

**(2013) 02 DEL CK 0033**

**In the Delhi High Court**

**Case No : W.P. (C) 268/2013 and C.M. 556/2013**

Aman Pratap Singh

APPELLANT

Vs

University of Delhi and Another

RESPONDENT

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**Date of Decision : 11-02-2013**

**Acts Referred:**

**Citation : (2013) 02 DEL CK 0033**

**Hon'ble Judges : G.S. Sistani, J**

**Bench : Single Bench**

**Final Decision : Dismissed**

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## **Judgement**

G.S. Sistani, J.—Rule. With the consent of counsel for the parties, present petition is set down for final hearing and disposal. The necessary facts to be noticed are as under:- The petitioner was admitted to the respondent no. 2 college in three years B.Sc Physical Science Course with six semesters. After the completion of each semester, students were required to appear in the examinations to be conducted by the respondent no. 1/ University of Delhi. That after completing the first year of the said course, the petitioner entered into third semester. After the announcement of the schedule for the third semester examination, the petitioner applied for appearing in the said examinations and accordingly, admission ticket was also issued by respondent no. 1. The petitioner appeared in all the four examinations conducted by respondent no. 1 for the said course. The result of the said examination was declared in the month of December 2012 however, the result of the petitioner was withheld. On an inquiry being made the petitioner was informed by respondent no. 2 college that on account of shortage of attendance and as the petitioner had not attended minimum number of lectures the result of the petitioner had been withdrawn.

2. The main grievance of the petitioner is that the respondents have failed to declare the result of the petitioner for the third semester in B. Sc Physical Science examinations and further not allowing the petitioner to attend the classes of the fourth semester of the same course.

3. Counsel for the petitioners submits that in case the petitioner was found short of attendance, he was never given any warning or informed with regard to shortage of attendance, and the respondent no. 2, college. It is further submitted that the petitioner was issued an Admission Ticket and allowed to appear in all the four examinations. It is also submitted that if the attendance of the petitioner was short, it was incumbent upon the college to inform the petitioner well in advance so that he could make good the attendance if he was falling short of attendance. Hence withholding the result of the petitioner is illegal, unjustified and arbitrary.

4. The present petition has been opposed both by counsel for the college and the counsel for the University.

5. Counsel for respondent no. 2/ college submits that the petitioner has not made out a case of violation of any statutory or constitutional provision and so the writ petition is not maintainable. It is further contended by counsel for respondent no. 2 that the petitioner secured only 46.31% attendance which is for below the required percentage of 66.66% and so his result has not been declared. It is denied that the action of the Principal is arbitrary and violative of principles of natural justice, as the college has only followed the directive of the University.

6. Counsel for the Delhi University has supported the stand of the college. Mr. Rupal, submits that the requirement of 66.66% of attendance is not a mere technicality or formality, but has been envisaged keeping in mind the rule of education in a person's life. Mr. Rupal, further submits that education requires participation which comes through attending classes, and through the classes a teacher imparts knowledge and tries to imbibe the students with such understanding as what is anticipated by the chosen subject. Counsel for the University further submits that the colleges of the University of Delhi have to act in accordance with the rules and regulations framed by the University from time to time. The relevant provisions of the rules are made available to the students through various means like prospectus etc.

7. Counsel for the respondents have relied in the case of University of Delhi & Anr. Vs. Vandana Kandari & Anr., [LPA No. 662/2010] where this Court held that it is mandatory for students to attend classes in order to fulfil the minimum attendance criteria to be allowed to sit in the examination.

8. I have heard counsel for the parties and considered their rival contentions. The first submission of counsel for the petitioner is that the admit card was issued to the petitioner and the petitioner was permitted to appear in the examination, but in case the petitioner was short of attendance, he should have been informed well in advance, so that petitioner would not have appeared in the examination, which was a useless exercise. I find force in the submission made by counsel for the petitioner. In fact the University vide notification dated 7.2.2012 has directed all colleges to post on their website the details of

attendance of each student. It seems that college may have not tabulated the attendance of the petitioner in advance. The respondent no. 2/college is directed to ensure that the attendance of each student is displayed on the website and the notice board, to enable each student to verify their attendance status every month. However, simply because the petitioner was not informed about the shortage of attendance in advance, no benefit can accrue in favour of the petitioner for the reasons that the students are governed by Ordinance VII of the University, which provides for the minimum attendance which a student must have to be eligible to appear for the examination in each semester/year. Relevant portion of the clauses of the Ordinance VII read as under:

