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

+ **W.P.(C) 12367/2023**

NILABH RANJAN & ANR.

..... Petitioners

Through: Mr. Manu Tripurari, Mr. Rajeev Ranjan, Mr. Rishikesh Kumar and Mr. Arpit Tripathi, Advocates

versus

UNIVERSITY OF DELHI & ORS.

..... Respondents

Through: Mr. Anshuman Mehrotra for Mr. Ankur Chhibber, Advocate

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT (ORAL)

25.01.2024

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1. The petitioners are presently ex-students of the Faculty of Law, University of Delhi.
2. Both the petitioners enrolled as students for the three years LL. B programme of the Law Faculty in the year 2020-2021. The programme was of six semesters, to culminate in the award of an LL.B. degree.
3. The second semester examination of both the petitioners was conducted in 2021. The results of the examinations were announced on 9 December 2021. We are concerned with the Public International



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Law paper of Petitioner 1 and the Evidence paper of Petitioner 2. Petitioner 1 passed Public International Law, whereas Petitioner 2 failed in Evidence.

4. Petitioner 1 desired to improve his performance in the Public International Law paper by attempting an improvement examination with the papers of his fourth semester. It is not in dispute that, by opting for sitting in such improvement examination, the original result stands effaced. In other words, when a student who appears in a particular paper decides to re-attempt the paper to improve his gradings, he has to sink or swim with the outcome of the improvement paper.

5. The petitioners gave their fourth semester examination in August 2022. With the fourth semester examination, Petitioner 1 also attempted the Public International Law paper as an improvement examination whereas Petitioner 2, having failed in the Evidence paper in his second semester, re-attempted the paper. Thus, in August 2022, with their fourth semester papers, Petitioner 1 re-attempted the Public International Law paper and Petitioner 2 re-attempted the Evidence paper.

6. This time, as ill luck would have it, Petitioner 1 failed in the Public International Law paper and Petitioner 2 also failed in the Evidence paper.

7. The result was that Petitioner 1 became a student who had



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failed in Public International Law in the improvement attempt taken in the fourth semester whereas Petitioner 2 was a student who had failed Evidence twice, first in the regular course in his second semester and secondly with his fourth semester papers.

8. In May 2023, Petitioner 1 once again attempted the Public International Law paper and Petitioner 2 re-attempted the Evidence paper, along with their regular sixth semester papers. This time, once again, Petitioner 1 failed Public International Law and Petitioner 2 failed Evidence.

9. The Law Faculty conducted one more examination for the second semester papers on 25 September 2023. This, however, was apparently for the students who had enrolled in the LL. B Programme in 2022-2023. The Notification, notifying the said examination, was issued by the University on 18 August 2023. The last date for submission of applications was 31 August 2023. Mr. Tripurari submits that, though the petitioners tried to log on to the website and enrol themselves for appearing in the said examination, the website did not allow students who had backlog papers in the second semester to appear.

10. As such, neither of the petitioners was permitted to sit in the said examination as each of them had already attempted the concerned papers i.e. Public International Law in the case of Petitioner 1 and Evidence in the case of Petitioner 2, three times.



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11. It is in these circumstances, that the petitioners have filed the present writ petition before this Court, with a singular prayer, which is that they be permitted to sit in the second semester examination to be held on 25 September 2023 in the case of Petitioner 1 for Public International Law and in the case of Petitioner 2 for Evidence.

12. Though the petitioners prayed for being permitted to appear in the said examination on a provisional basis, no such interlocutory relief was granted by this Court and examinations came to be held on 25 September 2023 without either of the petitioners appearing in the said examination. In the circumstances, the petitioners amended the prayer clause in the present writ petition, to read thus:

“In the facts and circumstances of the case and in the interest of justice it is most respectfully prayed that this Hon’ble Court be pleased to:-

(a) Issue Appropriate Writ/Order/Direction to the Respondent No.1 to Respondent No. 3 to conduct special examination in the month of December, 2023 permitting the Petitioners to take up the examination of their respective subjects of Term II which they could not clear.

(b) Issue appropriate Writ/Order/Direction to the Respondent No.1 to Respondent No. 3 to quash and set aside the notification dated 18.08.2023 being illegal and contrary to the provisions prescribed as per the prospectus.

(c) Issue appropriate Writ/Order/Direction to the Respondent No.1 to Respondent No. 3 to conduct fresh examination of the subjects of Public International Law and Law of Evidence in consonance with the prospectus and settled law that there can’t be any deviation from the prospectus.

(d) Issue appropriate Writ/Order/Direction to the



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Respondent No.1 to Respondent No. 3 subject to the Petitioners clearing such special examination to declare them as having officially and specifically graduated in the year 2023.

(e) Pass any other or further order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in the interest of justice and to meet the ends of justice.”

