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

+ **W.P.(C) 8150/2017**

Date of Decision: **26.09.2023**

IN THE MATTER OF:

RAM KISHUN

S/O KHEDAN RAM

TEMPORARILY RESIDING WITH

VARIOUS FRIENDS IN MUNIRKA VILLAGE,

NEW DELHI 110067

..... PETITIONER

Through: Mr. Nitin Meshram, Advocate.

Versus

JAWAHARLAL NEHRU UNIVERSITY

NEW DELHI: 110067

...RESPONDENT NO. 1

UNION OF INDIA

THROUGH

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

SHASTRI BHAVAN

NEW DELHI 110001

...RESPONDENT NO. 2

Through: Mrs. Ginny J. Rautray, Mr. Navdeep Singh and Ms. Tanvi Bansal, Advocates.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petitioner *vide* the instant petition has prayed for the following reliefs:

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By: PURUSHAINDRA
KUMAR KAURAV



“A) issue a writ of mandamus or any other appropriate writ, order or direction to allow the petitioner to redo the fifth semester with immediate effect;

B) issue a writ of mandamus or any other appropriate writ, order or direction to the Respondent University to allow the petitioner to attend classes and take part in the Internal Assessment, so that he does not suffer academically.”

2. The facts of the present case are that the petitioner took admission in BA (Russian Studies) in the respondent-University under the Persons with Disabilities (PWD) quota in the year 2012. The petitioner, after completing his four semesters, was not allowed to be admitted in the fifth semester. However, on 21.10.2015, admission in the fifth semester was granted and accordingly, he appeared in the fifth semester examinations.

3. After the result of the fifth semester was declared, the petitioner was supposed to be admitted in the sixth semester. However, the respondent-University denied his admission in the sixth semester on the ground of not obtaining 3.00 Cumulative Grade Point Average (hereinafter as ‘CGPA’), which is the threshold requirement for a candidate to be admitted in the higher semester.

4. Learned counsel appearing on behalf of the petitioner submits that there are various reasons as to why the petitioner could not obtain the threshold CGPA. He submits that the provisions of the Ordinance relating to the award of B.A. (Hons.), B.A. (Pass) degrees (hereinafter ‘the Ordinance’) have to be harmoniously construed to enable the candidates of the present category to complete their course.

5. He has placed reliance on Clause nos. 6.1, 8.1, 8.4, and 8.5 of the Ordinance, specifically. While emphasizing on said Clauses, he submits that as per Clause 6.1, the duration of the concerned course has to be three years



(six semesters) and if for any reason, as mentioned in the said Clause, the student could not fulfil the requirement, the concerned year can be treated as zero year and accordingly, the benefit for redoing the examination in question be extended. He submits that if the strict interpretation, as has been suggested by respondents, is accepted, the same would cause grave prejudice to students like the petitioner.

6. Learned counsel appearing on behalf of the respondents vehemently opposes the submissions. He submits that Clause 11 of the Ordinance is unequivocally clear, which states that the name of the students falling under the category mentioned therein shall automatically stand removed from the roll of the respondent-University. Learned counsel then submits that, admittedly, the petitioner does not fulfil the CGPA requirement as specified under Clause 9 and therefore, the petitioner is not entitled for any relief.

7. I have considered the submissions made by learned counsel appearing on behalf of the parties and perused the record.

8. So far as the facts are concerned, undisputedly, the petitioner did not obtain the requisite 3.00 CGPA in the fifth semester examinations, which is the threshold CGPA to qualify for the subsequent semester.

9. It is apposite to reproduce clause 11 of the Ordinance, which reads as under:

“11. Removal of the Name of a Student from the Programme:

11.1 The names of students falling under following categories shall automatically stand removed from the rolls of the University:

(a) Those students who fail to fulfill the CGPA requirements as specified under clause 9.

(b) Those students who have already exhausted the maximum period of eight semesters for the B.A.(Hons.) and B.A. (Pass) programmes defined



in clause 9.

