

(2020) 05 DEL CK 0154

In the Delhi High Court

Case No : Civil Writ Petition No. 2980 Of 2020, Civil Miscellaneous Application No. 10337, 10338, 10350 Of 2020

Aarzoo Aggarwal

APPELLANT

Vs

University Of Delhi

RESPONDENT

Date of Decision : 26-05-2020

Acts Referred:

Citation : (2020) 05 DEL CK 0154

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Mahender Rupal

Final Decision : Dismissed

Judgement

„

Prathiba M. Singh, J",,,

1. The hearing was held through video conferencing.,,

2. Copying and cheating in examinations is like the Plague. It is a pandemic which can ruin society and the educational system of any country. If the,,

same is left unchecked or if leniency is shown, the same can have a deleterious effect. For any country's progress, the integrity of the educational",,,

system has to be infallible. Whether it is paper setters maintaining utmost confidentiality, students not cheating, invigilators being vigilant, examiners",,,

doing their job with utmost alacrity knowing that the future of students is in their hands, Universities and colleges not tampering with results - the",,,

conduct of all stakeholders has to reflect commitment and also be unblemished.,,

3. The present writ petition was filed by Ms. Aarzoo Aggarwal, who is a final year student of B.A. (H) Economics at Daulat Ram College, University",,,

of Delhi. The petitioner challenges the impugned order of the Respondent - University of Delhi dated 12th March, 2020 by which the examination of",,

the Petitioner for the entire Semester has been cancelled. She prays that the said order be quashed and the University of Delhi be directed to declare,,

her result.,,

Petitioner's Submissions,,

4. The Petitioner is currently in her 6th semester. The examination for four papers of the 5th semester was held in December, 2019. The Petitioner",,

appeared in all the examinations. The paper in `International Trade` was held on 3rd December, 2019. The centre for examination was Daulat",,

Ram College itself. The Petitioner's case is that on the date of the examination she was late for examination due to traffic. The Petitioner carried,,

her stationery pouch from her bag and straightway reached her seat. She claims that she had prepared notes for the examination, which were in the",,

form of placards, and the said placards mistakenly stayed in her pouch. In a hurry, when the examination was about to start, she simply took out her",,

pouch and started writing the examination, without realising that the notes continued to remain in her pouch. Half an hour into the commencement of",,

the examination, the Petitioner pleads that she realised that the placards were in her pouch, and she herself voluntarily called the invigilator and gave",,

the same to the invigilator. It is her case that despite her having voluntarily done so, the invigilator accused her of cheating. She submits that there",,

were three invigilators in the examination hall and none of the students could have copied even for 30 seconds. The Petitioner was then asked to leave,,

the college and was not even allowed to meet the Principal.,,

5. Thereafter, the University on 12th March, 2020 has declared the result of all the candidates except the Petitioner. The Petitioner claims that she",,

does not endorse any unethical practice, and that she has been representing her class for the last three years. The Petitioner further states that she",,

was `bullied` into signing blank sheets and thereafter, the invigilator asked her to write the examination, if she wished to. The Petitioner",,

expected that the University would hear her matter and give her justice before passing of the order dated 12th March, 2020. She received a show",,

cause notice on 13th January, 2020, and claims to have sought a personal hearing, which was not afforded to her. Thereafter, on 28th January, 2020",,

she received an email asking her to visit the examination building to give a good conduct undertaking, and for counselling. The Petitioner states that the",,,

said email simply puts baseless allegations on her while seeking the good conduct undertaking. She accordingly submits that the result of the remaining,, papers ought to be declared.,,,

6. The matter was first listed on 22nd April, 2020 on which date, considering the submissions of the Petitioner and the counsel for Delhi University",,,

who appeared on advance copy, the following order was passed:",,,

â??6. This Court has heard the submissions of the Petitioner, who appears in person and that of Id. counsel for the University of Delhi. The",,,

