

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION**

Appellate Side

Present:

The Hon'ble Justice Ajay Kumar Gupta

WPA 8701 of 2007

Shri Rudra Prosad Giri

Versus

The Netaji Subhas Open University & Ors.

For the Petitioner : Mr. Shaunak Ghosh, Adv.
Ms. Paramita Mondal, Adv.
Mr. Suva Gayen, Adv.

For the University : Dr. Chapalesh Bandyopadhyay, Adv.
Ms. Gargy Basu, Adv.
Ms. Anandamayee Datta, Adv.

Heard on : 17.09.2025

Judgment on : 12.11.2025

Ajay Kumar Gupta, J:

1. This is the second round of litigation. Earlier, the petitioner had filed a writ petition being WP No. 27713 (W) of 2006.

FACTS OF THE CASE

2. The petitioner, being Enrolment No. S-200220180, took admission in BDP (B.Sc) course, at P.K. College Study Centre, Contai, District – Purba Medinipur, affiliated to Netaji Subhas Open University. After completion of the term, he appeared in the Examination from June 2003 in different subjects of his course till June 2005. He received the progress report of the Term Education Examination in June, 2005, which contained the marks from June, 2003 to June, 2005.
3. However, after verifying the said report, the petitioner found that in paper E-13, he has been shown to have obtained no marks, though the petitioner duly appeared for the Examination of the said paper in June, 2005. At the same time, in paper E-15, he has been shown to have obtained only 2 marks. The petitioner expected good marks in both papers.
4. The petitioner enquired about his marks when the Co-ordinator informed him that there may have some mistake in the computer. However, he was advised to appear in the examination for paper E-15 in December, 2005. Accordingly, he appeared in the examination. Thereafter, he received another progress report in which he noticed

further discrepancies in paper E-1. Previously, it showed 33 marks in paper E-1, but in the December 2005 progress report, the same 33 marks were shown as 17+1. Additionally, the term and examination date were recorded incorrectly.

5. It is further the case of the petitioner that in paper E-2, he had obtained 29 marks, but the progress report of December 2005 reflected 33 marks. Due to these discrepancies, he addressed a letter to the Vice-Chancellor/respondent no. 2 vide letter dated 03.08.2006. Upon receipt of the letter, the Controller of Examination/respondent no. 3 vide letter dated 13.08.2006, informed the petitioner that his marksheet had been corrected and despatched to the Study Centre.
6. From the said corrected report, the Petitioner observed that the discrepancy of marks in paper E-1 and E-2 as well as the date of Term End Examination had been rectified. However, paper E-13 still showed no marks, and in paper E-15, the marks had changed from 2 to 10. He subsequently informed the respondents about these contradictions, discrepancies and mistakes in the progress report vide letter dated 04.09.2006. As no remedial action was taken, the Petitioner filed the first writ petition.
7. After hearing the parties, the writ petition was disposed of by Hon'ble Justice Debasish Kar Gupta vide an order dated 29.01.2007. The Court directed the Vice-Chancellor/respondent no. 2 to consider the

grievances of the petitioner, particularly the representation dated 4th September, 2006 within four weeks from the date of communication of the order, and to pass a reasoned order, communicating the same within a week from the date of such decision.

8. The respondent no. 2, the Vice-Chancellor, Netaji Subhas Open University considered the representation and decided the fate of the petitioner in the following manner:

“AND WHEREAS THE CANDIDATE was given an opportunity of being heard; Now therefore it is ordered that the communication of the Controller of Examination dated 13.08.2006 and 20.10.2006 confirming that the candidate obtained in E-13-0, E-15-10 and it is confirmed that the date of examinations in E-14 will be Dec-04 instead of June-05 and no injustice has been meted to him.

He can avail chances during the validity of Registration to clear the subject in which he was marked NC.

Thus, the matter is disposed of in accordance with law and in compliance with the direction of the Hon’ble High Court.”

9. Feeling aggrieved by the said decision of the Vice-Chancellor, the petitioner filed the instant writ petition praying, inter alia, for a writ of mandamus commanding the respondent authorities not to give any effect or further effect to the impugned order communicated under memo dated 16.04.2007. The Petitioner further prayed for directions upon the respondents to re-examine/re-evaluate his answer scripts

for papers E-13 and E-15, and to issue proper mark sheets, along with other consequential reliefs.

SUBMISSIONS ON BEHALF OF THE PETITIONER

10. The learned counsel appearing on behalf of the Petitioner submitted that the respondent authorities have failed to clarify why 0 (zero) marks were awarded in paper E-13, although he appeared in the said examination. It was contended that the Petitioner had every reason to believe that he would secure higher marks in the said paper. However, the progress report reflected the column for E-13 as blank. It was further argued that the column indicating marks obtained by a candidate should never remain blank, it must reflect either a numerical score or a zero. The absence of any indication renders the evaluation arbitrary and baseless. Therefore, it was urged that appropriate directions be issued to award the actual marks obtained by the petitioner in E-13 in the progress report.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

11. Per contra, the learned counsel appearing on behalf of the Respondent nos. 1 to 4 opposed the prayer of the learned counsel appearing on behalf of the Petitioner and submitted that the writ is not maintainable, as the Vice Chancellor had already passed a reasoned order after obtaining reports from the Controller of Examination. It was further contended that the impugned order

clearly indicates that, as per the communication of the Controller of Examination dated 13.08.2006 and 20.10.2006, the Petitioner obtained zero marks in E-13 and 10 marks in E-15. It was further confirmed that the date of examination for paper E-14 was December 2004 and not December 2005. Therefore, the Petitioner's grievances have been meted out by the Vice-Chancellor; further consideration is not necessary, rather there is no scope or any further direction upon the respondent authorities to award marks.

FINDINGS AND ANALYSIS OF THE COURT

- 12.** Having heard the learned counsels appearing on behalf of the respective parties and upon perusal of the affidavit-in-opposition and reply thereto, this Court finds that the Vice-Chancellor had duly considered the petitioner's representation in accordance with law after affording an opportunity of hearing. The decision of the Vice-Chancellor was supported by the report of the Controller of Examination and was reasoned and well-founded, clearly indicating the marks obtained by the Petitioner in each subject.
- 13.** Therefore, there is no further scope to consider the prayer of the present writ petitioner since the Vice-Chancellor has already examined the matter in detail and rendered a decision after due verification of the relevant records through the Controller of Examination.

14. The Writ Court also does not act as an appellate authority to deal with the disputed question of facts as raised by the Petitioner. The earlier writ petition, filed in 2006, had already resulted in an order directing consideration of the Petitioner's representation, which culminated in the Vice Chancellor's order dated 13th April, 2007. The said order specifically clarified the marks obtained by the petitioner based on the official communication from the Controller of the Examination.
15. In light of the above facts and circumstances, this Court finds no valid reason to interfere with the order passed by the Vice-Chancellor on 13.04.2007.
16. Accordingly, **WPA 8701 of 2007** is **dismissed** without any order as to costs.
17. Interim order, if any, stands vacated.
18. All parties shall act on a server copy of this judgment uploaded from the official website of High Court at Calcutta.
19. Urgent photostat certified copy of this judgment, if applied for, is to be given to the parties on priority basis on compliance of all legal formalities.

(Ajay Kumar Gupta, J)