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**(2020) 07 DEL CK 0221**

**In the Delhi High Court**

**Case No :** Civil Writ Petition No. 3946 Of 2020, Civil Miscellaneous Application  
No. 14163, 14164, 14165, 14172 Of 2020

Anupam & Ors

APPELLANT

Vs

Anupam & Ors

RESPONDENT

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**Date of Decision :** 06-07-2020

**Acts Referred:**

**Citation :** (2020) 07 DEL CK 0221

**Hon'ble Judges :** Prathiba M. Singh, J

**Bench :** Single Bench

**Advocate :** Akash Sinha, Shubham Saket, Indrajeet Singh, Gaurav Prakash Shah, Shivankar Sharma, Sachin Datta, Mohinder Rupal, Hardik Rupal, Apoorv Kurup, Nidhi Mittal, Sunita Ojha

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## **Judgement**

Prathiba M. Singh, J

1. This hearing has been held through video-conferencing.
2. Ld. counsel for the parties submit that they have no objection in this Bench hearing this matter.
3. The present petition has been filed by several students of the final year of the Delhi University (hereinafter "DU") seeking quashing and withdrawal of the notifications dated 14th May, 2020, 30th May, 2020 and 27th June, 2020 in respect of undergraduate and postgraduate students, including students of the School of Open Learning and Non-Collegiate Women Education Board. Alternatively, the prayer is as under:  
  
a. Alternatively issue an appropriate writ, order or direction in the nature of mandamus or any other writ or direction as this Hon'ble Court may deem fit in the interests of justice, thereby directing Respondent No.1 to evaluate the final year students based on the previous

years' or semesters' results in the same manner as the Respondent University has planned to promote the first and second year students of

the Respondent University.â??

4. The submission made by Mr. Akash Sinha, Id. counsel appearing for the Petitioners, is that the DU has notified the online Open Book Examination

(hereinafter â??OBEâ??) which was to begin on 1st July, 2020. However, on 27th June, 2020, the same was postponed to 10th July, 2020. The exact

dates for the conduct of examinations for the various courses have still not been released. It is submitted by Mr. Sinha that there are several problems

which are being faced by students who are giving the mock tests. He submits that there are 445 containment zones in Delhi itself. The online

examinations have to be given by students from their own private homes or from the community service centres where there would be an

arrangement for computers. However, when several students reached the community service centres, the centres were not aware of the mock tests

to be conducted.

5. He further submits that the portal of DU is also not working properly and students are hailing from various States from across the country and the

peak of containment has also reached. Under such circumstances, permitting students to take examinations in community service centres also has a

risk of COVID-19 spreading further.

6. An application for impleadment has also been moved by five students from Lady Shri Ram College, Delhi University. Out of these five students,

one student is from Faridabad, two from Delhi, one from Nagaland and one from Rajasthan. It is submitted by Mr. Shivankar Sharma, Id. Counsel

appearing for the said students that on 4th June, 2020 when the mock test was taken, major technological lapses were found. He relies on the

screenshots which have been filed with the application to argue that the upload file size is not sufficient and is only 5MB per question. Secondly, if

there is any delay in uploading of the answer sheets, the portal is being timed out. It is further submitted that the data of the students has also been

compromised because all the personal details of the students have been revealed on the website. Further, it is argued that the DU's site has

crashed multiple times and is unable to take the pressure of hundreds of students logging in to access the question papers and for uploading their

answer sheets.

7. Mr. Sharma further submits that the Delhi University Teachers' Association Office (DUTA) had in fact made a representation that the conduct of

OBEs online has made students more anxious and has taken a toll on their well-being.

8. On behalf of DU, Mr. Sachin Datta, Id. Senior Counsel appearing with Mr. Mohinder Rupal, Id. counsel submits that though there were technical

glitches faced on the first day of the mock test, on the second day, the mock tests have been conducted smoothly. On a query from the Court, as to

whether the date sheet has been announced, it is submitted by them that though the dates are not readily available with them, the same has been

published on the website this morning. Mr. Datta, Id. Senior Counsel has shared the final date sheet for the annual examinations using the "share

screen" facility, as the Court is hearing the matter. On a question as to whether the final schedule for the various steps to be taken i.e., the dates

for completion of examinations, evaluation of answer sheets, announcement of results, release of transcripts, etc., has been finalised by the DU, Mr.

Datta and Mr. Rupal seek time to revert by tomorrow i.e., 7th July, 2020.

