



2024:DHC:1593



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

+ **W.P.(C) 1261/2021**

SUSHANT & ORS.

..... Petitioners

Through: Mr. Abhik Chimni, Mr. Saharsh Saxena, Ms. Riya Pahuja and Mr. Anant Khajuria, Advs.

versus

JAWAHARLAL NEHRU

UNIVERSITY & ORS.

..... Respondents

Through: Mr. Mrinmayee Sahu, Mr. Sandeep Kumar Mahapatra, Mr. Sugam Kumar Jha, Mr. Harsh Raj and Mr. Tribhuvan, Advs. for R-1 (JNU)
Mr. Ravinder Agarwal and Mr. Lekh Raj Singh, Advs. for R-2 (UGC)

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

%

12.02.2024

1. The petitioners were registered as Ph.D. students with the Jawaharlal Nehru University (JNU) on various dates between July 1997 and August 2007, and de-registered themselves from the said course on various dates between July 2001 and July 2013.

2. Clause 9 of the Ordinances governing the JNU stipulates the circumstances in which the name of a candidate would automatically

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stand removed from the rolls of the JNU. Clause 9 (a)(iv) envisages removal of the name of a candidate from the rolls of the JNU after he fails to submit his Ph.D. thesis within six years of the initial admission to the Ph.D. programme or four years from the date of confirmation of the Ph.D. programme, whichever is earlier.

3. Clause 9(b) reads thus:

“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 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.”

4. After the dates when the petitioners had been de-registered from the JNU Ph.D. Programme, Clause 9(b) was amended to read thus:

“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.

If such a request is received after a gap of ten [10] years, the recommendation of CASR if any on the merit of each case, will be placed before AC for its consideration for re-enrollment provided that the candidate submits his/her thesis within one year from the date of his/her re-enrollment.”

5. Thus, while Clause 9(b), as it stood when the petitioners were registered and de-registered, from the Ph.D. programme of the JNU,

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permitted a candidate to seek re-enrolment for submission of his thesis, provided the thesis were submitted within one year of re-enrolment (subject, of course, to the Centre/Department) in which a candidate was registered recommending enrolment, the amended Clause 9(b) limited the availability of this right to seek re-enrolment upto a period of ten years from the date of de-registration of a candidate.

6. In event of the request for re-enrolment being made beyond ten years from the date of de-registration, the amended Clause 9(b) required the Committee for Advanced Studies and Research (CASR) to recommend the request of the candidate, based on its merit, and envisaged placement of the said recommendation before the Academic Council (AC) for consideration. Clearly, therefore, there was a curtailment, by amendment to Clause 9(b), of the right to seek re-enrolment for submission of the Ph.D. thesis, *vis-a-vis*, the right as it was available under the pre-amended Clause 9(b).

7. Mr. Abhik Chimni, learned Counsel for the petitioners, has also drawn my attention to the counter-affidavit filed by the University Grants Commission (UGC) in the present case, in para 8 of which reference is made to Regulation 4.3 of the University Grants Commission (Minimum Standards and Procedure for Award of M.Phil./Ph.D. Degrees) Regulations, 2016 of the UGC (hereinafter referred to as “the 2016 UGC Regulations”) which, too, grants autonomy to individual institutions regarding extension of time beyond the stipulated periods for award of Ph.D. He points out that,

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while the UGC (Minimum Standards and Procedure for Awards of M.Phil./Ph.D. Degree) Regulations, 2009 (hereinafter referred to as “the 2009 UGC Regulations”) did not stipulate any time within which the Ph.D. thesis was to be submitted, the 2016 UGC Regulations, which superseded the 2009 UGC Regulations, provided thus, in Regulations 4.2 and 4.3:

“4. Duration of the Programme:

4.2 Ph.D. programme shall be for a minimum duration of three years, including course work and a maximum of six years.

4.3 Extension beyond the above limits will be governed by the relevant clauses as stipulated in the Statute/Ordinance of the individual Institution concerned.”

