
(1995) 04 AHC CK 0031

In the Allahabad High Court

Case No : Civil Miscellaneous W. P. No. 9996 of 1995

Abhiram Kulshreshtha

APPELLANT

Vs

Vice Chancellor, Agra University Agra and Others

RESPONDENT

Date of Decision : 18-04-1995

Acts Referred:

Citation : (1995) 04 AHC CK 0031

Hon'ble Judges : N.L.Ganguly, J

Final Decision : Dismissed

Judgement

N. L. Ganguly, J.—The petitioner appeared for entrance examination in M. B. A. (Part Time) course in September, 1993 and was found eligible for admission. Later it was revealed that the petitioner was graduate of the year 1988 and had not devoted three years course for B. A. nor had completed his one year Bridge Course. The petitioner had to approach this Court by a writ petition seeking relief that he could not be asked to complete the Bridge Course for admission to the M. B. A. (Part Time) Course. This Court was pleased to allow the writ petition by the order dated 25th February, 1994. Thereafter it is said that in pursuance of the High Court judgment the petitioner was interviewed and he was declared successful for admission. The petitioner claims to have deposited the semester fees and started attending the classes from 30th March, 1994 for the said examination. 27th and 29th March was holidays. The classes of first semester closed on 19th April, 1994 and from 20th April, 1994 preparation leave was declared. The petitioner has annexed the marks sheet. Annexure 7 to the writ petition which shows that the petitioner obtained 144 marks out 500. The requisite total marks being declared as passed was required minimum 290 marks. It is mentioned that in the bottom of the marks sheet itself it is mentioned that a candidate who has obtained 40% marks in each papers (theory and internal assessment taken , ji j and separately and also 50% in aggregate will be declared to have passed the examination.

2. Perusal of marks in paper 1, 2, 3 and 4 shows that in the first paper he

obtained 40%, second paper 55%, and third paper 10%, fourth paper 39%. The petitioner since failed to secure 40% marks in each paper. In third and fourth paper the marks obtained by him were below 40% and the total was less than 200. According to the note quoted in the marks sheet itself he was declared failed.

3. The petitioner has approached this Court seeking that a writ of mandamus be issued to the respondents to declare the petitioner as passed in the internal assessment in all four papers. The learned counsel for the petitioner strenuously argued that the petitioner could not join the classes prior to his admission which he admittedly had joined on 30th March, 1994 upto 1941995 i.e, 20 days he could attend the classes. The learned counsel for the petitioner submits that it was on account of the mistakes of the University that he was not permitted to continue in the examination and it was only after the High Court Judgment he could join the classes, as such the period for which he could not attend the classes during that period deserves to be exempted and he is entitled to get remission and permission for appearing in back paper. The learned counsel for the petitioner has not been able to cite any such provision under which the authorities concerned could grant such remission or relaxation in the period during which the student could not actually attend or was not in a position to attend the classes because of certain act or omission of the respondents themselves. The fact that the petitioner could not attend the classes before 30/3/1994 was beyond his control. This Court is not in a position to pass such order by which a candidate may get relaxation or declaration of result that he has passed. In the academic matters the education authorities are responsible to maintain the standard of educational institutions specially the technical institutions. The matters of these technical educational institutions are supervised by expert body which requires compulsory attendance of the classes and marks obtained in the semester examination as per the rules. In these circumstances I do not feel that this Court can provide any relief as prayed for a direction to the respondent for declaration the petitioner's result as passed. Learned counsel for the petitioner drew the attention of the Court to the ordinances 12 to 18 which are quoted as under :

(12) A candidate will not be promoted from one semester to the other if he fails in more than two papers of the semester concerned. However, he will be promoted to next semester if he fails in one or two papers.

(13) The facility to clear the papers (upto two papers in which the candidate fails will be available to the) as "back papers".

(14) (a) In case of M. B. A. (Fulltime), the candidate will be allowed to reappear in the back papers of I and II semester alongwith the II and IV semesters examination respectively. However, If he still fails to clear any of his I and II semester back papers, he can reappear in such paper(s) in the subsequent year's I and II semester examinations respectively as an ExStudent.

(b) Similarly, if a candidate fails in HI or IV semester, he will be allowed to reappear in the back papers in next two years.

(15) (a) In case of M. B. A. (PartTime), the candidate can reappear in the back papers of I and II semester alongwith III and IV semester examination respectively. However, if he still fails to clear any of his, I and II semesters back papers he can reappear in such papers (alongwith the V and IV semesters examinations respectively).

(b) The candidate can reappear in back papers of III and IV semester alongwith V and VI semesters examinations respectively. In case he fails to clear any of his II and IV semesters back papers, he can reappear in such (s) in the subsequent year"s III and IV semesters examinations respectively as an ExStudent.

(c) Similarly, he will be allowed to reappear in the back papers of V and IV semester in subsequent year"s V and VI semester examinations respectively,

(16) The maximum number of chances allowed for passing the back papers will not be more than two in subsequent semesters/ Examinations.

(17) The marks obtained previous!), by the candidate, in internal assessment of the paper(s) concerned shall be retained and added to the marks obtained by him in subsequent attempts in term and examination.

(18) If a candidate fails in more than two papers (excluding the back papers in any semester, he will be declared "Fail" in that semester. Such a candidate will be allowed to reappear in subsequent year"s examination of that semester as an exstudent; and if he so opts, he will have to appear in all the papers of that semester. However, the marks obtained previously, by that candidate, in internal assessment shall be retained and added to the marks obtained by him in subsequent attempts in termend examination. Such a candidate will be allowed to join the next semester, if he succeeds as per the rule given in item No. 12 above.

4. The learned counsel for the petitioner submitted that the careful perusal of this ordinance that these ordinance are inviolation of each other which I not find correct. The learned counsel for the petitioner submits that once the petitioner is declared failed in first semester examination of 1994, it shall not be possible for him to qualify the complete his course in future. The ordinances do not debar or expel the petitioner from appearing in the examination on account of is being declared as failed. He has however a right to further prosecute his study for the examination.

5. After hearing the learned counsel for the petitioner at length I do not consider it a fit case in which any direction can be given to the respondents as claimed by the petitioner.

6, Shri Panakj Mittal has accepted notice for the respondent No. 1, 2 and 3 and is present in Court during the course of arguments.

7 The petition is dismissed summarily.