

(1997) 11 BOM CK 0041
In the Bombay High Court
Case No : Writ Petition No. 253/97

All Goa Independent Students Union, Mapusa	APPELLANT
Vs	
University of Goa	RESPONDENT

Date of Decision : 27-11-1997

Acts Referred:

Constitution of India, 1950 — Article 14, 226
Goa University Ordinance — Ordinance 45, Ordinance 47

Citation : (1998) 3 ALLMR 149 : (1998) 4 BomCR 531

Hon'ble Judges : R.M. Lodha, J; R.K. Batta, J

Bench : Division Bench

Advocate : A.N.S. Nadkarni and Amicus Curiae, for the Appellant; Mrs. A.A. Agni, for the Respondent

Judgement

R.M. Lodha, J.—Heard Mr. A.N.S. Nadkarni, Amicus Curiae, appointed by the Court on behalf of the petitioner and Mrs. A. Agni, the learned Counsel appearing for the respondent.

2. On 8th July, 1997 the Registry received an application from All Goa Independent Students Union. The grievance of the Students Union was that the University of Goa, by its negligent attitude in conducting the examinations and the lack of infrastructural facilities in the Colleges and University has failed to conduct the examinations in accordance with Law and particularly the Ordinance governing such examinations. On the basis of the said application received by the Registry, cognizance was taken and suo motu writ petition was registered. Notice was issued to the University of Goa and in response thereto an affidavit has been filed along with the Annexures which we shall refer hereafter.

3. Number of grievances spelt out in the communication dated 8th July, 1997 by the Students Union read thus:-

"1. The classes for the academic year 1997-98 commenced from 20th June 1997, however the results of the various examination of Arts, Science, Commerce were

declared between 17th to 21st June 1997 and further it took three days to get the mark sheets.

2. Many discrepancies were noticed in the mark sheets of many students..
3. The rules regarding passing and ATKT as promulgated by the Ordinances were not uniformly adhered to.
4. In many instances, the earned marks accrued from the pursuit of Sports, NCC, NSS were not applied.
5. No moderation has been done in the way the same as applied to the University exams.
6. Students who had appeared for the examinations have been marked absent.
7. The practical marks of FY and SY B.Sc. are not shown separately.
8. Additional discrepancies were notice with regard to the nomenclature of certain subjects.
9. No term wise distribution of the syllabi was circulated to the colleges.
10. The University also failed to circulate the model question paper to all the Colleges.
11. No enough time for preparation has been given to the students between the declaration of the result and the supplementary examination to be conducted."

4. In view of the grievances referred to above, the Students Union prayed for the following reliefs:-

"1. The guidelines and the rules in respect of promotion/gracing ATKT Supplementary Examination and application of N.S.S./N.C.C. Sports marks may be sought by Hon"ble Court.

2. There should be at least two weeks for preparation of the Supplementary Examinations after declaration of the results by following the norms in (I) above.

3. Revaluation of the answer books in presence of students should be done within two weeks so as to enable the student to join the higher classes and for this purpose more examiners may be involved to speed up the procedure and those who have assessed the answer booklets earlier should not be allowed for moderation.

4. Marks of the Practical Exam and the theory exam in respect of the science students should be shown separately in the marksheets.

5. The marksheets of the students in respect of the students applying for revaluation should be given within one week.

6. The students allowed to avail ATKT and Supplementary exam may be provisionally admitted to the higher classes failing which the classes should be

suspended till the revaluation results are declared.

7. Supplementary Examination commencing from 8th July should be postponed so as to enable the students who may get ATKT after revaluation or such students may be given one additional opportunity.

8. The various relevant statutes/ ordinances/circulars./etc. related to the examination April May 1996-97 should be complied and submitted to the Hon. Court.

9. Since we doubt that some sections are lost and marks of some sections are not considered at all in some cases it is prayed the Hon. Court may appoint an observer for the entire procedure of assessment/declaration of results/ etc.

5. On behalf of the University of Goa, Mr. U.V.K. Shankhwalkar, Asst. Registrar (Legal) has filed his affidavit and along with the affidavit annexed the Circular dated 17-6-97, relevant Ordinances as amended from time to time and circular dated 8-8-97.

6. On 21st July, 1997 we find that another communication was received by the Registrar of this Court and in that communication six broad grievances were formulated which read thus:

"Grievance No. 1:-Rules regarding passing and ATKT as defined by the Ordinances are not uniformly applied.