8. Mr. Mahapatra, appearing for the JNU contends, *per contra*, that, even if the UGC Ordinance did not fix any outer time limit within which the Ph.D. thesis had to be submitted, the Clause 9(b) of the JNU Ordinances had now fixed an outer time limit, which would apply across the board. He places reliance on Circular dated 8 July 2019 of the JNU. He further submits that Regulation 6 of the 2016 UGC Regulations allows a Research Supervisor, who is a Professor, to, at a given point of time, guide a maximum of three M.Phil. and eight Ph.D. scholars. If students who have de-registered from their Ph.D. programmes are allowed to seek re-enrolment after years, Mr. Mahapatra submits that finding supervisors to supervise them would also be difficult, if not impossible.

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Analysis

9. From a perusal of the record and the submissions advanced by both sides, the following facts become apparent:

(i) At the time when the petitioners registered themselves as Ph.D. students with the JNU, and at the time when they were deregistered as Ph.D. students, the Clause 9(b) of the Ph.D. Ordinances specifically empowered the CASR, albeit on the basis of the recommendations of the concerned Centre/Department, to accept the request of a candidate whose name had been removed from the rolls of the JNU under Clause 9(a)(iv), to get re-enrolled and submit his/her thesis within one year from the date of re-enrolment. There was no cut off date prescribed, before which the candidate had to submit the application for re-enrolment.

(ii) The JNU had itself, under its Circular dated 11 May 2018, noted that the M.Phil./Ph.D. programmes would be governed by the ordinances which were prevailing at the time of their admissions to the university.

(iii) Mr. Chimni, learned Counsel for the petitioners, also placed reliance on the subsequent Circular dated 13 July 2019, issued by the JNU. The said circular states, firstly, that the students, who had completed eight semesters in the Ph.D. programme and were in the process of deregistration or had

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applied for registration under Clause 9(b) of the Ph.D. Ordinance would be governed by the rules of the University in operation at the time of their admission to the Ph.D. programme. This stipulation may not apply to the petitioners, as they were not in the process either of registering themselves, nor had they applied for registration under Clause 9(b) of the Ph.D. Ordinance, on 13 July 2019, as they stood deregistered on various dates between July 2001 and July 2013. However, the second stipulation in the circular, which was to the effect that the new academic ordinances, rules and relevant amendments would be applicable prospectively, essentially reiterates what was stated in the earlier Circular dated 11 May 2018.

(iv) The inevitable sequitur is that any restrictions introduced in respect of the right to seek re-enrolment in order to submit the thesis for obtaining the Ph.D. after 31 July 2012 would not affect the petitioners.

(v) This position was also recognized in the opening paragraph of the decision taken in the 151st (B) meeting of the AC of the JNU, which approved the position that any new rule or amendment in the Rules/Regulations/Ordinances would apply only prospectively to the student concerned.

(vi) That apart, the view that the pre-existing Clause 9(b) of the Ph.D. Ordinance was contrary to the 2016 UGC Regulations is also incorrect, as while Regulation 4.2 of the 2016 UGC Regulations stipulates that the Ph.D. program would be for a

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maximum period of six years, Clause 4.3 envisages extension even beyond six years if there was any clause to that effect in the statute/ordinance in the individual institution. There was, therefore, no proscription on any individual institution providing for the tenure of a scholar's Ph.D. programme extending beyond the span period of six years. In that view of the matter, the provision in Clause 9(b) of the Ph.D. Ordinance cannot be said to violate the 2016 UGC Regulations. Indeed, the counter affidavit filed by UGC also acknowledges this position.

10. In view of the aforesaid, the following position emerges:

(i) It is clear that on the date when the petitioners were admitted to the Ph.D. program in JNU, and indeed even on the date when they were deregistered, they were entitled to the benefit of Clause 9(b), which neither postulated any outer limit within which they could apply for re-enrolment to submit their thesis, nor treated them on such re-enrolment as fresh registrants.

(ii) The impugned stipulation, in Agenda item 15 in the 151st (B) meeting of the AC of the JNU, to the effect that all students whose names were removed under Clause 9(a)(iv) of the Ph.D. Ordinance before 18 November 2013 had necessarily to complete their Ph.D. by 31 July 2020, amounted to an executive decision taken beyond the express provisions in Clause 9(b) of the Ph.D. Ordinance.

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(iii) The JNU itself having acknowledged, in its Circulars dated 11 May 2018 and 13 July 2019, that any amendments to the Ordinance would apply only prospectively, there could be no question of enforcing, against the petitioners, the changes envisaged by the Agenda Item 15 of the 151st (B) meeting of the AC of the JNU which took place on 28 June 2019.