Petitioner has submitted, upon a query from the Court, that she is a meritorious student and had scored 96.25% in her 12th standard",,,

examinations. Her aggregate in the previous semesters is above 60%. She thus appears to be a meritorious student. Admittedly she has not,,

been given a hearing in the proceedings pursuant to the show-cause notice.,,,

7. The incident, which took place on 3rd December, 2019, and the proceedings in the show-cause would need to be gone into after perusing",,,

the records of the Respondent - University of Delhi. Accordingly, at this stage, the Respondent is permitted to file a counter affidavit along",,,

with the relevant documents within a period of two weeks. On the next date, the University of Delhi shall also place in a sealed cover before",,,

this Court the result of the other three examinations where the Petitioner had appeared in her fifth semester. It is the Petitionerâ??s,,

contention that her results for the said three papers ought to be declared as she wishes to apply for further studies, since this is her final",,,

year in the B.A. course. This prayer would be considered on the next date.â??,,

The Petitioner expressed urgency as she claimed that she wished to apply for studies abroad and accordingly a short date was given. Universityâ??s,,

Submissions,,

7. Since the lockdown period was on, Id. counsel for the University submits that he could not file an affidavit but has produced before this Court",,,

various documents and has made his submissions. Advance copies of the documents were supplied to the Petitioner. Id. Counsel submits that the,,

Petitioner is guilty of completely misleading the Court. He relies upon the invigilatorâ??s report as also the various undertakings, which have been",,,

signed by the Petitioner. Ld. Counsel submits that the Petitioner has, in fact, signed an undertaking of good conduct and has also been counselled by,,

the experts. Ld. Counsel alleges that the Petitioner has not disclosed the fact that she has admitted to have carried the notes for examination. He also,,

relies upon the expert's report dated 29th January, 2020 submitted by an independent expert from Sri Aurobindo College, who has compared the,,

answer sheets along with the notes which were seized and has come to the conclusion that the material was used by the candidate in answering the,,

paper. Ld. Counsel further submits that the Petitioner had agreed for further action to be taken against her in terms of the Instructions For the,,

Candidates Appearing in University Examinations (hereinafter, Instructions). The Counselling Committee, after interacting and counselling,,

the Petitioner, had arrived at a conclusion that she was liable to be proceeded with as per Part C of the Instructions, whereas since,,

she apologized, the Committee recommended that she be proceeded under Part B. It was as per the recommendation of the Counselling,,

Committee that the impugned order was passed.,,

Analysis of documents and findings,,

8. After perusing all the documents filed by the Petitioner and the documents submitted by the University, it is clear that a meritorious student like the,,

Petitioner has not been candid and had held back the relevant documents and important facts before this Court. The Petitioner did not disclose any of,,

the letters written by her, including an email and several other relevant facts and documents. The Petitioner, who appeared in person, has admitted to,,

signing the letter dated 3rd December, 2019. She also admits to having sent the email dated 16th January, 2020, signed the undertaking for good,,

conduct dated 4th February, 2020, as also the UFM (unfair means) Counselling Proforma. In all these documents she has repeatedly admitted that she,,

had taken notes into the examination hall.,,

9. The Petitioner tried to take a technical objection by relying upon email dated 28th January 2020, which called her to appear before the Counselling,,

committee. The said email appears to have inadvertently mentioned that the good conduct undertaking and counselling, was in respect of the,,

examination which was conducted in May - June, 2019, which was incorrect as it clearly related to the December 2019 examination. The copy of the,,

email dated 28th January, 2020 was also transmitted by her to the Court Master, and the same has been taken on record. When asked by the Court as",,,

to why she did not disclose all these documents in her writ petition, the Petitioner claimed that she was not legally trained. In the writ petition it has",,,

been categorically pleaded that half an hour into the examination, she voluntarily surrendered the notes to the invigilator. The said averment in the writ",,,

reads:,,

â??3. That, the answer scripts were already distributed. That day, just like all other exams, petitioner had prepared notes. Those notes were",,,

like placards that petitioner used for revision. Those placards mistakenly stayed in her pouch. Her pouch has 2 pockets, she took out the",,,

pen from one of the pockets, but in a hurry and panic due to shortage of time, the petitioner forgot to check the other pocket and kept the",,,

pouch under the table. After around half an hour of commencement of the exam, the petitioner realized that she had brought the notes by",,,

mistake with her in a hurry, inside the hall. She called the invigilator and gave it to her.â??",,,