11.2 The Board of the School, on the recommendations of the Centre, may remove the name of a student from a programme of study if:

(a) A student of B.A. (Hons.) first year fails to clear atleast 50% of the prescribed core courses at the end of the first semester.

(b) A student has still to clear courses which cannot possibly be cleared in the remaining period of study even if he/she is allowed to register for the normal load for the remaining period plus 50% of this normal load.”

10. It is palpably inferred from the aforementioned Clause 11.1(a) of the Ordinance that the names of the candidates who do not fulfil the CGPA requirement as specified under Clause 9, are automatically struck off from the rolls of the respondent-University.

11. Clause 9 of the Ordinance relates to the grade point requirement/minimum standard, which reads as under:

“9. Grade Point Requirement/Minimum standard

9.1 A student joining the 1st semester of the six semester programme will be required to maintain a CGPA of 3.00 in the core Courses at the end of second semester and thereafter.

A student joining the 3rd semester of six semester programme will also be required to maintain a CGPA of 3.00 in core courses at the end of the 4th semester and thereafter.

9.2 At the end of the sixth semester, a student will be required to have a CGPA of 4.00 and also have cleared all the courses prescribed by the Centre from 1st to 6th semester to enable him/her to get B.A.(Hons.) degree.

9.3 If a student has a CGPA of 3.00 in core courses at the end of the sixth semester or fourth semester in case of students admitted under Clause 2.2 but does not fulfill the requirements for the award of B.A.(Hons.)/B.A.(Pass) degree, he/she will be given maximum of two more semesters to fulfill the prescribed requirements for the award of B.A.(Hons.)/ B.A. (Pass) degree.



9.4 (a) *The end semester examination shall be conducted by the Centres under the overall guidance/directions of the Dean of the School within the dates specified by the University. The Head of the Centres shall report the award list in respect of all courses to the Dean's office.*

(b) *The end semester results shall be placed before the Dean of the School for approval after they have been screened by the Committee consisting of the Head of the Centre and not more than three faculty members appointed by the Dean on the recommendations of the Head of the Centre concerned.*

(c) *The final results at the end of the sixth and tenth semester i.e for the award of B.A(Hons.) and B.A.(Pass) degrees would be considered by a Committee of the School consisting of the Dean of the School as Chairman and Heads of the Centres concerned as members and would be approved by the Vice Chancellor before being announced.”*

12. A bare reading of clause 9.1 explicitly makes it clear that a student joining the first semester of the six-semester programme, will be required to maintain a CGPA of 3.00 in the core courses at the end of the second semester and thereafter.

13. It is, thus, seen that the requirement under the Ordinance is to maintain a minimum CGPA of 3.00 in the core courses at the end of the second semester and even thereafter, including the fifth semester to be eligible for advancing to the subsequent semester.

14. The clauses relating to the duration of the course and evaluation deal with the aspect of the number of years in which the concerned candidate has to complete his course and as to how the method of evaluation is to be applied.

15. For the sake of clarity, relevant Clause 6.1 reads as under:

“6.1 The curricular work leading to the award of Bachelor's Degree shall be spread over a minimum of six semesters, three Monsoon semesters and three Winter semesters



Provided that a semester or a year may be declared zero semester or zero year in the case of a student if he/she could not continue with the academic programme during that period due to illness and hospitalization, technical grounds like visa problems, sequencing of courses, accepting a foreign scholarship/fellowship provided it is meant for upgrading research skill and not for earning a regular degree or diploma subject to the fulfillment of requirements as laid down by the regulations.

Provided further that such zero semester/year shall not be counted for calculation of the duration of the programme (total number of semesters spent by a student in a programme) in case of such a student.”

16. The aforesaid Clause 6.1 does not stipulate that a candidate who did not obtain the requisite CGPA can be treated on an equal footing with the students who are declared as zero-year students. In fact, in the instant case, the petitioner had appeared in the fifth semester examinations and failed to secure the requisite CGPA.

17. It is also noted that the petitioner's case does not fall within Clause 8.5 and therefore, the benefit of the aforesaid Clause cannot be extended to the petitioner. Also, Clause 12 of the said Ordinance clearly carves out an exception that the discretion for relaxation of any of the provisions of the Ordinance cannot be exercised for the provisions which prescribe for CGPA/FGPA requirements.

