

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

Date of decision: 17th OCTOBER, 2022

IN THE MATTER OF:

+ **LPA 506/2022 & CM APPL. 38468/2022**

VEDANSH PANDEY & ANR. Appellants

Through: Appellants – in person.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Mohinder JS Rupal, Ms. V. Bhawani, Mr. Aakash Pathak, Advocates for DU
Mr. Apoorv Kurup, CGSC with Ms. Nidhi Mittal, Advocates for UGC

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. *Vide* the instant LPA, the Appellants seek to challenge the Order dated 05.08.2022, passed by the learned Single Judge in C.M. APPL. 47384/2021 in W.P.(C) 13094/2019.
2. The Appellants herein are the students of LL.B programme at Law Centre-1, Faculty of Law, University of Delhi. The Appellants herein filed a Writ Petition, being W.P.(C) 13094/2019, before this Court praying for the following reliefs:-

“(1) Direct Respondent No. 3, 4 & 5 to quash the notification ‘Date-Sheet for LL.B. 1/111/V Term Examinations, December 2019’ bearing number - Exam. VII/ DS-43/19 issued by Respondent No. 4 on 11/11/2019.

(2) Initiate a judicial enquiry into the instances of nepotism, falling standards of legal education and flagrant disregard for the law prevalent in the Faculty of Law.

(3) Direct Respondent No.2 to conduct immediate inspection of Faculty of Law under the watch of this court and prepare an inspection report in consonance with Rules of Legal Education - 2008 to ensure that the Respondent No.5 is complying with the standards of legal education to be observed by Universities in India as per section 49 (1) (d) of The Advocates Act, 1961.

(4) Direct the formation of independent committee consisting of legal luminaries and representatives of Respondent No.1, 2 & 6 to draft and publish detailed rules laying down procedure of paper setting and evaluation of answer scripts of students of Faculty of Law clearly laying down procedure of revaluation, qualification of evaluators, and preparation of model answer keys among other necessary rules to ensure fairer and more consistent evaluation process.

(5) Direct the Respondent No. 3, 4 & 5 to allow revaluation of answer scripts of all aggrieved students for semester end examinations as a matter of right.

(6) Direct Respondent No. 5 for the immediate preparation of model answer keys for aiding the examiners in the evaluation of answer sheets of semester/term-end examination and fair academic evaluation of students.

(7) Direct Respondent No.5 to implement the recommendations suggested in the report titled 'Evaluation Reforms in Higher Educational Institutions in India' prepared by Respondent No. 6 as an interim measure until detailed rules for paper

setting and evaluation is framed by the Respondent No.5.

(8) Direct the Respondent No. 3 to provide the Petitioner No.1 with photocopies of his answer script of semester end examination conducted in the month of May-June 2019.

(9) Direct the Respondent No.4 to comply with the provisions of RTI Act and the directions of Respondent No3 and share data regarding the grievances/complaints filed with the University of Delhi in relation to evaluation of answer script and paper setting including volume of grievances, rate of disposal of grievances, the pendency of grievances etc.

(10) Pass such other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.”

3. During the pendency of the Writ Petition, the Appellants herein filed C.M. APPL. 47384/2021 with the following prayers:

“(1) Direct Respondent No.3 to conduct administrative inquiry into the illegal activities of Respondent No.5 and initiate disciplinary proceedings against Respondent No.5.

(2) Direct Respondent No.3 to remove Respondent No.5 from her current position (as the Dean, Faculty of Law) as she can adversely affect the administrative inquiry / disciplinary proceedings by manipulating /destroying the evidence against her.

(3) Direct Respondent No.3 to conduct the remaining examination of Petitioner No.1 in a just, fair and equitable manner and provide him restitution.

(4) Direct Respondent No.3 to provide adequate compensation to Petitioner No.1 for grave violation of his fundamental rights.

(5) List the original Writ Petition and all the miscellaneous application filed for hearing at the earliest.”

4. The abovementioned application came up for hearing before the learned Single Judge on 05.08.2022 and the learned Single Judge rejected the said application by stating that the Respondent No.5 therein, who was the then Dean of the Law Faculty and against whom the prayers were made by the Appellants herein, was no longer holding the position and, therefore, prayers No.1 and 2 of the application become infructuous. The learned Single Judge held that prayer No.3 of the application had no correlation with the reliefs sought for in the main Writ Petition. The learned Single Judge dismissed the said application and posted the Writ Petition for hearing on 12.09.2022.