10. The true facts are however to the contrary. The exam was conducted on 3rd December 2019. On the said day, after the invigilator found notes in",,,

her possession, the Petitioner wrote a letter on-spot, in her own handwriting which reads as under:",,,

â??Sir/Maâ??am",,,

I, Aarzo Aggarwal, daughter of Mahesh Aggarwal, studying B.A.(H) IIIrd year, Examination Roll No.17014510001. My answer sheet was",,,

taken by the invigilator as a case of cheating. I by mistake brought notes with me inside the exam hall. These notes have full fledged",,,

chapters just for learning, these notes can not be used for cheating as it will consume lot of time. I have been preparing them for all my",,,

subjects. I was already late for the exam and it was quite late to submit it. I panicked and just kept it with me. However, my track record is",,,

clean, no past cheating or disciplinary case. I did not use these notes in the exam.â??",,,

11. The invigilator submitted a report to the authorities on the same day which is signed by the invigilator, co-signed by another invigilator, and also",,,

bears the signatures of the Superintendent of Daulat Ram College. A perusal of

the invigilator's report on the date of examination shows that the invigilator found the bundle of papers i.e., her notes, with the Petitioner, at about 12:15 p.m. The examination commenced at 9:30 a.m. and was to end at 12.30pm. Thus, it was just 15 minutes prior to the end of the examination that the invigilator detected the notes which the Petitioner had in her possession. It is clear from a perusal of the invigilator's report that she had kept the notes below her answer scripts. Thus, the case made out in the writ petition that the Petitioner had voluntarily surrendered her notes was factually wrong.

12. Thereafter, the University referred a matter to an expert in order to compare the notes which were seized with the answer sheet of the Petitioner.

The expert report has also been submitted by Swagat Rout from Sri Aurobindo College. The said report clearly opines that the material has been perused and that the notes which were seized were relevant and were used by the examinee in answering question 3(A). The expert gives a categorical affirmation that the material has been used by the candidate.

13. A show-cause notice was, thereafter, served by the University upon the Petitioner on 13th January, 2020. In response to the said show cause notice, the Petitioner replied by email dated 16th January, 2020 as under:

Case No.148,

Roll No.17014510001,

Date : 16 January 2020-05-11,

Respected sir/maam,

I, Aarzoo Aggarwal, student of Daulat Ram College studying B.A.(H) Economics have been given a notice concerning use of inappropriate

means during examination.

I would like to sincerely apologize for the same. The chits found on my desk were my notes which I make for not only for the paper

concerned, but also other exams. I didn't use the chits in the paper. I brought them by mistake with me, without any intention to use

them. By the time I found them with me, it was already late to submit them. In fear of being charged with cheating I could not submit them to

the investigator.

Moreover, being a third year student I can confidently claim that my past record

has been clean. I have never adhered to any means of",,,
cheating, neither in internals nor in external examinations. The university may check the same with my teachers and college. I have never",,,
been involved in any malpractices.,,,
Therefore I request the university to please consider my case as a mistake that I couldn't admit due to fear and forgive me for this,,
mistake. I will be highly obliged.â??,,

