

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7901/2010**

Date of Decision: 14.03.2023

IN THE MATTER OF:

DR. ARCHANA SINHA
W/O SH. M.P. SINHA
R/O 893, D.A. FLATS,
GULABI BAGH, DELHI-7

..... PETITIONER

Through: Mr. Akhil Suri, Advocate

Versus

GURU GOVIND SINGH
INDRAPRASTHA UNIVERSITY & ANR.
KASHMERE GATE, DELHI-110043
THROUGH ITS VICE CHANCELLOR

..... RESPONDENT NO. 1

DR. PUSHPENDER SINGH
S/O NOT KNOWN
GGG IP UNIVERSITY
KASHMERE GATE, DELHI-110043

..... RESPONDENT NO. 2

Through: Ms. Anita Sahani and Mr. Rahul
Mourya, Advocates for respondent No. 1

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The present petition has been filed under Article 226/227 of the Constitution of India seeking direction to the respondent-University to recall their tentative list of Gold Medalists, in so far as it relates to award

of Gold Medal to MBA (B & I) for the Academic Session 2008-2010 to respondent No. 2, and to pass appropriate directions for enlisting the name of the petitioner as amongst the awardees for Gold Medal in MBA (B & I) Course.

2. The brief facts of the case as stated by the petitioner are that in July 2008, the petitioner, after obtaining permission from her employer, took admission in MBA (B&I) in the Academic Session 2008-2010 in respondent No.1-University. In November 2010, the petitioner successfully cleared all 31 papers of the 6 trimesters of the course in respondent No.1-University, scoring 84.78 CPI, which was the highest amongst the students of the said academic session. Respondent No.1-University's official website published a tentative list of proposed Gold Medalists, which did not include the petitioner's name. Instead, the list mentioned the name of the respondent No. 2, who had a lower CPI of 80.68 and is also a part-time employee of respondent No.1-University. Hence, the present petition has been filed.

3. Learned counsel appearing on behalf of the petitioner submits that the petitioner obtained maximum aggregate marks of 84.5% and scored 84.78 CPI, which is the highest marks, obtained by any student for the concerned Session. According to her, the name of less meritorious candidate has been included in the list of Gold Medalist Awardees ignoring the claim of the petitioner.

4. The respondent No.1-University has filed its counter affidavit stating therein that the Gold Medal for the concerned Session was governed by Ordinance 5 of the University Ordinances, which deals with institution of medals, prizes and awards to outstanding students. According to respondent No.1-University, the applicable regulation

shows that the Gold Medal can be awarded to the students, who pass the entire course for which he/she has earned credit, in the first attempt. It is, therefore, stated by learned counsel for respondent No.1-University that since the petitioner admittedly did not clear the course in one go, therefore, the name of the petitioner cannot be included in the list of awardees of the Gold Medalist. Paragraph Nos. 3, 4 and 5 of the counter affidavit of the respondent No.1-University are reproduced as under -:

“3. That the Ordinance 5 deals with Institution of Medals, Prizes and Awards to the outstanding students. The said Ordinance is reproduced below;

"ORDINANCE 5

The University may institute various medals, prizes, awards and certificates to the outstanding students pursuing various programmes in the Schools of Studies of the University, institutes and institutions maintained by the University or affiliated to it. The value of the awards / prizes, eligibility conditions, methods and procedure of selection and mode of payment shall be as laid down in the regulations formulated from time to time separately for Schools of Studies of the University, Institutions and Institutes maintained by the University or affiliated to it.”

4. As provided for by Ordinance 5 of the University Ordinances, a regulation was framed on 21st September, 2009 with respect to the award of a gold medal to toppers of various programmes of study. A copy of the said regulation with respect to award of gold medal is annexed herewith and marked as Annexure-R-1/1. A bare perusal of the said regulation would show that only those students are eligible for being considered for the award of a gold medal who have "passed the entire course for which he/she has earned credits, in the first attempt.”

5. It is submitted that the Petitioner is not eligible to be considered for grant of a gold medal since she has not passed the entire course in her first attempt. It is further submitted that the Petitioner had joined the MBA (B & I) programme offered

by the University in the Academic Year 2008-2009. The said course is a two year weekend programme. In other words, the classes for the said programme are conducted only on Saturdays and Sundays of every week. The classes are held for approximately eight hours a day on both days.”

5. Learned counsel for the petitioner in rejoinder submissions, submits that the Ordinance No. 5 of respondent No.1-University Ordinances would not be applicable in her case for the reason that the admission of the petitioner was granted by the University in the year 2008 and the Ordinance in question has come into existence only on 21.09.2009.

6. I have heard the learned counsel appearing for the parties and perused the record.

7. Through a catena of judgments, the Hon’ble Supreme Court has laid down that there is a distinction between an existing right and a vested right. The Hon’ble Supreme Court in the case of ***P. Suseela v. University Grants Commission***¹ has considered the aspect of vested rights and existing rights. Paragraph No. 16 of the said decision reads as under :-

“16. Similar is the case on facts here. A vested right would arise only if any of the appellants before us had actually been appointed to the post of Lecturer/Assistant Professors. Till that date, there is no vested right in any of the appellants. At the highest, the appellants could only contend that they have a right to be considered for the post of Lecturer/Assistant Professor. This right is always subject to minimum eligibility conditions, and till such time as the appellants are appointed, different conditions may be laid down at different times. Merely because an additional eligibility condition in the form of a NET test is laid down, it does not mean that any vested right of the appellants is affected, nor does it mean that the

¹ (2015) 8 SCC 129

regulation laying down such minimum eligibility condition would be retrospective in operation. Such condition would only be prospective as it would apply only at the stage of appointment. It is clear, therefore, that the contentions of the private appellants before us must fail.”

8. The adjudication of the issue as to whether a person is eligible to be granted a Gold Medal is to be made with reference to the law, rule, or regulation as the case may be, which is applicable to that individual who is so being adjudged, prevailing at the time when the adjudication is made. In the present case, the adjudication for deciding the Gold Medal is made in the year, 2010 and the Ordinance in question dated 21.09.2009 was, therefore, applicable to her.

9. This court has considered the submissions made by learned counsel for the parties and finds no illegality in not including the name of the petitioner in the awardees of Gold Medalists. It is to be seen that the Gold Medal has been awarded in the year 2010 and the Ordinance in question, which came into force, is applicable since 21.09.2009. It is clear that when in the year 2010 the Gold Medals are to be awarded, the same would necessarily be governed by the Ordinance that is applicable since 21.09.2009. No other point has been raised by learned counsel for the petitioner, therefore, this court is not inclined to accept the prayer made by her.

10. The petition is accordingly dismissed.

PURUSHAINDR KUMAR KAURAV, J

MARCH 14, 2023

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