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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: February 23, 2022+ W.P.(C) 5663/2021 & CM APPL. 17658/2021

RAUNAK CHIKARA Petitioner

Through: Mr. Manoj Kumar Garg &
Mr. Siddhartha Patra,
Advocates.

Versus

UNIVERSITY OF DELHI THROUGH
ITS REGISTRAR & ORS. RespondentThrough: Mr. Ankur Chhibber,
Mr.H.S.Tiwari, Mr. Anshuman
Mehrotra, Mr. Harsh Dhankar
& Mr. Nikunj Arora,
Advocates.

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CORAM:**HON'BLE MR. JUSTICE PRATEEK JALAN****JUDGMENT**

1. By way of this writ petition, the petitioner seeks improvement/correction of his results for the 4th semester of the B.A. (Hons.)(English) course [hereinafter, “the course”] in the respondent No.1- University of Delhi [hereinafter, “the University”].

Facts

2. The petitioner joined the course in the year 2018. The duration of the course is three years, with each year comprising of two semesters. This writ petition concerns a notification dated 04.06.2020 [hereinafter, “the notification”], issued by the University in the wake



of the COVID-19 pandemic. The petitioner's result for the 4th semester was computed in terms of the notification.

3. The writ petition, as originally filed, sought quashing of the notification. However, at the very first hearing, i.e. on 02.06.2021, it was noted that the petitioner's contention was, in fact, based upon an interpretation of the notification which, according to him, entitled him to an improvement in his 4th semester results. The petitioner, therefore, sought leave to amend the writ petition, which was allowed by an order dated 11.06.2021. The writ petition, as amended, seeks the following reliefs:

“(1) Quashing the Order / Decision not to take / allow the improved / corrected / revised CGPA & SGPA of the Petitioner and the Candidate, which was issued by the Dean (Examination) of University of Delhi for academic session 20 19-20.

(2) Direct the Respondent No. 1 to correct 4th Semester SGPA to 6.535 from 5.57 on the improved 3rd Semester SGPA from 3.86 to 5.79 of Petitioner for the Courses for which the Petitioner applied.

(3) Direct the Respondent No. 1 to correct 2nd Year CGPA from 5.68 to 6.165 bases on improved SGPA of 3rd & 4th Semester for the Courses for which the Petitioner applied.

(4) Direct the Respondents to take / allow the improved / corrected / revised CGPA & SGPA of the Petitioner for the Courses for which the Petitioner applied.

(5) Pass any other or further Order or Orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in the interest of Justice and to meet the ends of Justice.”



4. Upon the onset of the COVID-19 pandemic, and consequent disruption in the normal functioning of the University, the University was required to adopt alternative mechanisms for assessment and promotion of its students. The notification sought to address this need. It concerns grading/results of the intermediate semester students for all courses in the University. The relevant extracts of the notification are as follows:-

“In view of the prevailing situation of Covid-19 Pandemic, it is notified hereby to all concerned that the Intermediate semester/term/year students shall be graded with adopting alternative mode for the same as conducting examinations for Intermediate Semester/Term/Year students (second semester/term/ Ist year and fourth semester/term/IInd year students) in the conventional mode i.e. pen and paper is not feasible as per the existing government norms of maintaining social distancing and safety and health of the students .The matter was intensively deliberated in the bodies i.e. 'Task Force constituted by the University in view of Covid-19 and the Working Group on Examinations, based on which it has been decided that as one-time measure, alternative mode of grading for promotion/results shall be adopted as per composite format for calculating the same for the Intermediate semester/term/year students for the academic session 2019-2020 so that students of university can take their career forward.

- *Students of intermediate semester/term/year. The grading to the students could be composite of 50% marks on the basis of the pattern of internal evaluation/assignment based evaluation adopted by the university/colleges/faculty/Centre wherever applicable and the remaining 50% marks can be awarded on the basis of performance in previous semester/term/year only.*



- *For students of intermediate semester/term/year, having no previous performance i.e. having no marks in previous semester/term/year, shall be graded on the basis of 100% assignment based evaluation.¹*

5. It is evident from the above that as far as the intermediate semester students were concerned, the notification provided for their assessment on the basis of two parameters: (a) marks on the basis of internal evaluation or assignment, and (b) marks on the basis of performance in the previous semester/term.