14. A perusal of the letter written on-spot dated 3rd December, 2019 by the Petitioner, as also the email dated 16th January, 2020 clearly shows that",,,
the averments made by her in the writ petition are conscious and deliberate false statements. However, in both the letter and in the email extracted",,,
above, it is claimed that she did not use the notes and that it was already too late to submit them to the invigilator by the time she realised she was",,,
carrying them. In fact, in these documents, the Petitioner admits that due to the fear of being charged for cheating, she did not even submit them to the",,,
invigilator.,,,

15. The email dated 28th January, 2020, by which she was asked to appear for counselling and for furnishing a good conduct undertaking is merely",,,
mentioned in paragraph 10 of the writ petition, however, a copy of the email was not attached with the writ petition. The Petitioner also failed to",,,
mention in the writ petition that she had been counselled and that she had signed the â??Undertaking For Good Conductâ?? and â??UFM counselling,,
proformaâ??. During the course of hearing, upon a specific question put by the Court, she admitted her signatures on both these documents, which",,,
are dated 4th February, 2020.",,,

16. Both these documents are relevant and are extracted below. The â??Undertaking For Good Conductâ?? reads as under:,,
The undertaking extracted above bears the notation of the counsellor - Professor Shri K. S. Rao, who is a member of the Examination Disciplinary",,,
Committee (â??EDCâ?). The above undertaking clearly shows that the EDC was of the opinion that the Petitioner deserved to be proceeded as per,,
â??Part Câ? of the â??Instructionsâ?. However, in view of the Petitioner's apology, the Committee recommended that she be proceeded under",,,
â??Part Bâ? which was a lower punishment.,,,

17. The UFM counselling proforma confirms that she has received counselling on the demerits of adopting unfair means, and that she would not adopt",,,

any unfair means in examination in future. The same is extracted below:,,

18. After the issuance of show cause notice and conduct of the Counselling for the Petitioner, the University issued the impugned order dated 12th",,,

March 2020 cancelling the entire examination of the Petitioner for the 5th Semester, as per "Part B" of the "Instructions". The said",,,

decision reads:,,

" MEMORANDUM,,

It has already been communicated through correspondence on the subject that as per report received from the Superintendent of the,,

Examination Centre where Aarzoo Aggarwal has appeared at the B.A (H) Economics Examination-2019, the said candidate has resorted to",,,

Part, Offence, Punishment

A,"(i) Talking to another candidate or any person inside or outside the Examination Hall during the

examination hours, without the permission of a member of the supervisory staff,","Cancellation of the examination

in the paper of the day of

incident only and declaring the

result on the basis of the

performance of the candidate in

the remaining papers/subjects.

The candidate shall be deemed

to have secured zero mark in the

paper so cancelled

,(ii) Committing breach of any other direction given to candidates.,

B,"(i) Keeping in possession papers, books or notes or is found having written notes on the question paper or

on any part of the clothes worn by him/her or on a part of his body or table or desk or is found in

possession of ruler and/or instruments like: Set-squares protractors, slide rules, etc. with notes written on

them and which notes, papers or the material written on ruler or instrument, or on the question paper or

on clothes worn by him/her or any part of his/her body, table or desk could be helpful or of assistance to

him/her in answering the paper etc. he/she is taking or could be helpful or of assistance to other

candidate in that examination hall, but that candidate has not attempted to take any assistance

himself/herself or give any assistance any other candidate from such material.", "Cancellation of the entire

examination

, (ii) Intentionally tearing off the answer book or a part thereof or a continuation sheet.,

, (iii) Deliberately disclosing his/her identity or making any distinctive mark in the answer book for that

purpose in contravention of any general rules in this behalf.",

, (iv) Using abusive or obscene language in the answer book.,

, (v) Misbehaving in connection with the Superintendent, the Invigilator on duty and the other Staff

working at the Examination Centre or with any other candidate in or around the Examination Centre

before, during or after the examination.",

, (vi) Leaving the examination room before expiry of half an hour without the written permission of the

Superintendent of the Examination and/or without handing over the answer book to the