(iv) Consequently, the stipulation, in the impugned Circular dated 8 July 2019, to the effect that students whose names had been removed under Clause 9(a)(iv) of the Ph.D. Ordinance before 18 November 2013 were required to re-register and complete their Ph.D. by 31 July 2020, also amounted to incorporation, by an administrative circular, of a requirement which was beyond Clause 9(b) of the Ph.D. Ordinance. As the Ordinances of the JNU have statutory flavour, the stipulations and specifications contained therein could not have been modified by an administrative circular.

(v) The Circular dated 8 July 2019 was also in error in presuming that Clause 9(a)(iv) of the Ordinances applicable till the Winter Semester 2018 were required to be deleted as they were not in conformity with the 2016 UGC Regulations. There was no conflict between Clause 9(a)(iv) of the Ph.D. Ordinance and the 2016 UGC Regulations, in view of Regulation 4.3 of the latter, which envisaged extension of the span period for obtaining the Ph.D. even beyond six years, if so stipulated in the statute/ordinance of the individual institution. Regulation 4.3 of the 2016 UGC Regulations, therefore, preserved intact the

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autonomy of the individual institutions/organisations to provide, in the Rules, Regulations, Ordinances and statutes, by which they were governed, for obtaining Ph.D., to extend even beyond six years.

(vi) For the aforesaid reasons, the Circular dated 9 July 2019, which required students who had not been able to complete their Ph.D. within the existing span period to submit their thesis by 30 June 2020 was also a mere administrative instruction which effectively introduced an additional stipulation beyond the stipulations to be found beyond Clause 9(b) of the Ph.D. Ordinance and was, therefore, illegal.

(vii) Mr. Mahapatra, learned counsel for the respondents for the JNU had also sought to contend that the petitioners had approached the Court belatedly and that, if the petitioners' stand were to be accepted, what the petitioners were claiming, in effect, was the right to submit their Ph.D. thesis at any time in the future, in perpetuity. It is correct that the petitioners' claim would effectively entitle them to submit their Ph.D. thesis at any time in the future. That, however, is merely the statutory consequence of Clause 9(b) of the Ph.D. Ordinance, and it can hardly lie in the mouth of the JNU, as the author of the Ordinance, to take any exception thereto.

(viii) It is also significant to note that none of the Ordinances or Circulars of the JNU, or Regulations of the UGC, stipulate any maximum age by which the Ph.D. could be obtained by the



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candidate concerned. The only stipulation regarding any outer limit for obtaining the Ph.D. was the stipulation, introduced by the 2016 UGC Regulations, of a maximum span period of six years. That provision had not been introduced by the date when the petitioners stood deregistered from the Ph.D. program and could not, therefore, apply retrospectively to them.

(ix) The coordinate Bench of this Court has, albeit, in the context of applicability of amendments introduced in the 2016 UGC Regulations, held, in *Preeti Umarao v. Jawaharlal Nehru University*¹ that they would not apply to M.Phil./Ph.D. students in the JNU who had been enrolled prior to the introduction of the amendments. There is no reason why this principle would not apply equally to the applicability of the span period introduced by the 2016 Regulations to students such as the petitioners, who had stood deregistered from their Ph.D. program much prior thereto.

Conclusion

11. For the aforesaid reasons, Resolution 15 in the AC meeting dated 28 June 2019 and the consequent Circulars dated 8 July 2019 and 9 July 2019, insofar as they envisage or provide that (i) students who stood deregistered from the Ph.D. program of the JNU prior to 18 November 2013 were required to re-register and complete their Ph.D. by 31 July 2020 and (ii) such re-registration would be considered as fresh registration, are quashed and set aside. The petitioners would,

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therefore, be entitled to seek re-enrolment for submission of their Ph.D. thesis in terms of Clause 9(b) of the Ph.D. Ordinance as it stood at the time when they had been deregistered from the Ph.D. program of the JNU.

12. The writ petition is accordingly allowed with no orders as to costs.

C.HARI SHANKAR, J

FEBRUARY 12, 2024

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Click here to check corrigendum, if any