Explanation:- The Ordinance rules regarding passing, ATKT, border gracing, moderation etc. are not uniformly applied as some students are getting the benefit of it while others are deprived of it, doing injustice to majority of students.

Request:- The rules regarding passing, ATKT, moderation, border gracing etc. should be sought by the Hon"ble Court.

Grievance No. 2 :---The practical and theory marks of the Science students are not shown separately as in practice in the University Examination.

Explanation :-This clearly signifies that either the theory or practical marks are not added to the final total, the answer books of theory and practical are lost in the assessment of the answer books. This states their negligent attitude towards the examination students life. In this case, there is a separate per head of passing for the Theory and Practical Examination. The University has not specified to which Practicals or Theory he/she has passed or failed.

Request :-Theory & Practical marks should be shown separately in the mark sheets and the photocopies of the answer books should be given on request to clear the doubts so that the students know whether he/she has passed or failed in theory or practical paper.

Grievance No. 3:---Moderation has not been done as claimed by the University.

Explanation:- If moderation is done, the student must have not failed on the

edge. Most of the students are failing because of "1." mark. Because most of the students have given either 29 or 39 marks which state that moderation is not done.

Request :-Moderation should be done uniformly as per Centralise Exam.,

Grievance No. 4:---Students who have appeared for the examination have been marked absent.

Explanation :-Marking absent for the examination is not a clerical mistake as claimed by the University. This is as not simple because the students are signing before their respective seat number which shows their presence for that particular examination. So also they are submitting whole answer book for the assessment. Being on this strong holds how the student can be marked as absent. This is a clear negligent attitude and showing lack of interest and inexperienced personnel for the job. In this they must have lost this answer book. The only strategy left for University is that the students are absent.

Request:- The student on request should be shown his/her answer book and on request should be given photo copy of the same.

Grievance No. 5 :---The S.Y. B.Com students have answered Business communication, paper but to their big surprise they have got the marks of Communication Skill paper which is not at all their subject. It is B.A. B.Sc. students subject. This opens the University they have bungled and mixed the papers and marks of the students from one stream to another. The consequence is that most of the students are failing because of this. Request : The Hon''ble Court appoint one observer to look into this matter.

Grievance No. 6:---The earned marks from the pursuit of N.C.C./N.S.S./Sports are not included in the marksheet.

Explanation :-This is not a clerical mistake. This is pure negligency on the part of the Goa University in the interest of the students which proves their inefficiency and incapability of holding Higher Level Examination

Request :-The Hon''ble Court should appoint and observe to see whether the answer books, practical marks copies are intact or not, since we doubt that sections or answer books are lost or they are not corrected as the students are not getting the expected marks.

Now it is therefore prayed before the Hon''ble Court the various relevant statutes/ ordinances/ circulars and entire procedure of examination held in April-May 1996-97 should be compiled and submitted to the Hon. Court,

It is therefore prayed that Hon''ble Judge shall grant justice to the several students,"

7. From the affidavit-in- reply filed by the Registrar (Legal) we find that the University has uniformly applied the relevant Ordinances pertaining to passing

and ATKT and border gracing to all first year and second year students in the streams of Arts, Science and Commerce who had appeared in March, 1997. It terms of Ordinance 45 amended from time to time , we are satisfied that the grievances of the Students Union about non-application of passing and ATKT as defined by the Ordinances, is unfounded. As regards grievance No. 2, it relates Jo the Practical and Theory marks of Science students not shown separately as was practised in the University Examination. The explanation has been given in paragraph 5 of the affidavit which reads thus:-

"5.1 say that the theory marks and practical marks for the B.Sc. examinations were shown combined and not separately. However, the University has added the practical marks of respective subjects to the total of theory marks of the subject as such the total of theory marks of the subject as such the practical marks and the theory marks are added to arrive at the final total. It is therefore incorrect that the Theory or Practical marks are not added to the final total or that the answer papers pertaining to theory and practical are lost as alleged. I say that in the result of examination conducted by the University wherever any course includes holding of practical examination the marks of the theory paper and practical are shown separately. I say that in future also the marks secured by a student in theory and practical examinations will be shown separately in the results pertaining to FY and SY, B.Sc. and any other examination wherever there is assessment of practical work."