6. The petitioner's marks for his 4th semester were calculated on this basis. The previous semester which was factored into the result was the 3rd semester, for which he had taken the examinations in November-December, 2019. At that stage, the petitioner had achieved a Semester Grade Point Average [hereinafter, "SGPA"] of 3.86 in the 3rd semester, with an Essential Repeat in one paper because he had not taken the examination for the said paper. The petitioner's 4th semester marks were calculated on this basis, and his SGPA for the 4th semester was declared as 5.57.

7. The petitioner subsequently repeated two papers of the 3rd semester alongwith his 5th semester examinations in January-February, 2021. The results were declared on 25.04.2021, whereby the petitioner's 3rd semester results improved from SGPA of 3.86 to 5.79. He consequently sought re-computation of his 4th semester marks, arguing that the notification required his improved performance in the previous semester to be taken into account. This was declined by the University, leading to the present petition.

¹ Emphasis supplied.



Submissions

8. Mr. Manoj Garg, learned counsel for the petitioner, submits that the notification requires the petitioner's 4th semester marks to be computed *inter alia* on the basis of his 3rd semester marks. His 3rd semester marks having increased, Mr. Garg submits that the benefit of the increased marks should be accorded to the petitioner for the 4th semester also. He relies upon a subsequent notification of the University dated 08.06.2020, which provides for a one-time measure permitting carrying forward the subject in which the students had failed for the academic year 2019-20. According to the later notification, all students were to be promoted to the next semester, subject to clearing the examinations in which they had failed/remained absent, when the examinations were next held. The petitioner also relies upon the promotion criteria stipulated in a notification of the University dated 23-24.09.2020, which clarified that the notification dated 08.06.2020 was applicable to all 4th semester students. Mr. Garg has also drawn my attention to a further notification dated 20.10.2020, issued by the University, with regard to the delayed submission of assignments.

9. Mr. Garg submits that, contrary to the stipulation in the notification characterizing it as a "one-time measure", the University has, in fact, issued a further notification dated 21.05.2021, adopting a similar measure for the next academic year, i.e. 2020-21.

10. Mr. Garg relies upon three judgments of this Court in support of his contentions. In *Sanyam Gupta vs. Central Board of Secondary*



*Education*², this Court was concerned with a student who had taken improvement examination in the Class XII examinations conducted by the Central Board of Secondary Education [hereinafter, “CBSE”]. The Court noted that in the wake of the COVID-19 pandemic, the CBSE had formulated an Assessment Scheme which was approved by the Supreme Court. It was held that these rules also applied to the students who were appearing in the improvement examination which was being conducted by the CBSE. In reaching this conclusion, the Court relied upon the earlier judgments of this Court in *Nikhil Sharma vs. Guru Gobind Singh Indraprastha University and Anr.*³ and *Poonam vs. Guru Gobind Singh Indraprastha University & Anr.*⁴, which have also been cited by Mr. Garg.

11. The submission of Mr. Ankur Chhibber, learned counsel for the University, on the other hand, is that the petitioner has already been given the benefit of the notification, according to which his 4th semester marks were calculated. Mr. Chhibber submits that the notification did not contemplate a further reassessment in the event of a student taking improvement examinations.

12. Mr. Chhibber further submits that the University also made a provision for candidates who were not satisfied with their results calculated in terms of the notification to take a subsequent examination in the same subject. By a notification dated 21.05.2021, the University announced that the students who were in their 6th semester (such as the petitioner), would be entitled to appear for

² W.P.(C) 4403/2020, decided on 14.08.2020.

³ W.P.(C) 10612/2017, decided on 15.03.2018.