18. In any case, as per the applicable Ordinance, the respondent-University is uniformly applying the same to all the candidates. There are no allegations of *mala fide* or otherwise so as to indicate that the petitioner is being specifically discriminated against. There is no reason to grant benefit or to interpret the Ordinance in a way suggested by the petitioner, as the same would lead to an interference with the scheme of the concerned course which is not permissible in the exercise of writ jurisdiction under Article 226 of the Constitution of India.



19. The Ordinance in question is a policy matter of the respondent-University and it is trite that in the matters within the realm of policy, the interference by the courts should be minimal.

20. In the case of *State of T.N. v. K. Shyam Sunder*¹, the Hon'ble Supreme Court was of the opinion that the court lacks expertise in disputes relating to policies of academic educational matters and therefore, decision must be left to the experts. The relevant paragraph of the said decision is culled out as under:

V. Interference by the Court with expert body's opinion

42. Undoubtedly, the court lacks expertise especially in disputes relating to policies of pure academic educational matters. Therefore, generally it should abide by the opinion of the expert body. The Constitution Bench of this Court in *University of Mysore v. C.D. Govinda Rao* [AIR 1965 SC 491] (AIR p. 496, para 13) held that “normally the courts should be slow to interfere with the opinions expressed by the experts”. ***It would normally be wise and safe for the courts to leave such decisions to experts who are more familiar with the problems they face than the courts generally can be.*** This view has consistently been reiterated by this Court in *Neelima Misra v. Harinder Kaur Paintal* [(1990) 2 SCC 746 : 1990 SCC (L&S) 395 : (1990) 13 ATC 732 : AIR 1990 SC 1402] , *Victoria Memorial Hall v. Howrah Ganatantrik Nagrik Samity* [(2010) 3 SCC 732 : AIR 2010 SC 1285] , *Basavaiah (Dr.) v. Dr. H.L. Ramesh* [(2010) 8 SCC 372 : (2010) 2 SCC (L&S) 640] and *State of H.P. v. H.P. Nizi Vyavsayik Prishikshan Kendra Sangh* [(2011) 6 SCC 597].

[Emphasis supplied]

21. A similar view was taken by the Hon'ble Supreme Court in the case of *University Grants Commission v. Neha Anil Bobde*², wherein it was held that unless there is a clear violation of statutory provisions, regulations or the notification issued, the courts shall not interfere since those issues fall within the domain of the experts.

22. Recently, this court in the case of *Devendra Singh Chaudhary vs*

¹ (2011) 8 SCC 737

² (2013) 10 SCC 519



*Jawaharlal Nehru University & Ors.*³, while dealing with the aspect of interference of courts in academic matters, has held that the court should keep their hands off, unless the concerned policy is grossly arbitrary or *malafide* or suffers from patent illegality. The relevant paragraph of the said decision is reproduced as under:

“17. In my considered opinion, it is prudent to leave the onus of deciding the matters concerning eligibility criteria for admission in particular courses, on the respective institutions, which shall decide the same in adherence to the extant regulations. The position of law regarding the interference of writ courts in policy decisions is well settled and expounded through catena of judgments, which succinctly affirm that the writ courts should keep their hands off, unless the concerned policy is grossly arbitrary or malafide or suffers from patent illegality. Reliance may be placed on the decision in the case of Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth, wherein, the Hon’ble Supreme Court has held 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 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.”

[Emphasis supplied]

³ 2023:DHC:6857



23. In view of the aforesaid, there are no cogent reasons to extend the arm of equity through the writ jurisdiction of this court and thereby, to interfere with the provisions of the said Ordinance as it unambiguously lays down certain conditions which are necessary to maintain the academic discipline. There can be no gainsaying that any interference with the said position is uncalled for, as it would lead to chaos and uncertainty in running academic affairs.

24. The petition, therefore, stands dismissed.

PURUSHAINDRA KUMAR KAURAV, J

SEPTEMBER 26, 2023/p/shs