2 (1) No person shall be deemed to have pursued a regular course of study unless the Principle of his College/Head of the Department concerned in the case of candidates for the B.A. (Pass), B.A. (Vocational Studies), B.Com (Pass), B.Sc. (General), B.A. (Honours), B. Com (Honours), B.Sc. (Honours) Degrees, the Principal, School of Correspondence Courses and Continuing Education in the case of students registered with the School, and Head of the Department concerned in the case of candidates for any other Degree or Diploma or Certificate Examination is satisfied that the required conditions in respect of his instruction have been fulfilled.

(2) The required conditions shall not be deemed to have been satisfied in respect of the following degrees unless the candidate has attended not less than two-thirds of lectures and practicals, separately, delivered in his College or the University, as the case may be, for the course of study in each academic year.

(9)(a) Subject to the provisions of sub-clauses (b) and (c)

(i) In the case of a student who is selected as a member of the N.C.C. to participate in the annual N.C.C. Camps or is deputed to undertake Civil Defence work and allied duties or in the case of a student who is enrolled in the National Service Scheme and is deputed to various public assignment by or with the approval of the Head of the institution concerned, or a student who is selected to participate in sports or other activities organized by the Inter-University Board or in national or international fixtures in games and sports approved by the Vice-Chancellor, or a student who is required to represent the University at the Inter-University Youth Festival, or a student who is required to participate in periodical training in the Territorial Army, or a student who is deputed by the College to take part in Inter-College sports or fixtures, debates, seminars, symposia or social work projects, or a student who is required to represent the College concerned in debates and other extra-curricular activities held in other Universities or such other activities approved by the Vice-Chancellor, for this purpose, in calculating the total number of lectures etc. delivered in the College, or in the University, as the case may be, for his course of study in each academic year, the number of lectures etc., in each subject delivered, during the period of absence for that purpose shall not be taken into account.

(c) The benefit of exclusion of lectures contemplated in categories (i) or (ii) of sub-clause (a) above, either separately or jointly, shall in no case exceed 1/3 of the total number of lectures delivered.

9. Ordinance VII of the University provides for the minimum attendance a student should have put in, in order to be eligible to appear for the examination each semester or year, as the case may be. Ordinance VII (2) (9) (a) provides for cases of exception under category (i) and (ii) to the minimum attendance prescribed by the same Ordinance. Category (i) pertains to student taking part in sports, N.C.C., from among other things. Category (ii) pertains to "exceptionally hard cases of students who had fallen seriously ill or had met with an accident during the year disabling them from attending classes for a certain period" could be excluded for purposes of calculation of attendance of the year and decide each case on its own merits. However, Ordinance VII (2) (9) (a) has been made subject to the express provisions contained in sub clauses (c). Sub clause (c) states in unambiguous terms that the benefit of exclusion of lectures contemplated in the sub clause (a) categories (i) and (ii) "either separately or jointly, shall in no case exceed 1/3 of the total number of lectures delivered."

10. It would be useful to reproduce the relevant portion from the college prospectus:

Discipline

Attendance Rules

All students are expected to attend classes regularly, University Rules require a minimum attendance of 66.66% both in lectures and in tutorials/preceptorials/practicals separately, held in each subject, failing which a student shall be allowed to appear for the University Examinations.

11. The Ordinance VII of the University and the prospectus lays down the criteria, according to which a student is to attend minimum 66.66% classes in each semester/year. Thus it cannot be said that the stand of the University is arbitrary, or illegal. For the reasons stated in the identical matters including Writ Petition No. 3121/2012 decided on 19.10.2012, no grounds are made out to entertain this writ petition. As the case of the petitioner is fully covered by ordinance of the University dated 07.2.2012 no relief can be granted to the petitioner, consequently, the writ petition and the application stand dismissed. No costs.