



2025:DHC:1410-DB



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

+ LPA 160/2025 & CM APPLs. 12544-12545/2025

VISHUL KAPASIA

.....Appellant

Through: Mr. Ashu Bidhuri, Adv. with Mr. S.P. Singh, Adv.

versus

UNIVERSITY OF DELHI THROUGH ITS VICE-CHANCELLOR
& ORS.

.....Respondents

Through: Mr. Preet Pal Singh, Adv. with
Mr. Yash Sain and Ms. Tarunpreet
Kaur, Advs. for BCI.

(54)

+ LPA 161/2025 & CM APPLs. 12547-12548/2025

MD SHAHABUDDIN

.....Appellant

Through: Mr. Ashu Bidhuri, Adv. with Mr. S.P. Singh, Adv.

versus

UNIVERSITY OF DELHI THROUGH ITS VICE-CHANCELLOR
& ORS.

.....Respondents

Through: Mr. Preet Pal Singh, Adv. with Mr.
Yash Sain and Ms. Tarunpreet Kaur,
Advs. for BCI.

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Date of Decision: 3rd March, 2025

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGEMENT

TUSHAR RAO GEDELA, J : (ORAL)

1. These are appeals filed by the appellants against the common judgement and order dated 11.02.2025 passed by the learned Single Judge in *W.P. (C) 136/2025* captioned *Vishul Kapasia vs. University of Delhi & Ors.*

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and in *W.P. (C) 277/2025* captioned *Md. Shahabuddin V/s University of Delhi & Ors.*, dismissing the writ petitions filed by the appellants herein seeking permission to appear in the examination of 3rd Semester of LL.B., conducted by the respondent-Law Centre-II, Faculty of Law of the respondent university.

2. At the outset, it was brought to the knowledge of the learned counsel appearing for the appellants that this Court, *vide* the judgement dated 21.02.2025 in *LPA 132/2025* captioned *Ananya Bansal vs. Delhi University & Ors.*; ***Neutral Citation No. 2025:DHC:1197-DB*** had, while dismissing the appeal filed by a similarly situated appellant seeking prayers of similar nature, upheld the judgement impugned in the present appeals. On that score, learned counsel for the appellants herein, submits that there are additional grounds which have been overlooked by the learned Single Judge and would need consideration by this Court.

3. Mr. Ashu Bidhuri, learned counsel for the appellants at the outset, fairly admits that the appellants are not challenging the rules of the respondent/university prescribing attendance at 70% for being eligible to participate in a particular semester examination. He predicates his additional ground on the aspect of non application of the attendance relaxation clauses stipulated in the Attendance Rules of the respondent/university to the appellants, despite having brought to the notice of the learned Single Judge. He draws attention of this Court to the proviso to Rule 8(a) of the Attendance Rules (hereinafter referred to as “*Rules*”) relating to the Faculty of Law, Delhi University. According to him, the competent authority under such Rule was empowered to relax the lack of the stipulated 70 per cent of the attendance. He urges that the non application of the benefit of Rule 8(a) noted above by the authority *qua* the appellants, has resulted in grave



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miscarriage of justice and deprivation of valuable period of one academic year. He also contends that though the said ground was urged before the learned Single Judge, no reference to the same has at all been made in the impugned judgement thereby causing miscarriage of justice.

4. Additionally, learned counsel for the appellants also urged that the Faculty of Law was itself in default of the directions/guidelines of the Bar Council of India (BCI) stipulating the authorities to necessarily hold prescribed number of classes. In that, according to him the Faculty of Law itself committed default in not holding prescribed number of the classes as mandated by the BCI. He contends that once the Faculty of Law did not hold the requisite number of classes, it cannot turn around to blame the students for having short fall in the requisite attendance of 70 per cent. On this count too, learned counsel vehemently contends that in the interest of justice and in view of the overall benefit of saving a crucial academic year of the students like the appellants, the impugned judgement ought to be set aside and the reliefs as sought in the underlying writ petitions be allowed.

5. On a pointed query, learned counsel for the appellants was unable to indicate any ground much less any document establishing invocation of Rule 8(a) by the appellants either by way of an application to the competent authority of respondent/University or any ground in the underlying writ petitions or even in the present appeals. It is clear that the foundational fact to lay challenge predicated on non application of Rule 8(a) of the Attendance Rules either by the authority of the respondent/University or for that matter the learned Single Judge, while adjudicating the underlying writ petitions, does not arise. In other words, when the appellants themselves did not invoke Rule 8(a) well within time before the proper and competent authority of the respondent/University, urging that ground either before the learned



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Single Judge or in these appellate proceedings does not arise. It is to be noted that for a Court exercising discretionary relief under Article 226 of the Constitution of India, the party has to first establish a right which has been infringed by the authorities. In the present case, it is apparent that no such infraction occurred since no application seeking relaxation under Rule 8(a) was ever filed by the appellants before the competent authority of respondent/University.

6. So far as the argument in respect of the Faculty of Law violating the stipulation/guideline of the BCI regarding holding prescribed number of classes is concerned, suffice it to observe that the percentage of attendance which has been calculated is obviously of the actual number of classes held and not the prescribed or required number of classes which were supposed to be held. Moreover, since learned counsel for the appellants had at the outset stated that the appellants are not challenging the stipulation of 70 per cent attendance, any attendance falling short of the said stipulation cannot be condoned except in accordance with the prescribed rules.

7. This Court had in a similar challenge to the same impugned order had repelled the arguments of the appellant therein and dismissed the appeal (*See Ananya Bansal supra*).

8. In view of the above, we do not find any merit in the appeal(s) and the same is/are dismissed without any orders as to cost.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

MARCH 3, 2025/yrj/rl

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