⁴ W.P.(C) 8242/2016, decided on 03.11.2016.



improvement in the papers of the 4th semester also. Mr. Chhibber states that the petitioner's remedy, if he was dissatisfied with his result of the 4th semester examination, would have been to take the examination pursuant to the notification dated 21.05.2021, which he has failed to do.

13. Mr. Chhibber distinguishes the judgment in *Sanyam Gupta*⁵ on the ground that the petitioner in that case wanted to appear in the improvement examination for his Class XII examination, which was not conducted by the CBSE due to the COVID-19 pandemic. In these circumstances, the Court applied the same scheme which would have been applicable to regular examinations taken at the same time. Mr. Chhibber submits that the judgments in *Nikhil Sharma*⁶ and *Poonam*⁷ are inapplicable to this case, as those cases pertain to candidates who had taken improvement examinations, but their performance in the improvement examinations was worse than in the regular examinations. The Court held that in such circumstances, the result in which the candidate has performed better should prevail.

14. Mr. Chhibber cited the judgment of the Supreme Court in *Council of Homeopathic System Of Medicine, Punjab and Ors vs. Suchintan and Ors.*⁸ to submit that the doctrine of "relation back" would not apply to the supplementary examinations. He also cited the judgment of this Court in *Surbhi Kampani vs. Delhi University and*

⁵ Supra (note 2).

⁶ Supra (note 3).

⁷ Supra (note 4).

⁸ 1993 Supp (3) SCC 99.



*Ors.*⁹ to submit that the result of an improvement examination can only be prospective.

Analysis

15. The principal question for adjudication is whether the notification requires the petitioner's 4th semester marks to be re-computed on the basis of a *subsequent* improvement in his 3rd semester marks. There is no dispute as to the original methodology of calculation under the notification. The petitioner's request is essentially that the 3rd semester marks, which he had later obtained on improvement, should be factored into the computation of his 4th semester marks under the notification.

16. The University's reading to the contrary, in my view, is not vulnerable to the interference of the writ court. The scope of interference with the decision of administrative authorities is limited, and the writ court is expected to examine the correctness of the decision-making procedure, but cannot sit in appeal over the decision. The said principles have been laid down by the Supreme Court *inter alia* in *W.B. Central School Service Commission vs. Abdul Halim*¹⁰ and *Rachna & Ors vs. Union of India and Anr*¹¹. The decision itself is liable to scrutiny only if it is manifestly arbitrary or perverse, in the sense that the court comes to a conclusion that no reasonable authority could have reached the same decision on the basis of the material placed before it. These principles have been held to be of particular

⁹ W.P.(C) 5241/2012, decided on 31.08.2012.

¹⁰ (2019) 18 SCC 39 [Paragraphs 27, 28, 29 and 31].

¹¹ (2021) 5 SCC 638 [Paragraphs 43 and 45].



significance in the case of academic institutions. In *Basavaiah (Dr.) v. Dr. H.L. Ramesh*¹², the Supreme Court has held as follows:

“38. We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the courts have a very limited role particularly when no mala fides have been alleged against the experts constituting the Selection Committee. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should never make an endeavour to sit in appeal over the decisions of the experts. The courts must realise and appreciate its constraints and limitations in academic matters.”

17. The observations in *Basavaiah (Dr.)*¹³ have been followed by the Supreme Court *inter alia* in a recent judgment in *Indian Institute of Technology Kharagpur and Others vs. Soutrik Sarangi and Others*¹⁴.

18. In the present case, the petitioner’s challenge is not to the decision-making procedure *per se*, but to the University’s interpretation of the notification. For the reasons discussed below, I do not find the University’s actions to be arbitrary or perverse.

19. It is important to note that the notification was issued soon after the onset of the COVID-19 pandemic. Due to the large-scale disruption caused thereby, the University was unable to hold regular examinations or conduct assessments at that stage. It was pressed to find innovative solutions to a complicated situation, so as to obviate long-term prejudice to students by extension of their courses. The requirement, at that stage, was to enable students to proceed with their

¹² (2010) 8 SCC 372.

¹³ *Supra* (note 12).