5. Aggrieved by the said Order, the Appellants herein have filed the instant appeal.

6. When the matter came up for hearing before this Court on 06.09.2022, even though the Order of the learned Single Judge did not require any interference, but on a statement made by the Appellants herein that one Ankit Kumar Yadav and one Sagar Mrinal, who were identically placed as the Appellants herein and who are from the Appellant's batch, have been permitted to take the examination in respect of 'Moot Court' subject by way of a supplementary examination, this Court directed University of Delhi to clarify on the said aspect. On 20.09.2022, it was mentioned by the learned Counsel for the University of Delhi that Mr. Ankit Kumar Yadav and Mr. Sagar Mrinal do belong to the batch of the Appellants herein and have been given a chance to sit in the supplementary examination and a meeting had

been called for by the University to resolve the anomaly. Learned Counsel for the University of Delhi prayed for one week's time to file an affidavit regarding the meeting. An affidavit has been filed by the University of Delhi. The entire affidavit, which is relevant for the instant case, is being extracted below:

**"AFFIDAVIT FILED BY RESPONDENT NO.2 -
UNIVERSITY OF DELHI**

I, Dr. Vikas Gupta, 5/0 Lt. Sh. I.J. Gupta, aged about 53 years, presently working as Registrar, University of Delhi-10007 do hereby solemnly affirm and submit as under:

1. I am well conversant with the facts and circumstances of the case on the basis of the record maintained by the University of Delhi in its ordinary course and can accordingly depose to the same on behalf of the University of Delhi herein.

2. That this Hon'ble Court vide order dated 26.09.2022 had directed the University of Delhi to file an affidavit regarding the meeting held by the Registrar with Dean Faculty of Law, three PICs of the respective three Law and other officials of the University of Delhi, regarding the issue of Moot Court subject.

3. It is respectfully submitted that the said meeting was held on 21.09.2022, and the minutes of the same have been reproduced as under:

"A meeting of the University officials, Dean Faculty of Law, PICs of 3 Law Centres and other faculty members from Faculty of Law was held today, i.e. 21.09.2022 at 3. P.M. in the Council Room of the Viceregal Lodge to discuss the matter of Vedansh Pandey v. University of Delhi, LPA No. 506/2022, which is pending for adjudication before the Hon 'ble High Court of Delhi. The

following persons were present during the meeting:

- 1. Registrar*
- 2. Dean, Faculty of Law (through videoconferencing)*
- 3. Professor In-Charge, Campus Law Centre 4.*
- 4. Professor In-Charge, Law Centre- I.*
- 5. Professor In-Charge, Law Centre — II*
- 6. Former Professor In-Charge, (Campus Law Centre)*
- 7. Subject Convenor, Moot Court (Law Centre — I)*
- 8. Subject Co-Convenor, ADR (Law Centre — I)*
- 9. Convenor, Legal Affairs, Faculty of Law (Law Centre-II)*
- 10. Joint Registrar (Legal)*
- 11. Joint Registrar (Teaching)*
- 12. Assistant Registrar (Legal)*

The matter was discussed at length. Based on the discussions in the of meeting, the following decisions were recorded with the concurrence of all members:

- 1. The facts related to present writ petition have already been placed before the Hon'ble Court.*
- 2. There is no provision for supplementary examination or any other kind of second opportunity in respect of the paper of Moot Court and all other Clinical/practical subjects, which have components of internal assessment, with respect to internal assessment.*
- 3. It was also noted that three students have been 're-examined' in respect of the Clinical/practical subject of (Moot Court) by one of the Law Centre without the information of Dean, Faculty of Law. The University is not*

inclined to re-visit/review their cases as results have already been declared.

4. Since the matter is presently sub-judice, the University may wait for the decision of the Hon'ble- Court before proceeding further in this matter.

5. The Standing Counsel may apprise the Hon'ble Court about the facts as recorded hereinabove.

6. It is once again reiterated that all decisions regarding examination matters in the Faculty of Law, shall be taken by the Dean, Faculty of Law and not by the PIC of any Law Centre unilaterally, in order to maintain the sanctity of the examination process, and ensure uniformity amongst all the three Law Centres.

