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

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

+ **W.P.(C) 17636/2022**

Between: -

DEBJYOTI GHOSH
ROOM NO.201 (OLD), BRAHMAPUTRA HOSTEL,
JAWAHARLAL NEHRU UNIVERSITY,
NEW DELHI-110067
CONTACT PERSON: KLDS VINOBER
(M) 9540122831
EMAIL: vinober@gmail.com

.....PETITIONER

*(Through: Mr. KLDS Vinober and Mr. Surya Pratap Deva,
Advocates.)*

AND

JAWAHARLAL NEHRU UNIVERSITY
THROUGH THE REGISTRAR
NEW DELHI-110067
CONTACT PERSON: MS. MONIKA ARORA
EMAIL: OFFICEADVMONIKA@GMAIL.COM

.....RESPONDENT NO. 1

UNIVERSITY GRANTS COMMISSION,
THROUGH THE CHAIRMAN,
BAHADUR SHAH ZAFAR MARG,
NEW DELHI-110002
CONTACT PERSON: MR. APOORV KURUP
EMAIL: office@akurup.com

.....RESPONDENT NO. 2

(Through: *Ms. Monika Arora and Mr.Yash Tyagi, Advocates for JNU/R-1.*
Mr. Apoorv Kurup and Ms. Swati Bhardwaj, Advocates for R-2/UGC.)

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Pronounced on : 15.02.2023

J U D G M E N T

1. The petitioner in the instant petition under Article 226 of the Constitution of India seeks the issuance of a writ in the nature of mandamus directing respondent No.1-Jawaharlal Nehru University (hereinafter referred to as 'University') to waive off the campus lockdown period from 15.03.2020 to 05.02.2022 and provide the extension period for another year to complete M.Phil/ Ph.D Integrated Course (2016-2022) batch beyond 31.12.2022.

2. The petitioner is a resident scholar of M.Phil/Ph.D Integrated Course in the respondent No.1-University belonging to the batch of 2016-2022 at the Centre for Historical Studies, School of Social Sciences. The petitioner *vide* an order dated 26.11.2020 passed by respondent No.1-University was informed that the Committee for Advanced Studies and Research had approved the confirmation of his admission to the Ph.D programme w.e.f. 22.07.2018.

3. Since there was some delay in the submission of the thesis, therefore on 11.11.2022 (Annexure P-10), the petitioner along with other students of the 2016-2022 batch submitted an application to the Vice Chancellor of the respondent No.1-University seeking an appointment to discuss an extension for submission of their theses. They stated that the students of their batch received only six months of extension in total, whereas, all other Ph.D students received much longer extensions. It is the case of the petitioner that without granting

any time to discuss or to grant any further extension, the University, *vide* circular dated 19.12.2022, directed the terminal batches to submit their theses by 31.12.2022 failing which their M.Phil/Ph.D admissions were directed to be de-registered.

4. Learned counsel appearing on behalf of the petitioner submits that his course is governed by an Ordinance of the University known as **Academic Ordinance, 2016** (hereinafter referred as the 'Academic Ordinance'). According to him, the petitioner was required to submit his thesis within six years of his initial admission to the M.Phil/Ph.D Integrated programme or four years from the date of confirmation to the Ph.D programme, whichever is earlier. According to him, after two years of M.Phil, two more years were devoted to complete the research proposal and synopsis; and another two years were required to conduct the research work and prepare the thesis. At every stage, the academic work is evaluated by the appropriate work committee to ensure the progress of scholars in the selected field of research as per applicable norms.

5. He states that due to Covid-19, on 19.03.2020, the University closed its library, classrooms and hostels. The research scholars were asked to vacate the campus for their native places. He states that the campus facilities completely opened to the scholars only in the month of February, 2022 and, therefore, the situation was beyond the petitioner's control for 23 months. He states that the **University Grants Commission** (hereinafter referred to as 'UGC') and the respondent No.1-University extended the date of submission from June 2020 to 31.12.2022 for the terminal batches of 2019 and 2020 i.e., five semesters; from June 2021 to 31.12.2022 for the 2021 batch i.e., three semesters; and June 2022 to 31.12.2022 for the 2022 batch i.e. one semester. He, therefore, states that when longer period is

given to the other batches, there is no justification to deny equal period of extension to the batch of the petitioner. According to him, the respondents have selectively chosen to waive off the lockdown period for the scholars of different batches.

