it emerges from the facts recounted above that the Petitioner had indeed appeared in the third semester examination. According to the Petitioner, she attended the classes for the third semester and was finally issued the admit card in November, 2019. Whether this card was issued on an act of connivance between the Petitioner and the employee named by the College, is a highly disputed fact. Although an enquiry is ongoing against the



employee, the same cannot be the basis for the Court to arrive at a conclusion that there was any connivance on the part of the Petitioner. Although her appearing in third semester examinations could also be the outcome of sheer negligence of the employee. The approval of the application by the College as well as the University, which led to the issuance of her admit card which allowed her to sit in the examination, cannot be pinned down to one employee alone on a sheer allegation of connivance.

16. It must also be noted that after appearing in the third semester examination, Petitioner was further permitted to attend classes for the fourth semester and the results thereof have also been declared. While there is an explanation offered for the same by the University (as noted above), which could be plausible; yet, the undisputed fact remains that Petitioner's result for the fourth semester has been declared. Thereafter, she was permitted to attend the fifth semester classes and also appear for its examination. In such circumstances, as of today, Petitioner has appeared for the third, fourth and fifth semester examinations. Later, by virtue of an order passed by this Court dated 27th April 2021, she also appeared for the sixth semester and second semester backlog/ compartment examinations conducted this year. In fact, counsel for the Petitioner has informed this Court that while appearing for the fifth semester examinations, Petitioner had also appeared for the first semester backlog/ compartment of the examination. In such circumstances, when the candidate has appeared for all six semesters, the Court cannot simply, on the basis of a bald allegation of connivance on behalf of the College, ignore the fact that the Respondents have all throughout permitted Petitioner to attend classes and appear in the examinations. When she was allowed to appear in



the third, fourth and fifth semester examinations, without any protest, Petitioner has a good ground to contend that she reasonably expects that Respondents had promoted her. This expectation is only natural and reasonable as she was permitted to continue with her education and appear in the examination. She therefore, relied upon this representation and any rejection of her legitimate expectations would work to her detriment. The University was duty bound to act fairly by taking into consideration all relevant factors relating to Petitioner's legitimate expectations. At this stage, when she has completed her course, relegating her to the first year would be a travesty of justice.

17. In light of the above, the Court is inclined to allow the present petition.

18. Mr. Bhargava states that there is an urgency since Petitioner may have to appear in certain compartment examinations, depending on the result. The attention of the Court has been drawn to the notification dated 11th July, 2022, by way of which, the University has notified all concerned regular students of semester two of all Undergraduate (UG) programmes for the academic session 2021-22 to fill in their examination forms for the examination to be held in August, 2022 by 25th July, 2022 (11:55 PM), and the Petitioner seeks to fill the same by the said date, if the need so arises.

19. In light of the above, it is directed that the University will declare Petitioner's results for all semesters, wherever she has appeared, and provide her with the marksheets, on or before 24th July, 2022.



NEUTRAL CITATION NO: 2022/DHC/002658

20. The Petition is allowed in the above terms and the pending application [CM APPL. 31306/2022] is also disposed of.

21. The date already fixed i.e. 8th September, 2022 stands cancelled.

SANJEEV NARULA, J

JULY 18, 2022

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