

In the High Court at Calcutta
(Constitutional Writ Jurisdiction)
Appellate side

WPA 15079 of 2024

YASH SHROFF

Vs.

**ST. XAVIER'S UNIVERSITY,
KOLKATA AND ORS.**

ADSL1
30.05.2024
Ct-3
(RD)

Mr. Partha Sarathi Bhattacharyya, Adv.
Mr. Chandrachud Chatterjee, Adv.

.... For the Petitioner

Mr. Ramesh Kumar Patodia, Adv.
Ms. Megha Agarwal, Adv.

... For the respondent.

1. Pursuant to the Order of the Hon'ble The Chief Justice in Administrative Side, this writ petition is being taken up by this Court considering urgency of the matter as pleaded by Mr. Partha Sarathi Bhattacharyya appearing on behalf of the Petitioner. The instant writ petition is published in the supplementary list and is taken up for hearing.

2. Both the Ld. Counsels appearing on behalf of the parties are present.

3. The writ petition has been filed with the following substantive prayers:-

b) A Writ of and /or in the nature of Mandamus directing the appropriate respondent authority to permit the petitioner to sit for the remaining paper of the 4th semester B.Com (Hons) examination for the academic session 2023-2024 by issuing admit card in favour of the petitioner;

c) A Writ of and/or in the nature of Mandamus and/or such writ or writs, order, direction and/or direction to permit the petitioner to sit for the remaining paper of the 4th semester examination of B.Com (Hons) along with the upcoming next 6th semester examination for the next academic accordingly;

4. Ld. Counsel appearing on behalf of the petitioner has drawn my attention to the relevant papers annexed with this application. It is submitted that the petitioner is a student of St. Xavier's University, Kolkata, pursuing B.Com (Hons). It is further submitted that the petitioner was suffering from ailments from 01.03.2024 to 11.03.2024 and for that reason his aggregate attendance dropped to 58.36% instead of the minimum requisite of 60% as per the regulation of the University. On that medical issue petitioner sent one e-mail to the Dean of the concerned faculty on 10th May, 2024 stating all reasons of his absence but that representation was not adhered to. In support of his contention, Mr. Bhattacharyya relied on the observation of this Court in WPA 14358 of 2024 and WPA 14861 of 2024. In addition to that, Mr. Bhattacharyya relied on the rules framed by the University.

5. In opposition to that, Ld. Counsel, Mr. Ramesh Kumar Patodia, appearing on behalf of the respondent has contended that the aggregate attendance of the petitioner is below 60% and as per rules of the University prayer cannot be allowed for further condonation either on the ground of extra-curricular

activities or illness.

6. Mr. Patodia in support of his contention, has relied on a case of ***University of Calcutta and others vs. Amit Jalan and Others*** reported in ***1999 SCC OnLine Cal 152***. Mr. Patodia also relied on the rules framed by the University in setting the eligibility criteria for appearing for semester examinations with special regard to attendance.

7. In ***University of Calcutta*** (supra) Hon'ble Division Bench of this Court dealt with a case where the main question was whether students of five years **L.L.B Course** who were not able to secure 65% of the total attendance were eligible to appear in regular examination of L.L.B or not.

8. It cannot be said that the ratio enunciated in that case squarely applies in our case also as the main point of consideration of that case was with special emphasis to LLB students(which is a specialized stream of education).

9. Considering all the submissions as well as the relevant documents annexed with the application, I find that the petitioner remained absent due to his ailments during the semester and due to this unavoidable circumstances the petitioner was not able to fulfill the eligibility criteria with regard to attendance for giving the 4th semester examination of B.Com(Hons) which has already commenced.

10. Regard being had to all the facts and circumstances, Respondent/University is directed to permit the

petitioner to appear for the remaining examination of the 4th semester of B.Com (Hons) for the academic session of 2023-2024 scheduled to be held on 03.06.2024. The University shall issue the Admit Card in favour of the petitioner within 24 hours from date. In case of the presently prevailing extra ordinary situation, if the University could not issue the Admit Card within 24 hours, it shall be issued subsequently to regularize the participation of the petitioner in the ensuing examination to be held on 03.06.2024.

11. I make it abundantly clear that the aforesaid order is passed after considering the exceptional circumstances of this case and this order in no manner shall create any precedent what so ever with regard to adjudication of cases of similar nature in future.

12. Thus, WPA 15079/2024 stands disposed of.

13. All parties to this application shall act on the server copy of this order downloaded from the official website of this Court.

(Bibhas Ranjan De)