6. He, while placing reliance on Clause 8.1 of the Academic Ordinance states that 48 months time period is prescribed to submit Ph.D theses to scholars, whereas, the petitioner and his batchmates were effectively provided with academic facility for only 32 months to carry on their research work and submit their theses. He also states that clause 9 (b) of the Academic Ordinance can be invoked by the research scholars voluntarily only in a particular situation and the said Clause applies in a situation where the scholar fails to submit the thesis within six years. He places reliance on the decision of this court in the case of *Sachin Katyal v. University of Delhi and Ors.*¹ and another decision in the case of *Utkarsh Sharma v. Union of India*².

7. The respondent No.1-University has filed its counter-affidavit and has opposed the prayer. It is stated that as per the Ordinance, the petitioner was to complete his course within the period of six years including his M.Phil programme. There is no provision to extend the period beyond six months except in accordance with clause 9(b) of the Academic Ordinance. It is stated that the extension was granted till 31.12.2022 as per the UGC public notice dated 17.05.2022. It is submitted that the University continued its teaching and learning through online mode and was never completely closed. It is submitted that out of 144 terminal students of Ph.D in the history course, 117 students have applied for extension under Clause 9(b) of the Academic Ordinance including the petitioner. Two students have already submitted their theses; three students have de-registered and

¹ 2015 SCC OnLine Del 10886

² 2010 SCC Online 13 4003

20 students will de-register. It is stated that the University has to accommodate/cater to the academic and infrastructural needs of new Ph.D students and the petitioner was supposed to submit his Ph.D thesis by 30 June, 2022 and therefore, it is submitted that no interference is called for.

8. I have heard Mr. KLDS Vinober and Mr. Surya Pratap Deva, learned counsel for the petitioner, Ms. Monika Arora and Mr. Yash Tyagi, learned counsel for JNU/R-1 and Mr. Apoorv Kurup and Ms. Swati Bhardwaj, learned counsel for R-2/UGC.

9. Clause 13 of the Academic Ordinance governs the award of Degree of Doctor of Philosophy. Clause 9(a)(iv) reads as under:

*“9 (a) The name of the candidate shall stand automatically removed from the rolls of the University if he/she;
(i) to (iii).....
(iv) fails to submit his/her thesis within six years of the date of his/her initial admission to the M.Phil/M.Tech./MPH/Ph.D Programme, or four years from the date of his/her confirmation to the Ph.D Programme, whichever is earlier.”*

It is thus seen that as per Clause 9(a) (iv) of the Academic Ordinance, the name of the candidate shall stand automatically removed from the rolls of the University if he/she fails to submit his/her thesis within six years from the date of his/her initial admission to the M.Phil/M.Tech./MPH/Ph.D Programmes or four years from the date of his/her confirmation to the Ph.D Programme, whichever is earlier.

10. In the instant case, the six-year period commencing from the admission to M.Phil will commence in July, 2016. The same would expire on 30.06.2022. On 17.05.2022, the UGC in its public notice had extended the date for submission of theses for terminal M.Phil/Ph.D students. The public notice dated 17.05.2022 is reproduced as under:

“No.F.1-10/2021 (CPP-II)

17th May, 2022

PUBLIC NOTICE

Extension of date for submission of thesis for terminal M.Phil/Ph.D students

In continuation of UGC Public Notice dated 1st December, 2021 on the above-mentioned subject, and keeping in view the larger interest of the research scholars, it has been decided by the UGC that an extension of up to six months, beyond 30th June, 2022, may be given to the students by their respective Higher Educational Institutions, on case-to-case basis based on the review of student's work by the Research Advisory Committee and on the recommendation of the supervisor and the Head of the Department of each individual case. Such extension may also be granted for submitting evidence of publication and presentation in two Conferences. However, tenure of fellowship will remain up to five years only.”

11. Consequent to the said notification on 26.05.2022, respondent No.1-University extended the period for submission of dissertation/theses of the terminal M.Phil/M.Tech/ Ph.D students up to 31.12.2022. The circular dated 26.05.2022 issued by University is reproduced as under:

“CIRCULAR

Sub: Extension of date for submission of thesis for terminal M.Phil./M.Tech./Ph.D. students

In pursuance of UGC Public Notice No. F. 1-10/2021 (CPP-II), dated 17th May, 2022 and in continuation of JNU Circular No. Eval.II/10/AC/2020, dated 09 December, 2021 a further extension of six months beyond 30.06.2022, i.e. till 31st December, 2022 has been granted for submission of dissertation/thesis by terminal M.Phil./M.Tech./Ph.D. students of the university, including students registered under 9(b) on case to case basis based on the review of the student's work by Research Advisory Committee (RAC) and on the recommendation of the supervisor and the Head of the Department (i.e., Dean/ Chairperson of the concerned School/Spl. Centre/Centre) of each individual case.

