



2023:DHC:8414

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 12250/2023 and CM APPL. 55158/2023**

Date of Decision: **20.11.2023****IN THE MATTER OF:**

RAJ KUMAR SHRIVASTAV
S/O DK SHRIVASTAV
R/O KOTA, RAJASTHAN (PRESENTLY AT UNIVERSITY OF
DELHI, DELHI) & ORS.

..... PETITIONERS

Through: Mr. Manish Sharma, Ms. Jigyasa
Sharma and Ms. Adya Rao,
Advocates.

Versus

UNIVERSITY OF DELHI & ORS.
FACULTY OF LAW,
NORTH CAMPUS, DELHI UNIVERSITY,
MOBILE: 9811151216

.... RESPONDENT NO.1

BAR COUNCIL OF INDIA,
118, LAWYERS CHAMBERS,
HIGH COURT OF DELHI
SHER SHAH ROAD,
NEW DELHI-110003

.... RESPONDENT NO.2

UNIVERSITY GRANTS COMMISSION,
BAHADUR SHAH ZAFAR MARG,

Signature Not Verified
Digitally Signed By: NEHA
CHOPRA
Signing Date: 23.11.2023
17:34:30

Signature Not Verified
Digitally Signed
By: PURUSHAINDR
KUMAR RAURAV

NEW DELHI - 110002.
MOBILE: 8800185864

.... RESPONDENT NO.3

Through: Mr.Anshuman Mehrotra, Mr.Ankur Chhibber, Mr.H.S. Tiwari, Mr.Nikunj Arora, Mr.Arjun Panwar, Ms.Samriddhi Bhatt and Mr.Amrit Koul, Advocates for R-1/ University. Mr. Apoorv Kurup and Ms. Gauri Goburdhun, Advocates for R-3/ UGC.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petitioners, *vide* the instant writ petition have prayed for the following reliefs:-

“i. Kindly issue a writ of mandamus/ certiorari, or any other writ, thereby directing the Respondent No.1 University to conduct supplementary examinations for the batch inducted for the term of 2021-2024, before commencement of the new semester, thereby allowing them an opportunity to re appear for their examinations, so that they are not detained for one full term; and/ or

ii. Kindly issue a writ of mandamus/ certiorari, or any other writ, thereby directing the Respondent No.1 University to promote the students as have been detained in the 4th semester, to be promoted to the 5th semester with an undertaking that they shall sit for their back log examination along with the regular examinations, and shall only be awarded the degree upon successfully clearing 30 subjects.”

2. The case of the petitioners is that they were granted admission in LL.B. programme (three years course) for the Academic Year 2021-22. According to them, on account of academic session being delayed, the actual study was commenced in the month of January 2022. In the month of June

2023, they have completed their studies upto Fourth Term. Admittedly, the petitioners had not cleared at least 15 papers of First, Second, Third and Fourth Term examinations, taken together; and therefore, they have not been promoted to Fifth Term.

3. Learned counsel appearing on behalf of the petitioners submits that, if the scheme of the Promotion Rules (applicable to the LL.B. course in the Faculty of Law) (hereinafter 'Ordinance') is interpreted harmoniously, the same would refrain the candidates to take admission in Fifth Term and to appear in the examination, subject to clearance of their back log papers at a later stage.

4. While elaborating the aforesaid aspect, learned counsel appearing on behalf of the petitioners submits that, the same would eventually secure one year of the candidates. He, therefore, submits that there is no logic behind delaying the academic session or to ask the students to wait for one complete year to clear the First or Third Term back log papers along with Fifth Term supplementary examination.

5. The submissions made by learned counsel appearing on behalf of the petitioners are strongly opposed by the learned counsel appearing on behalf of the respondent-University.

6. Learned counsel appearing on behalf of the respondent-University, while placing reliance on relevant clauses of the Ordinance, submits that, the interpretation suggested by the petitioners is contrary to the scheme of the Ordinance. He, therefore, submits that once it is admitted that the candidates have not cleared at least 15 papers of First, Second, Third and Fourth Term examinations, taken together, they cannot be allowed either to take admission in Fifth Term or to appear in the regular Term examination.

7. He explains that as per the scheme of the Ordinance, the candidates, who are left with their First Term or Third Term back log papers, will have to be allowed to clear their back log papers along with Fifth Term supplementary examination and the candidates those who are left with their Second or Fourth Term back log papers, will have to be allowed to clear the same along with Sixth Term supplementary examination.

8. He further submits that, as in the instant case, it is undisputed that the petitioners have not cleared at least 15 papers of First, Second, Third and Fourth Term examinations, taken together, they are not eligible to be admitted in the Fifth Term. He, therefore, submits that since the same is the scheme of the Ordinance, no interference is called for.

9. Learned counsel appearing on behalf of the respondent-University submits that, in academic matters, the court normally should not dilute the academic standard and any interpretation different than the one by the University, would amount to disturbing the academic policy.

10. I have heard the learned counsel appearing on behalf of the parties and perused the record.

11. Clause (iii) of the Ordinance is reproduced as under:-

“.....

(iii) Subject to sub-rules (i) and (ii) above, a student of LL.B. Second Term shall be eligible for promotion to Third Term if he/she has passed in at least five papers of First and Second Term examinations taken together and a student of Fourth Term shall be eligible for promotion to Fifth Term if he/she has passed in at least fifteen papers of First, Second, Third and Fourth Term examinations taken together.”

