

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2572/2023 & CM APPL. 9851/2023**

Date of Decision: 14.03.2023

IN THE MATTER OF:

RANJAN KUMAR

S/O MANOJ PASWAN,
AGED ABOUT 25 YEARS,
ADDRESS: H-NO-889,
GALI NO:-38A, (B) BLOCK,
KAUSHIK ENCLAVE,
BURARI,
NEW DELHI-110084.

..... PETITIONER NO. 1

ROMIL BAGRECHA

S/O DINESH KUMAR BAGRECHA,
AGED ABOUT 23 YEARS,
ADDRESS: SITA BHAWAN,
SECOND B ROAD SADARPURA,
RAM SWARUP VIDHYARTHI MARG,
JODHPUR,
RAJASTHAN-342001.

..... PETITIONER NO. 2

HIMANSHU KUMAR

S/O SHRI KRISHNA YADAV,
AGED ABOUT 29 YEARS,
ADDRESS: MARANGA ROAD,
NEW SIPAHI TOLA,
PURNEA,
PURNEA,
BIHAR -854301.

..... PETITIONER NO. 3

SUDHANSHU SINGH

S/O RAM SUDHAKAR SINGH,
AGED ABOUT 24 YEARS,
ADDRESS: S.G.P.G.I, 46 JUDGE LANE,
SARASWATI PURAM,
RAIBARELI ROAD,
LUCKNOW,

SGPGI,
UTTAR PRADESH,
226014.

..... PETITIONER NO. 4

ABHISHEK RAI
S/O SHIV PRASAD RAI,
AGED ABOUT 26 YEARS,
ADDRESS: 145, SUHWAL,
GHAZIPUR,
UTTAR PRADESH – 232332.

..... PETITIONER NO. 5

Through: Mr.C.Kranthi Kumar,
Advocate

Versus

THE UNIVERSITY OF DELHI,
THROUGH ITS REGISTRAR,
ADDRESS: UNIVERSITY OF DELHI,
DELHI-110007.

..... RESPONDENT NO. 1

THE FACULTY OF LAW,
THROUGH ITS DEAN,
ADDRESS: UMANG BHAVAN, NORTH CAMPUS,
UNIVERSITY OF DELHI,
DELHI-110007.

..... RESPONDENT NO. 2

THE EXAMINATION CELL,
THROUGH ITS DEAN,
ADDRESS: THE DEAN EXAMINATION,
UNIVERSITY OF DELHI,
DELHI-110007.

.....RESPONDENT NO. 3

Through: Mr.Rajesh Gogna and
Ms.Priya Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. Learned counsel appearing on behalf of the petitioner prays for the following reliefs:-

"a. Call for the records including the notifications/circulars/ executive instructions of the Respondents apropos the conduct of the Annual Examinations of March/April to the Faculty of Law, University of Delhi vide which an opportunity to sit for the examinations was denied for the Petitioners and the like and issue a Writ in the nature of Mandamus or any other appropriate writ or direction or order for quashing the same as illegal, arbitrary, capricious, discriminatory and malicious and as ultra vires the due process of law and in violation of the statutory provisions of the University of Delhi and Articles-14,19 and 21 of the Constitution of India also the precedents laid down by the Hon'ble Courts from time to time and/or;

b. Issue a Writ in the nature of Mandamus or any other appropriate writ or direction or order to direct the Respondents to allow the Petitioners and the like who pursued the LLB course after 2015-26 from the Faculty of Law to sit for the arrear papers during the Annual examination session of March/April 2023 and/or;

c. Pass any other or further order/s or directions as this Hon'ble Court deems fit and proper in the attendant facts and circumstances of the case."

2. Learned counsel for the petitioners states that the petitioners had failed to clear the repeat exam held in August 2022, for their IVth semester subject, Constitutional Law-II (LB-401). He further states that the respondent-University vide notification dated 28.04.2022 allowed all the ex-students of final year of Under Graduate/Post Graduate/Professional Courses, who could not complete their degree within the stipulated period of 6 years, to take the Centenary Chance examination in failed/arrear subjects, to be conducted in March/April

2023. The petitioners' grievance is that they have not been allowed to sit for the concerned exam.

3. As per the counter-affidavit filed by the respondent-University, it can be seen that the petitioners are not entitled to appear in the concerned examination, in view of the notification dated 28.04.2022. As per the said notification, only the students who were admitted during or before 2015-2016 and could not complete their degree within the stipulated period therein are entitled to appear in the said examination. The petitioners were admitted in the year 2017, 2018 and 2019 and are still pursuing their degree and hence, cannot avail the benefit of the said notification. The relevant paragraphs of the counter-affidavit are reproduced hereunder:

“2. With regard to the Petitioners, it is submitted that the Petitioners had taken admission in the year 2017, 2018 and 2019 and their span period is valid upto May/June, 2023, May/June, 2024 and May/June, 2025 according to their year of examination. It is submitted that the Petitioners are not eligible for the Centenary Chance Examination as they are within the currency of span period.

9. In the matter in hand, the Petitioners who are clearly covered by the examination rules and supplementary rules of University of Delhi, are trying to take the benefit of the Centenary Chance Examination 2022 although they are not eligible.”

4. Learned counsel appearing on behalf of the petitioners states that he has challenged the said notification, whereby, the respondent-University has denied the petitioners the opportunity to appear in the concerned examination.

5. A perusal of the relief clause indicates that the notification dated 28.04.2022 is not specifically challenged. As has been held by the Hon'ble Supreme Court in its decisions in the cases of **Krishna Priya**

*Ganguly vs. University of Lucknow & Ors.*¹, *Om Prakash & Ors. vs. Ram Kumar & Ors.*² and *Manohar Lal v. Ugrasen*³, the court cannot grant a relief which has not been specifically prayed for by the parties. Since the notification in question is not challenged, therefore, this court is not inclined to accept the prayer to allow the petitioners to appear in the examination. A specific challenge is to be made to the concerned notification on specific grounds. Vague relief cannot be granted unless an appropriate challenge is made.

6. Even otherwise, there is no vested right in favour of the petitioners to avail extra opportunities to clear the examinations. If the University decides that extra chances are available to a specific category of students, which form a separate class in itself, no discrimination can be alleged. Admittedly, none of the students admitted in the Academic Years 2017, 2018, 2019 are granted benefit of the extra opportunity.

7. Furthermore, it is not advisable for courts to interfere with the functioning of the educational institutions, which have expertise in their field, unless the same is manifestly arbitrary or actuated by *malafides*. Any interference on the ground of one reason or the other would dilute the sanctity of the institutions. (See *The University of Mysore and Anr vs C. D. Govinda Rao and Anr*⁴, *Maharashtra State Board Of Secondary and Higher Secondary Education vs Paritosh Bhupesh Kumar Sheth Etc.*⁵, *Bhushan Uttam Khare vs Dean, B.J. Medical College and Ors.*⁶, and *Medical Council Of India vs Sarang and Ors.*⁷)

¹ (1984) 1 SC 307

² (1991) 1 SCC 441

³ (2010) 11 SCC 557

⁴ 1964 SCR (4) 576

⁵ (1984) 4 SCC 27

⁶ (1992) 2 SCC 220

⁷ (2001) 8 SCC 427

8. In view of the aforesaid, the instant petition is dismissed along with pending application.

PURUSHAINDRA KUMAR KAURAV, J
MARCH 14, 2023/MJ