Furthermore, such extension may also be granted for submitting evidence of publication and presentation in two conferences, wherever applicable. However, the tenure of fellowship will remain up to five years only.

The issues with the approval of the Competent Authority.

*Manoj Kumar Manuj
DR (Evaluation Branch)”*

12. It is also seen that on 27.12.2022, respondent No. 1-University further granted extension for a one month period up to 31.01.2023 considering the request of the terminal M.Phil/Ph.D students for extension of the last date for submission of dissertation/theses. The latest notification dated 27.12.2022 is reproduced as under:

**“Jawaharlal Nehru University, New Delhi
(Evaluation Branch)**

No. Eval. II/10/AC/2022

December 27, 2022

CIRCULAR

**Sub: Submission of Dissertations /Theses by terminal M.Phil/Ph.D
Students-reg.**

With reference to Circular dated May 26, 2022/ Letter dated December 16, 2022 on the above subject, the Competent Authority has considered the request of the terminal M.Phil/Ph.D students for extension of the last date of submission of dissertations /theses beyond 31.12.2022 and has approved the extension by one month till 31.01.2023.

Further, request for extension beyond the extended period will be dealt by respective School/Centres/Spl. Centres under Ordinances (Clause 9(b)/ 5.2/5.3) as applicable as mentioned in the Letter dated December 16, 2022.

This issues with the approval of the Competent Authority.

***(M. K Manju)
Deputy Registrar (Eval)”***

Clause 9(a)(iv) of the Academic Ordinance provides for the automatic removal of the candidate from the rolls of the University if he/she fails to comply with any of the conditions stipulated therein. It is thus seen that the petitioner in the instant case has not been able to submit his thesis within the period of six years as stipulated in the Academic Ordinance and further within the extended period of six months plus one month i.e., seven months and, hence, as of now his name stands removed from the rolls of the University in view of Clause 9(a)(iv) of the Academic Ordinance. Clause 9(b) of the

Academic Ordinance provides for the Committee for Advanced Studies and Research on the recommendations of the concerned Centre/Department to subsequently accept the request of a candidate whose name has been removed from the rolls of the University under sub-Clause 9(a)(iv), to get re-enrolled if the request is received within/up to ten years from the date of his/her de-registration or date of removal of his/her name and become eligible for submission of his/her thesis, provided that he/she submits his/her thesis within one year from the date of his/her re-enrollment. Clause 9 (b) of the Academic Ordinance reads as under:

“9(b) The Committee for Advanced Studies and Research on the recommendations of the concerned Centre/Department may, however, subsequently accept the request of a candidate whose name has been removed from the rolls of the University under sub-clause 9(a) (iv) above, to get re-enrolled if the request is received within/up to ten years from the date of his/her de-registration or date of removal of his/her name and become eligible for submission of his/her thesis, provided that he/she submits his/her thesis within one year from the date of his/her re-enrollment.”

13. In view of the scheme of Clause 9(b) of the Academic Ordinance, the petitioner has already applied for an extension. It is up to the Committee for Advanced Studies and Research to decide as to whether the case of the petitioner can further be considered for granting him an extension of one year to submit his thesis.

14. The question that arises for consideration before this court is whether, under the facts of the present case, the petitioner is entitled to the relief as prayed for, to waive off the campus lockdown period from 15.03.2020 to 05.02.2022 and to provide him further extension period for another year.