It, therefore, appears that the University has assured that in future the marks secured by a student in theory and practical examinations will be shown separately in the results pertaining to FY and SY, B.Sc. and any other examination wherever there is assessment work. No further direction, therefore, deserves to be passed by this Court with reference to grievance No. 2

8. Grievance No. 3 of the Students Union is that moderation has not been done as claimed by the University

"8. I say that as regards grievance No. 3 Ordinance 5.4 deals with review or moderation. The reviewer is required to review 10% of the total scripts valued by each examiner and the reviewed scripts shall be sent back to the valuer for forwarding them to the Controller of Examination along with other scripts and the mark list shall be forwarded to Controller of Examination by name directly. I say that the cases of the students who are failing by one mark will be covered by Ordinance 47. I say that vide circular dated 8-6-97 the Principals of all the affiliated colleges have been informed to get moderation done in respect of not less than 10% of answer books in each subject before the declaration of results and further that result shall be declared only after moderation is completed in all subjects/papers pertaining to a given examination. Hereto annexed and marked Exhibit R. 3 is the copy of the circular dated 8-8-97. I add and say that there was no practice of moderation of the answer books followed right from the inception of the University."

9. Therefore, it seems there is no practice of moderation of answer books followed by the University. However, the University has now assured that henceforth moderation shall be done for the supplementary examinations in respect of not less than 10% of answer books in each subject before the declaration of results. Our attention has been drawn to the Circular dated 8-8-97 issued by the University. In this view of the matter, no further direction needs to be passed in regard to grievance No. 3.

10. The Students Union have alleged that students who have appeared for examination are being marked absent. In reply to the said grievance, the Registrar (Legal) has stated thus:-

"9. As regards grievance No. 4, I say that it is correct that there were few cases where the Examiners did not show the marks of the students properly and the students were marked absent. I say that however the results of all these students have been corrected by the University. The University had set up a grievance counter from 2nd July 97 to 4th July 97 and whatever grievances were received by the said counter were remedied by the University . It is submitted that in future utmost care will be taken to see that no such mistakes are repeated by the examiners. Further it is stated that the question of faking the answer books or photocopy of the same does not arise in view of what has been stated hereinabove. I say that the University has already addressed letter to the concerned examiners showing the displeasure of the University at serious lapses committed by the concerned examiners and the concerned examiners have been warned by the University so that such lapses do not occur in future. I say that the Ordinances of the University do not make any provisions for enabling the students to inspect their assessed answer books."

It appears that the University has already taken serious view about this aspect of grievance and a counter was established for the period from 2nd July, 1997 to 4th July, 1997 to enable the students to place their grievances. In response to the establishment of the said counter, grievances were received and have been remedied. The University has assured the Court that in future utmost care will be taken to see that such mistakes will not recur. In this view of the matter, grievance No. 4 does not survive and no further order needs to be passed by this Court.

11. As regards Grievance No. 5, in para 10 of the affidavit-in-reply filed by the Registrar (Legal) it is stated that it was only because of typing mistake while computerising the result of S.Y.B.Com instead of "Business communication" "Communication skill" was typed. It is stated that the students have not suffered adversely because whatever marks were obtained by them in Business communication were shown in the result/ mark sheet under "Communication Skill ". Mrs. Agni submitted that corrected mark sheet have also been issued. In this view of the matter, grievance No. 5 also does not survive.

12. Grievance No. 6 raised by the Students Union is that the earned marks from

the pursuit of N.C.C./N.S.S./Sports have not been included in the marks sheet. In para 11 of the affidavit-in-reply it is stated that in terms of Ordinance 47 and scheme of NCC/NSS/Sports to eligible students, grace marks were left to be included due to clerical mistakes. However, those students who suffered by this mistake placed their grievances before the grievance counter and the said grievances have also been remedied. The University has assured that in future such lapses would not occur regarding the conduct of examination by the University. In this connection also it is stated that revised results have been issued.

13. The lapses on the part of the University were indeed very serious. The University need not be told that career of students depends upon examination results and such lapses on the part of the University, deliberately or negligently and such acts by omission or commission breeds frustration in students in this competitive world. For every mark there is tremendous race and struggle and a student's career can be made or marred by such mistake. The University should be alive to this situation and must not by its action or inaction, knowingly or unknowingly, intentionally or unintentionally cause any harm which may have serious effect and repercussion on student's career. Before serious damage could be done, the University realised its mistake and has strived to remedy the grievance of the affected students.

14. In view of the assurances given by the University, which we accept, having no doubt about their bona fides and hope that it would take all effective steps to ensure that in future such mistakes and lapses will not recur, we do not feel it necessary to issue further directions.

15. With the aforesaid observations, the writ petition is disposed of.

16. Order accordingly.