

(2011) 02 AHC CK 0312

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 9652 of 2011

Abdul Mabood Raza

APPELLANT

Vs

Aligarh Muslim University and Others

RESPONDENT

Date of Decision : 18-02-2011

Acts Referred:

Citation : (2011) 3 ADJ 575 : (2012) 1 AWC 314

Hon'ble Judges : A.P. Sahi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

A.P. Sahi, J.—The Petitioner was a student of Masters in Journalism and Mass Communication (MJMC) in the Aligarh Muslim University, having been admitted in the Academic Session 2005-06. In an incident dated 31st May, 2007 the Petitioner was subjected to a disciplinary action and has been ultimately punished by an expulsion order of the University dated 29.11.2007, which has been communicated to the Petitioner through an Office Memo, a copy where is Annexure-2 to the writ petition. The Petitioner was expelled from the rolls of the University for the two academic sessions of the year 2007-08 and 2008-09.

2. The Petitioner through this petition has come up for a mandamus commanding the Respondents to allow the Petitioner to continue his studies further and complete his Masters Course, which could not be done on account of the aforesaid expulsion order.

3. Smt. Sunita Agrawal for the Respondent - University submits that the Petitioner cannot raise any such plea in view of the order passed in Writ Petition No. 4494 of 2008 decided on 12.11.2008 and even otherwise in view of the provisions of Chapter XCV-B of the Ordinances of the University, the course cannot be allowed to extend beyond 10 semesters that is five years. She submits that the Petitioner was admitted in 2005 and therefore he could have made a request for continuance in the session 2009-10 only within a period of five years

which was not done. The representation moved by the Petitioner on 19th October, 2010 for the first time, made a request for taking an appropriate action which was beyond the period of five years and therefore the relief prayed for cannot be granted. She has also placed before the court the judgment dated 12.11.2008 in writ petition No. 4494 of 2008.

4. In rejoinder learned Counsel for the Petitioner submits that the Petitioner had filed Writ Petition No. 4494 of 2008 in which there was an interim order and he was accordingly permitted to appear in the third semester examination of his course but his results have not been declared till date.

5. Having heard learned Counsel for the parties, it was inappropriate on the part of the Petitioner to have not brought on record the final order passed by this Court in Writ Petition No. 4494 of 2008 which is to the following effect:

Hon"ble Vineet Saran,J.

1. Heard Sri Praval Tripathi, learned Counsel for the Petitioner as well as Ms. Sunita Agrawal, learned Counsel appearing for Respondent-University and have perused the record.

2. The only prayer pressed by the Petitioner in this writ petition is the second prayer, which is for direction in the nature of mandamus commanding the Respondents to decide the appeal filed by the Petitioner on 24.12.2007. Strangely, the learned Counsel for the Petitioner has specifically stated that he does not press any other prayer.

3. Ms. Sunita Agrawal, learned Counsel for Respondent-University has filed counter affidavit along with the copy of the decision in the appeal and stated that the said appeal has been dismissed.

4. As such, the prayer made in this writ petition stands exhausted. No further order is required. This petition stands dismissed. Interim order, if any, stands discharged.

6. A perusal of the said judgment indicates that the Petitioner himself did not make any prayer in relation to pursuing his course further, and had only made a prayer for deciding the appeal which was not granted as the appeal filed by the Petitioner had already been dismissed. The writ petition was dismissed as having exhausted itself and the interim order was discharged. The result thereafter is that the Petitioner had appeared in the examinations under the order of the court and no relief having been prayed therein for declaration of results and the writ petition having been dismissed, the Petitioner cannot get any advantage on that score. On first principles also, once the said writ petition had been dismissed arising out of the same disciplinary proceedings, and the Petitioner did not raise any further plea for pursuing his academic career, the same cannot be permitted now to be raised through this writ petition.

7. None the less the second issue also goes against the Petitioner, namely that a

course has to be completed within 10 semesters. This is evident from the proviso to Clause 7(b) of the Semester System Ordinance quoted herein below:

Provided further that in no case a candidate shall be allowed to appear in the examination beyond 10 semesters from the date of his/her first admission.

8. The Petitioner was admitted in the Session 2005 and his 10 semesters would conclude in 2010. His expulsion was for the Session 2007-08 and 2008-09. After the expiry of the period of expulsion, the Petitioner could have applied for completing his course in the Session 2009-10 which was within the period of five years. In such a situation, the period of expulsion does not require to be excluded for the purpose of counting 10 semesters as the opportunity could have been availed by the Petitioner within the said period itself. The Petitioner admittedly did not avail of the opportunity then and moved a representation only on 19.10.2010 after the expiry of five years (10 semesters). In such a situation, the aforesaid proviso does not allow the Petitioner to appear in any examination beyond the period prescribed.

9. Thus, on both counts, no relief can be granted to the Petitioner. The writ petition lacks merits and is hereby dismissed.