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

+ **LPA 1240/2024 & CM APPLS. 75602-03/2024**

HARSHDEEP SINGH PUPNEJAAppellant

Through: Mr. Rahul Bajaj, Mr. Tahja Bin
Tasneem, Ms. Sanchita Ain and Mr.
Habib Muzaffar, Advocates.

versus

**DEPARTMENT OF EMPOWERMENT OF PERSONS WITH
DISABILITIES (DEPWD) & ANR.**Respondents

Through: Mr. Syed Abdul Haseeb, Advocate
for R-1/IOI
Mr. Mohinder J.S. Rupal, Mr. Hardik
Rupal and Ms. Aishwarya Malhotra,
Advocates for University of Delhi/
R-2

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **23.12.2024**

CM APPL. 75604/2024

CM APPL. 75605/2024

1. Exemptions allowed subject to all just exceptions.
2. The applications stand disposed of.

LPA 1240/2024 & CM APPLS. 75602-03/2024

3. Issue notice.
4. Mr. Rupal, the learned counsel appearing for the respondent no.2/Delhi University (hereafter *DU*) accepts notice.
5. The appellant has filed the present appeal impugning an order dated 10.12.2024 passed by the learned Single Judge of this court in W.P.(C) 16795/2024 captioned as *Harshdeep Singh Pupneja vs. Department of*



Empowerment of Persons with Disabilities (DEPWD) & Anr. The appellant had filed the said petition, *inter alia*, praying that the directions be issued to respondent no.2/DU to reevaluate the petitioner's answer books in light of his disability by developing a suitable method. Additionally, the appellant seeks directions to DU to make available suitable reasonable accommodation for the appellant for his remaining examinations by entering into an individualised dialogue with him.

6. The appellant states that he is a student with benchmark disability as defined under the Rights of Persons with Disability Act, 2016. The Disability Certificate annexed with the petition reflects that his disability is assessed at 50% and is described as “*Cerebral Palsy with Left Moderate Hemiparesis*”. The appellant claims that his disability resulted in difficulty in writing clearly. As a consequence the examiners have found it the difficult in reading the answer sheets and discerning its contents.

7. The appellant cleared his class 12th examination and thereafter, joined an undergraduate degree (B.A. programme) from School of Open Learning at the University of Delhi. In December, 2022 the appellant cleared his entrance examination and secured admission in a three year law degree course at Law Faculty-02, University of Delhi. Appellant claims that he had disclosed his disability to the authorities at the relevant time.

8. The Post Graduate course in Law spans over six semesters and comprises of thirty (30) papers. Each semester comprises of five papers. In order for a candidate to be promoted to the second year (3rd semester), the candidate is required to clear five out of ten papers. And, for promotion to third year (5th semester), the candidate is required to clear fifteen out of twenty papers.



9. Additionally, the candidate can appear for the papers to clear his backlog along with the regular students.

10. The appellant had cleared two papers out of the five papers in his 1st semester, however, failed to clear the remaining three (LB-101, LB-102 and LB-105). However, in the 2nd semester, the appellant cleared all the five papers. Since he had cleared seven out of ten papers, was admitted to the 3rd semester. In his 3rd semester, the appellant cleared two out of five papers of the 3rd semester, however failed in the remaining three (LB-303, LB-304 & LB-3034). The appellant also applied to sit for the backlog papers of the first semester, which he had failed to clear and managed to clear one out of the three papers. He was marked absent for the remaining two as he did not sit for the said examination.

11. The appellant sat for the 4th semester examination and managed to clear two out of five papers of the 4th Semester (LB-401 & LB-4036), however failed to clear the remaining three. Resultantly, the appellant had passed in twelve out of twenty papers – which was short of the requirement of fifteen papers – therefore, was not admitted to the 5th semester.

12. It is the appellant's case that he was not marked correctly on account of the difficulty faced by the examiner in discerning his handwriting.

13. It is in the aforesaid context, that the appellant sought re-evaluation of his answer books. The learned Single Judge has directed the re-evaluation of three of the answer books of examination of 4th Semester, however, has declined the appellant's prayer for being admitted to the 5th Semester examination, which is scheduled to be held on 06.01.2025.

14. The appellant being aggrieved by the denial of the interim relief for being permitted to sit for the said examination, has filed the present appeal.



15. The plain reading of the impugned order indicates that the learned Single Judge had declined the interim relief to the appellant for being permitted to sit for the examination of the 5th Semester, on the ground that the appellant had not been admitted to the 5th semester, therefore, obviously could not be permitted to take the examination.

16. The learned counsel for the appellant submits that notwithstanding that the appellant was not admitted to 5th Semester, he had attended some classes. He also handed over photocopy of two sheets, which purport to be the attendance sheets. The same indicates that the appellant had attended some classes, although irregularly. We are unable to accept that the same would constitute undergoing the course of 5th Semester, as the appellant was not admitted to the 5th Semester.

17. As noted above, the appellant had not cleared fifteen out of twenty papers, and therefore, has been denied admission to the 5th Semester. We find no infirmity with the decision of the learned Single Judge in denying the interim relief as sought for by the appellant.

18. Insofar as the re-evaluation of answer sheets is concerned, it is noted that the learned Single Judge has directed re-evaluation of three answer books of the 4th Semester examination. We are of the view that in the peculiar facts and circumstances of the case, re-evaluation of all answer books, of the test papers which the appellant has not cleared, may be conducted, subject to the appellant making the necessary application for the same along with the charges.

19. We clarify that the delay in applying for re-evaluation would not impede the appellant's application in this regard. We also direct that the DU shall take into account the appellant's disability while re-evaluating the



answer sheets. We understand that this would perhaps require the examiner to devote greater time to discern the appellant's handwriting.

20. The re-evaluation shall be done in the same manner as directed by the learned Single Judge.

21. The appeal is disposed of in the aforesaid terms. Pending applications also stand disposed of.

VIBHU BAKHRU, ACJ

TUSHAR RAO GEDELA, J

DECEMBER 23, 2024

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[Click here to check corrigendum, if any](#)