Invigilator/Incharge and/or without signing the attendance sheet.",

C, "Keeping in possession papers, books or notes or is found having written notes on the question paper or on

any part of the clothes worn by him/her or on any part of his/her body or table or is found in possession

of foot rule and/or instruments like set-squares, protractors, slide rules with notes written on them and

which notes, papers, books or the material written on foot rule or instruments, or on the question paper or

on clothes worn by him/her or any part of his/her body, table or desk etc., could be helpful or of

assistance to him/her in answering the paper he/she is taking or could be helpful or of assistance to other

candidates in the examination hall and if the candidate has made actual use of material himself/herself or

given assistance thereof to any other candidate during the examination.", "Cancellation of the entire

examination taken by the

candidate during the year and

further debarring him/her from

appearing at any examination of

the University within a span

period of one year (12 months)

, "(ii) Assisting or attempting to assist in any manner whatsoever any other candidate in answering the

question paper during the examination hours.",

, "(iii) Where the candidate takes assistance or attempts to take any assistance from to other candidate or

any other person or from any book, paper, notes or other material in answering the question paper during

the examination.",

, "(iv) Where the answer book of the candidate shows or otherwise established that he/she has received or

attempts to receive any help from any other candidate or any source in a malafide manner or has given

help or attempted to give help to another candidate in a manner during the examination hours.",

“

“

“

, "(v) Gross mis-behaviour i.e. threatening with physical force in connection with the examination with the

Superintendent , the Invigilator on duty or any other staff working at the Examination Centre or with any

other candidate in or around the Examination Centre before, during or after the Examination.",

,(vi) Where the candidate disturbs the examination or attempts to do so.,

,"(vii) Where the candidate on being challenged or searched during the course of examination by the

Superintendent or any member of the examination staff on duty, swallows a note or paper or runs with it

or is guilty of causing disappearance or destroying any such material with the intention of obliterating the

evidence of his/her having possessed material.",

ordinarily interfere with the orders passed in educational matters by domestic tribunals set up by educational institutions vide Board of High School &,,

Intermediate Education, U.P. Allahabad and Anr. v. Bagleshwar Prasad and Anr. [1963] 3 SCR 767 , Dr. J.P. Kulshrestha and Ors. v. Chancellor",,,

Allahabad University and Ors. (1980)IILLJ175SC , Rajendra Prasad Mathur v. Karnataka University and Anr. [1986] 2 SCR 912 . We wish to",,,

reiterate the view taken in the above decisions, and further state that the High Courts should not ordinarily interfere with the functioning and order of",,,

the educational authorities unless there is clear violation of some statutory rule or legal principle. Also, there must be strict purity in the examinations of",,,

educational institutions and no sympathy or leniency should be shown to candidates who resort to unfair means in the examinations.â??,,

25. The documents produced by the University show that resorting to unfair means does not elude even meritorious students. This case is an example,,

of why the merit or otherwise of a student in the past is completely irrelevant while considering malpractices such as these. This Court ideally could,,

have proceeded with the Petitioner with stricter action, considering the false submissions made, wrong affidavit that has been filed, as also the",,,

incorrect submissions made during the oral hearing. However, considering the age of the Petitioner, and the fact that she is still a student, this Court",,,

while taking note of the unethical conduct of the Petitioner, has decided not to take any further action against the Petitioner.",,,

26. The present case is definitely one which does not call for interference

especially in exercise of extraordinary Constitutional remedies, in favour of",,,
the Petitioner, who has resorted to unethical practices and has not been truthful
to this Court. Accordingly, while confirming the punishment meted out",,,
to the Petitioner, the present writ petition is dismissed. The result for the
remaining three papers which has been submitted by the University to the",,,
Court Master, has been perused by the Court. However, this Court is of the
opinion that no directions in respect of the same are called for. The",,,
University's decision to cancel the entire examination is upheld.,,

27. The writ petition is dismissed in the above terms. All pending applications are
also disposed of.,,