¹⁴ 2021 SCC Online SC 826 [Paragraphs 19 and 20].



courses rather than to impede their progress until the regular examinations could be held. In such unprecedented circumstances, an element of experimentation was required. The University has taken the position in its counter affidavit that the notification represented as an alternative mode of grading as a “*one-time measure*”. The decision to declare results based on a combination of internal assessments and prior performance falls within such context.

20. The notification does not expressly provide for the situation in which the petitioner is placed, inasmuch as it does not deal with an eventuality in which a student’s performance in the prior semester is subsequently enhanced by way of an improvement examination. The argument of the petitioner, if accepted, would require the University to re-compute the intermediate semester scores on the basis of *future performance in past semesters*, rather than on the basis of the students’ past performance. In the absence of any indication in the notification that such a course was contemplated, I do not find any error in the approach of the University.

21. I am also mindful of the fact that the University gave affected students an opportunity to participate in a later examination to improve their scores, if they so wished. As candidates were being subjected to an entirely novel method of assessment under the notification, which would not have been within their contemplation at all, the provision of a remedial opportunity guarded against any prejudice being caused to them. This was provided in the notification dated 21.05.2021, whereunder the petitioner could have taken conventional examinations for his 4th semester papers, along with his



6th semester examinations. The petitioner, if he was keen to improve his scores in the 4th semester, could well have availed of this opportunity, which he chose not to do.

22. The observations of the Supreme Court in *Council of Homeopathic System*¹⁵ support the case of the University. Although the question arose in a different context, the Court rejected the applicability of the doctrine of “relation back” to supplementary examinations. Upon an analysis of the relevant regulation framed by the Central Council of Homeopathy, the Court held that a candidate who has passed a supplementary examination may be declared to have passed in the examination as a whole but would not be deemed to have passed in the annual examination held at the end of the year. By analogy, the petitioner must be given the benefit of his improved performance in the 3rd semester examination, but cannot claim all the consequences which would have arisen if he had obtained those marks at the first instance.

23. I also agree with Mr. Chhibber with regard to the effect of the three judgments cited by Mr. Garg. In *Sanyam Gupta*¹⁶, the Court held that a candidate who had registered for an improvement examination which could not be held due to the COVID-19 pandemic, ought to be treated at par with the regular students who had registered for the said examination and assessed on the basis of the alternative assessment scheme approved by the Supreme Court. This is not the question in the present case at all. The petitioner registered for the 3rd semester

¹⁵ Supra (note 8).

¹⁶ Supra (note 2).



improvement examination alongwith his 5th semester examinations. He has been treated at par with the other students who appeared for the same examination at the same time, and has also been given the benefit of the improved results, so far as his 3rd semester SGPA is concerned.

24. In *Nikhil Sharma*¹⁷ and *Poonam*¹⁸, the candidates were given the benefit of the higher scores earned by them in the original examinations when they had performed worse in the improvement examinations. The petitioner's case is not comparable to those cases, as he has improved his performance significantly in the improvement examination, and has been given the benefit thereof.

25. Mr. Garg's reliance on several subsequent notifications is also misplaced. The notification dated 08.06.2020 deals with students who failed or remained absent in the intermediate semester. The petitioner does not fall in that category. The notification dated 23-24.09.2020 is clarificatory of the fact that it applies to 4th semester students but does not add anything to support the case of the petitioner. The notification dated 20.10.2020 deals with the belated submission of the assignments, and the notification dated 10.12.2020 also appears to reiterate the contents of various prior notifications of the University. These notifications do not, in my view, take the petitioner's case any further.

¹⁷ Supra (note 3).

¹⁸ Supra (note 4).

**Conclusion**

26. For the reasons aforesaid, I find no infirmity in the decision of the University to decline the request of the petitioner for re-computation of his 4th semester result.

27. The writ petition, is therefore, dismissed. The pending application, also stands disposed of. No order as to costs.

PRATEEK JALAN, J.**FEBRUARY 23, 2022***'Bp'*