7. The Faculty of Law shall examine as to whether there is a need for any additional guidelines with respect to the conduct of examination in respect of any Clinical/practical subject. In case any such additional guidelines are needed, the same must be placed before the Competent Authority, as soon as possible."

4. The Petitioner cannot seek negative equities. As of now, as submitted above, there is no provision which allows any Law Centre to grant more than one chance supplementary/re-examination, by whatever name called, in respect of Clinical/practical subjects.

5. There are a total of 30 subjects in the LL.B. course. A student is entitled to appear for examination in respect of a theory subject only if (s) he has a total of 70% attendance, whereas in respect of a Clinical/practical subject, there is continuous internal assessment/continuous classroom examination spread

over the course of one whole semester. It is only in respect of a theory paper that a student if eligible, is entitled to appear in supplementary examination, whereas there is no provision for supplementary examination in respect of Clinical/practical subjects.

6. The law is well laid down that no relief can be granted which is not as per ' the Statute or Regulation applicable of the University.

7. The Petitioner moreover has not even taken admission last academic year 2021-2022, and even in the present academic year 2022-23. The Petitioner, as of now, is not even a student of Faculty of Law University of Delhi.

8. The Petitioner moreover is failing in two Clinical/practical subjects viz. Moot Court and ADR, which are covered in Sth and oh semester of the LL.B. course respectively.

9. The Petitioner's case is not a stray case, because there are several other students in each of three Centres of the Faculty of Law, who are similarly situated as the instant petitioner. All such students were not granted more than one chance in any of the Clinical/practical subjects, and re-registered themselves for the subject in the next academic year, completed all activities of internal assessment/continuous classroom examination spread over the course of one whole semester, and cleared the subject.

10. Thus, in view of the aforesaid facts and circumstances, the present Writ Petition being devoid of merits may be dismissed with costs."

7. A perusal of the affidavit shows that the University has accepted that Mr. Ankit Kumar Yadav and Mr. Sagar Mrinal ought not to have been

permitted to sit in the supplementary examination as there is no provision which permits the students to take supplementary examination for practical courses like the paper of 'Moot Court', since, Clinical/practical subjects have components of internal assessment. The affidavit clarifies that in clinical/practical subjects there is a process of continuous assessment unlike other theory subjects where a person is entitled to sit in the examination if he has 70% attendance. The affidavit clarifies that only in theory subjects, the students are entitled to take supplementary examination and not in clinical/practical subjects.

8. The affidavit filed by the University in the Writ Petition discloses that as far as Moot Court is concerned, the entire assessment of 100 marks is based on internal assessment of the performance of the student in the various components in the subject. It was submitted that in respect of ADR subject, 50 marks are based on theory paper and the remaining 50 marks are based on internal assessment of the performance of the student in various components of the subject and the internal assessment is conducted by the respective teacher who is teaching these subjects. The affidavit also discloses that as far as Moot Court is concerned, Appellant No.1 herein has not even registered himself as ex-student in academic year 2021-2022. The affidavit further discloses that there are several other similarly placed students as the Appellants herein and permitting the Appellants herein to get one more chance to sit in clinical/practical subjects would amount to registering all such students, permitting them to complete all activities of internal assessment spread over the course of whole semester and then clearing them all.

9. In any event, all the abovementioned issues are pending before the learned Single Judge.

10. The Appellants herein have filed the instant appeal against the dismissal of C.M. APPL. 47384/2021 which, as rightly observed by the learned Single Judge, has become infructuous because Respondent No.5 therein, who was the then Dean of the Law Faculty and against whom the prayers were made by the Appellants herein, is no longer holding the position. This Court, at this moment, is refraining itself from making observations on the merits of the case and also on the aspect as to whether the Appellants are entitled to sit for the examination or not.

11. This Court had only sought for clarification from the University of Delhi when the Appellants submitted in the Court that two other students have been given similar benefits by the University. The University has clarified that aspect.

12. In view of the affidavit filed by the University, this Court is not inclined to permit the Appellants herein to take the supplementary examination at this stage. The learned Single Judge is requested to decide the Writ Petition filed by the Appellants herein as expeditiously as possible as it relates to the future of the students.

13. With these observations, the appeal is dismissed, along with pending application(s), if any.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

OCTOBER 17, 2022

Rahul