15. The material which has been placed on record nowhere indicates that the entire campus remained closed under lockdown between 15.03.2020 to 05.02.2022. On the contrary, the University has been able to place on record the facts indicating that within the

said period, the regular study/research in the University did not remain closed. It is seen that 850 Ph.D students have submitted their theses and were recommended for award of Ph.D Degree between 15.09.2021 to 10.12.2022, which clearly reflects that teaching and research had been continuing smoothly. It is also seen that convocations in the year 2020 and 2021 were also held where degrees of Ph.D were awarded to the eligible candidates. There is no material placed on record by the petitioner to indicate as to on what basis he is claiming for waiver of the period from 15.03.2020 to 05.02.2022. The petitioner tried to claim such relief on the basis of the order passed by the Hon'ble Supreme Court in Miscellaneous Application No. 21/2022 in *suo moto* Writ Petition No. 3 of 2020 in Re: Cognizance For Extension Of Limitation. A perusal of the order passed by Hon'ble Supreme Court clearly shows that the said exclusion of limitation has been made applicable in respect of judicial and 'quasi-judicial' proceedings. The order of the Hon'ble Supreme Court cannot be made applicable to the academic institutions where the concerned institutions themselves have granted adequate extension(s) depending on the nature and length of the concerned courses. This court is not oblivious of the fact that the University is an educational body and has to continuously accommodate/cater to the needs of the new enrolled students. Unless the old batch passes out, the new batch would not be signed in and there would be a stagnation in imparting education to deserving candidates. It is for the academic bodies to decide the period for which the researcher can be allowed to continue his/her research work.

16. The scheme of the Academic Ordinance is very clear which stipulates six years period for completion of Ph.D/M.Phil Integrated course. Beyond six years, the registration automatically gets

cancelled. After six years, the extension is provided up to one year in accordance with 9(b) of the Academic Ordinance. The petitioner has already applied for the same. There is no reason to issue the writ of mandamus directing the University to extend the period beyond what already stands extended by the University.

17. So far as the decision relied upon by the learned counsel appearing on behalf of the petitioner in the case of ***Sachin Katyal (supra)*** is concerned, there is no dispute with respect to the proposition laid down therein. In the said decision, this court has held that technicalities beyond the control of the students ought not to be permitted to come in the way of the meritorious students. The courts have always held that the discretion in such circumstances needs to be exercised in favour of the students. In paragraph No.19 of the said decision, it has been noted that the procedure adopted by the respondent/University therein was at variance with that provided in the Bulletin of Information. The specific instance has been noted therein. The facts of the present case are apparently different from the cases relied upon by the learned counsel appearing on behalf of the petitioner. In the present case, the Academic Ordinance was in existence from day one which provided for six years to complete the work relating to the submission of thesis. The Covid-19 situation is applicable to all research scholars. Many of the students have already submitted their theses. The UGC and respondent No.1-University themselves have granted certain extensions on account of the Covid situation. They are well within their discretion and also well aware of the ground realities as to how much extension is required to be granted for different categories of students. This court cannot substitute the views of the experts in the academic field unless it is shown to be manifestly arbitrary. The extension so granted is not

made applicable student-wise but the same has been made uniformly applicable batch wise, however, which batch requires how much extension cannot be gone into.

18. So far as, another decision in the case of *Utkarsh Sharma (supra)* relied upon by the learned counsel appearing on behalf of the petitioner is concerned, the same would also not have any application as that case relates to non-declaration of result and the students do not have any control over the declaration of result.

19. It is not advisable for courts to interfere with the functioning of the educational institutions, which have expertise in their field. It would be highly inappropriate to tinker with the decision of the educational bodies without realizing the pros and cons of the situation. There is no allegation of *mala fide* against the University or its officers. The Academic Ordinance is applicable uniformly to all the students. Any interference on the ground of one reason or the other would dilute the sanctity of the Academic Ordinance. The same is not permissible in exercise of power under Article 226 of the Constitution when the validity of the Ordinance remained unchallenged. Reliance can be placed on the decisions of the Hon'ble Supreme Court in the cases of *The University of Mysore and Anr vs C. D. Govinda Rao and Anr*³, *Maharashtra State Board Of Secondary and Higher Secondary Education vs Paritosh Bhupesh Kumar Sheth Etc.*⁴, *Bhushan Uttam Khare vs Dean, B.J. Medical College and Ors.*⁵, *Medical Council Of India vs Sarang and Ors.*⁶ and *U.P. Public Service Commission v. Rahul Singh*⁷.

³ 1964 SCR (4) 576

⁴ (1984) 4 SCC 27

⁵ (1992) 2 SCC 220

⁶ (2001) 8 SCC 427

⁷ (2018) 7 SCC 254

20. In view of the aforesaid, this court is not inclined to accept the prayer for extension of any further time for completion of M.Phil/Ph.D integrated course.

21. Accordingly, the petition stands dismissed.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

FEBRUARY 15, 2023

Priya

