
(2011) 04 AHC CK 0149
In the Allahabad High Court
Case No : Special Appeal No. 502 of 2011

Abdul Mabood Raza

APPELLANT

Vs

Aligarh Muslim University and Others

RESPONDENT

Date of Decision : 06-04-2011

Acts Referred:

Citation : (2011) 04 AHC CK 0149

Hon'ble Judges : R.K. Agrawal, J;Bharati Sapru, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The present appeal has been filed against the judgment and order dated 18th February 2011 passed by the learned single Judge wherein the writ petition seeking a direction to the University to permit the Appellant to complete his Masters course in Aligarh Muslim University has been dismissed on the ground that the Clause 7(b) of the Semesters System Ordinance debars a candidate from appearing in the examination beyond 10 semesters from the date of his/her first admission.

2. We have heard Sri M. Islam, learned Counsel appearing on behalf of the Appellant, Smt. Sunita Agrawal, learned Counsel representing Respondents No. 1 to 3 and have perused the impugned judgment and order dated 18.02.2011 passed by the learned single Judge giving rise to the present appeal, the grounds taken in the memo of appeal and the documents filed along with it.

3. Briefly stated, the facts giving rise to the present appeal are as follows:

The Appellant was a student of Masters in Journalism and Mass Communication in the Aligarh Muslim University. He was admitted in the Academic Session 2005-06. An unfortunate incident took place on 31.05.2007 whereupon the Appellant was subjected to a disciplinary action. He was punished by expulsion order by the University passed on 29.11.2007. The Appellant was expelled from the rolls of the University for two academic sessions of the year 2007-08 and

2008-09. The Appellant had earlier approached this Court by means of a Writ Petition No. 4494 of 2008 wherein the disciplinary proceedings were challenged. However, when the matter was heard, the learned Counsel confined his prayer for deciding the appeal preferred by the Appellant on 24.12.2007. However, it was pointed out by the learned Counsel appearing for the University that the appeal has already been decided and, therefore, no further order was passed by this Court. The order dated 12.11.2008 passed in Writ Petition No. 4494 of 2008 is reproduced below: 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.

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.

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.

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.

4. The aforesaid order has become final between the parties.

5. Thereafter, the Appellant again approached this Court by means of a writ petition giving rise to the present appeal seeking a mandamus commanding the University to allow the Petitioner-Appellant to continue his studies further and complete his Masters course which could not be done on account of the expulsion order. Before the learned single Judge, reliance was placed on the interim order passed by this Court in the earlier writ petition wherein, the Appellant was permitted to appear in the 3rd Semester examination but the result was not to be declared without the leave of the Court. According to the Appellant, as he was permitted to appear in the 3rd semester examination, he is entitled to continue his studies. This submission did not find favor with the learned single Judge on the ground that earlier when he had challenged the expulsion order, the Counsel appearing for the Appellant had confined his prayer for deciding the appeal which appeal was already decided and the order having become final, the Appellant can not reopen the matter by means of fresh proceedings. The learned single Judge held that as the Appellant was admitted in Masters in Journalism and Mass Communication course in the Academic Session 2005-06 and 10 semesters have already expired, no such direction can be issued to the University authorities for admitting the Appellant and permitting him to complete his studies.

6. Sri Islam, learned Counsel submitted that it would be too harsh as the expulsion order was only for two academic sessions and in view of the interim

order granted by this Court in the earlier writ petition being Writ Petition No. 4494 of 2008, the Appellant is entitled to complete his studies. The submission is wholly misconceived as there is specific bar contained in Clause 7(b) of the Semesters System Ordinance of Chapter XCV-B of the Ordinances of the University, wherein it is provided that a candidate can not be allowed to appear in the examination beyond 10 semesters from the date of his/her first admission. There is no challenge to the validity of the said provision either before the learned single Judge or before us.

7. We are, therefore, of the considered opinion that this Court can not pass any order contrary to the ordinances framed by the Aligarh Muslim University, which have statutory force.

8. The appeal fails and is dismissed.