12. The scheme of supplementary examination as envisaged in Ordinance is reproduced as under:-

“Supplementary Examination

After the completion of six Terms, a student of LL.B. may take supplementary examination in any paper of I or III Term along with the V Term supplementary examination and in any paper of II or IV Term along with the VI Term supplementary examination held for the purpose:

Provided that all the thirty papers required for getting the LL.B. Degree have to be cleared within the span period of six years."

13. Clause (iii) of the Ordinance, unequivocally makes it clear that a student of LL.B. Second Term shall be eligible for promotion to Third Term, if he/she has passed in at least five papers of First and Second Term examinations, taken together and a student of Fourth Term shall be eligible for promotion to Fifth Term, if he/she has passed in at least 15 papers of First, Second, Third and Fourth Term examinations taken together.

14. It is, thus, seen that the candidates have to clear the threshold requirement of promotion to Fifth Term examination i.e., of passing at least 15 papers of First, Second, Third and Fourth Term examinations, taken together.

15. Admittedly, in the instant case, the petitioners have not passed 15 papers of First, Second, Third and Fourth Term examinations, taken together and therefore, the simple reading of aforesaid clause disentitles them to be admitted in Fifth Term course.

16. It is, thus, seen that so far as the action of the respondent-University in not allowing the petitioners to be promoted to Fifth Term course is concerned, no fault can be found therein.

17. The scheme of the supplementary examination unequivocally makes it clear that any paper of First or Third Term will have to be conducted along with the Fifth Term supplementary examination and any paper of Second or Fourth Term will have to be conducted along with Sixth Term

supplementary examination.

18. Also, under the said scheme, the candidates who have not cleared at least 15 papers are to be treated as a separate class and therefore, instead of allowing them to appear in the main examination, they have to be allowed along with supplementary examination of the relevant semester. Since the same is the scheme of examination and has been framed by the respondent-University, this court is not inclined to dilute the same and to allow the petitioners to appear in the main examination instead of waiting for the supplementary examination.

19. So far as the prayer made in the instant writ petition to conduct supplementary examinations for the batch inducted for the Term of 2021-2024, before commencement of the new semester is concerned, the same cannot be accepted, as the Ordinance do not stipulate for conduction of any separate supplementary examination.

20. The Hon'ble Supreme Court, in catena of cases, has time and again reiterated that when it comes to educational policy or an issue involving academic matter, the courts have to be extremely reluctant to substitute its own views in preference to those formulated by professional men possessing technical expertise.

21. The decision of the Hon'ble Supreme Court in the case of ***Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth***¹, paragraph 29, reads as under:

“29. Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal position would be wholly defeasive of the same. As has been repeatedly

¹ (1984) 4 SCC 27

pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice. It is unfortunate that this principle has not been adequately kept in mind by the High Court while deciding the instant case.”

22. Furthermore, the decision of Hon’ble Supreme Court in the case of ***All India Council for Technical Education v. Surinder Kumar Dhawan***², in term of paragraph no. 17 reads has held as under :

“17. The role of statutory expert bodies on education and the role of courts are well defined by a simple rule. If it is a question of educational policy or an issue involving academic matter, the courts keep their hands off. If any provision of law or principle of law has to be interpreted, applied or enforced, with reference to or connected with education, the courts will step in. In J.P. Kulshrestha (Dr.) v. Allahabad University [(1980) 3 SCC 418 : 1980 SCC (L&S) 436] this Court observed: (SCC pp. 424 & 426, paras 11 & 17)

“11. ... Judges must not rush in where even educationists fear to tread. ...

² (2009) 11 SCC 726

17. ... While there is no absolute ban, it is a rule of prudence that courts should hesitate to dislodge decisions of academic bodies."

23. Therefore, it is clear from the aforesaid discussion that when it comes to educational policy or academic matters, the simple rule is that, normally the courts must keep their hands off and refrain from interfering with the decision of the academic experts. While, as has been stated, there is no absolute bar, rather it is a rule of prudence that courts should loath to disturb the decisions of the academic bodies.

24. In this regard, any direction, to allow the petitioners to appear in the Fifth Term examination without waiting for the supplementary examination, would amount to dilution of the academic policy.

25. No doubt, the respondent-University will allow the petitioners to appear in the supplementary examination, as and when the Term of the respective petitioners will come in their respective semesters.

26. In view of the aforesaid, this court is of the opinion that no interference is called for.

27. At this stage, learned counsel appearing on behalf of the petitioners also places reliance on Clause 19 of the Rules of Legal Education, 2008, which reads as under:

"19. Examination rule guideline: The examination shall ordinarily be held at the end of every semester. The University shall, however, be at liberty to hold examination quicker frequency on continuing basis. Suitable allocations of subjects for each semester program, as the case may be, shall be planned by the University and the same shall be intimated to the Bar Council of India along with the Examination Rules adopted by the University concerned."

28. As can be inferred from Clause 19, that the examinations are ordinarily held at the end of every semester. However, the University shall

be at liberty to hold examination at an enhanced frequency on continuing basis, as may be expedient in the interest of the students.

29. Let the respondent-University to consider the aforesaid aspect and to do the needful, if so desires.

30. With the aforesaid observations, the instant petition stands disposed of along with pending application(s), if any.

PURUSHAINDRA KUMAR KAURAV, J

NOVEMBER 20, 2023

nc/kv

Signature Not Verified
Digitally Signed By: NEHA
CHOPRA
Signing Date: 23.11.2023
17:34:30

Signature Not Verified
Digitally Signed
By: PURUSHAINDRA
KUMAR KAURAV