13. Mr. Tripurari, learned counsel for the petitioners, has predicated his case on the following clause from the prospectus of the Delhi University:

“Supplementary Examination rules in compliance with Aditya N. Prasad, W.P.(C) No. 7365 of 2011 as approved by AC/EC in 2017:

A supplementary examination for students of LL. B V and VI Terms would be held at the end of the VI Term examinations to give one more opportunity to such students who could not clear any one or more papers of V and VI terms. In case a student of V and VI Term had not cleared any paper of I, II, III and IV Terms he/she would clear the same by taking the respective examinations at the regular examination held at the end of each Term: Provided that such students of V and VI Terms who could not clear any paper or papers of the V and VI Terms even after taking the supplementary examination, he/she would clear the same at the regular examinations of V and VI Terms held at the end of each Term. Provided further that all the thirty papers,” required for getting the LL.B degree has to be cleared within the over-all span of 6 years.”

14. It may be noted, below the afore-extracted clause, from the Delhi University prospectus, the following clause also figures:

“Span Period

Subject to the provisions contained in the Ordinance relating to ex-



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students as in force from time to time, a student must clear all the courses offered in all the Terms within a span period of six years from the date of admission to first year of the LL.B. course. No student shall be admitted as a candidate for any LL.B. examination after six years from the date of admission to the first year of the course.”

15. Mr. Tripurari, learned counsel for the petitioners, seeks to contend that, by operation of the afore-extracted clauses in the Delhi University prospectus, the petitioners were entitled to re-attempt their semester papers of Public International Law and Evidence in the examinations which were held on 25 September 2023. Inasmuch as they were not permitted to do so, the petitioners have amended the prayer clause in the writ petition as noted in para 12 (*supra*).

16. It is obvious that none of the prayers in the petition can be granted.

17. Even if, *arguendo*, it was to be presumed that the petitioners were entitled to re-attempt Public International Law and Evidence in the examinations, which were conducted on 25 September 2023, those examinations have already been conducted. There is no question of directing the University to hold a special examination in Public International Law and Evidence only for the petitioners.

18. As Mr. Anshuman Mehrotra, learned counsel for the University points out, the University prospectus also provides for a span period of six years during which a three year LL. B student can clear all the papers of the LL. B Course. As such, he submits that the petitioners



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would have time up to the end of 2026 to clear their papers, with the next opportunity becoming available when the next regular second semester examinations are held towards the latter half of this year.

19. In so far as the rights that Mr. Tripurari has sought to canvas are concerned, I do not see how they flow from the clause in the prospectus on which he places reliance. The prospectus only provides that fifth semester students, would be permitted to attempt, along with their fifth semester examination, back log papers of the first and third semesters, and sixth semester students would be permitted to attempt, along with their sixth semester papers, the backlog papers of the second and fourth semesters. In any event, what is envisaged are only three attempts in six years. Both the petitioners availed of this opportunity by attempting their second semester papers in Public International Law and Evidence the third time along with their sixth semester papers in May 2023. The requirement in the clause of the prospectus extracted in para 13 (*supra*) on which Mr. Tripurari places reliance stood satisfied thereby.

20. Though Mr. Tripurari sought to remodulate his argument, on this fact being brought to his notice, to contend that, as ex-students of the LL. B programme, his clients was entitled to appear in every examination of the second semester which was held, the first such examination having been held on 25 September 2023, he has not been able to draw my attention to any instruction or rule, regulation or instruction which so ordains.



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21. Mr. Tripurari also sought to place reliance on the judgment of a Co-ordinate Bench of this Court in *Rahul Kumar v. University of Delhi*¹. The said decision is of no help to the petitioner at all. The issue in that case was completely distinct from that which arises in the case at hand. What was being canvassed in that case was the right of the petitioners to appear in the supplementary examination. Para 19 of the said decision which contains its operative part, reads thus:

“19. Keeping in view the above legal and factual position, it is the rule mentioned in the prospectus which will prevail over misleading notice/information available on the website of the Faculty of Law. As per the Rule spelt out in the prospectus, the supplementary examination for the backlog paper of the Petitioner in ‘Competition Law’ pertaining to IV semester will only be held along with the regular examination of IV semester. Accordingly, the petitioner is not entitled to take supplementary examination for the backlog paper of ‘Competition Law’ pertaining to IV semester along with the supplementary examination for V and VI terms to be held at the end of VI term examination. The object of such supplementary examination is to give one more opportunity to those students who could not clear any one or more papers of V and VI Terms. The case of the petitioner does not fall in this category. The petitioner has backlog paper of IV semester and no supplementary examination for IV semester are to be held at the end of VI term.”

22. As such, the decision in *Rahul Kumar* cannot be cited as a basis to contend that the petitioners were entitled to appear in the Public International Law and Evidence papers in the examinations which were conducted on 25 September 2023.

23. No fault can, therefore, be found with the University in not allowing the petitioners a fourth bite at the cherry in the examinations

¹ 2023 SCC OnLine Del 1904



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which were held on 25 September 2023. The petitioners will have their chance to appear in the said papers again when the next second semester examinations will be held and would have repeat chances till the span period of six years from the date of commencement of their LL. B course is exhausted.

24. The Court wishes them all success in the said endeavours, but regrets that it is not in a position to grant any relief in the present petition.

25. The petition is, accordingly, dismissed with no orders as to costs.

C.HARI SHANKAR, J

JANUARY 25, 2024

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Click here to check corrigendum, if any