9. On behalf of the University Grants Commission (hereinafter "UGC"), Mr. Apoorv Kurup, Id. counsel submits that the guidelines of UGC are

advisory in nature and are not binding. He submits that initially guidelines were released in April 2020, however, thereafter a committee has been

appointed, headed by Prof. R.C. Kuhad, which is yet to submit its report. He does agree that a large number of universities do go by the UGC's

guidelines. He however submits that several universities have cancelled their exams and several other universities have also gone ahead and held their

exams as per media reports. On a query as to whether the UGC's Committee headed by Prof. R.C. Kuhad has submitted its final report after the

initial guidelines in April, 2020 were released, he submits that the same are being finalized and are expected to be submitted shortly.

10. On behalf of Ministry of Human Resource Development, Union of India, Ms. Sunita Ojha, Id. counsel submits that she does not have any

instructions as of today and there is no decision which has been published by the Ministry of Human Resource Development on its website.

11. After hearing Id. counsel for the parties and after going through the record,

as also publicly available reports which have been brought on record, it is clear that the online examination which the DU intends to conduct had various glitches during the mock tests. The following screenshots taken on Saturday i.e., 4th July 2020, which have been placed on record, establish the same:

12. Mr. Sharma, appearing for the Intervenors in fact submitted that students of Psychology were asked to take mock test in Statistics. Thus, mock tests were not held in respect of all subjects.

13. Moreover, in DU, students hail from across the country including from Assam, Jharkhand, Chhattisgarh, Tamil Nadu, Kerala, Jammu and Kashmir and Bihar. Some of the counsels have highlighted the fact that there are floods in Assam and that there are various technical problems which are

being faced in remote areas. Mr. Datta, Id. Senior Counsel submits that as per the judgment of the Id. Single Judge of this Court which was passed on

23rd June, 2020 in *Abhishek and Ors. v. University of Delhi* [WP(C) 3268/2020], students who are unable to take the online exams, would be given an

option of taking the exams again in September, 2020. He submits that the said judgment considers the fact that OBE could be conducted and various directions were passed in respect thereof.

14. Perusal of the record reveals that in *Abhishek* (supra) the Court was assured that mock tests would be conducted at least one week before the

actual examinations and that all endeavour would be made to provide technological support in the form of Common Service Centres. Relevant portions of the said judgement are set out below:

18. On the suggestion relating to clause 8 of the Notification dated 30.5.2020 by learned senior counsel for the petitioner reference

may be had to the said clause :-

8. The students may contact in advance with their college through e-mode to avail the ICT based infrastructure facility for examination.

Subject to availability of these facilities, the college may decide to extend the same their students in limited number those who need to be

taken care in case of non availability of internet and hardware required for examinations. However, norm of social distancing, safety and

health issues have to be taken care at priority and no compromise should be allowed while extending facilities. If number increases, the

students can avail the facilities available at Common Service Centre (CSC) (as mentioned later) in the nearest location of their residence.â??

In my opinion, the colleges should endeavour to provide such infrastructure facility for students who are unable to access internet and

other hardware required for the â??OBEâ?. Accordingly the colleges affiliated to respondent/Delhi University will ensure compliance of

clause 8 of Notification dated 30.5.2020.

19. Another concern urged was about conduct of Mock Tests. The respondent/University will ensure that the said option is available

expeditiouslyâ??

15. Various developments have taken place since the passing of the order in *Abhishek* (supra). The same are â?

(i) Re-consideration by the UGC as to whether final year examinations ought to be conducted;

(ii) Postponement of the examinations by DU without specific dates being announced for all courses. This fact is also noticed by the Id. Division

Bench in *Prateek Sharma & Anr Vs. UOI & Anr* [WP(C) 3199/2020] in its order dated 29th June 2020;

(iii) Mock tests not being conducted in time and in several subjects no mock tests have been conducted;

(iv) Technological glitches being faced during mock tests on 3rd and 4th July, 2020.

(v) CSCs not being aware of the conduct of mock tests.

16. The events which have now transpired show that the directions given in *Abhishek* (supra) on the basis of the assurances of the University have

not been observed in letter and spirit. Further, the exam schedule has been completely upset due to the postponement of the exams till 10th July, 2020.

The date sheet for some of the courses has been uploaded but for some courses the date sheet also has not yet been announced, though it is submitted

even today that the examinations will commence on 10th July 2020.

17. The COVID-19 outbreak has caused considerable disturbance in the schedules for studies and examinations across educational institutions.

Various methods of imparting education have been adopted. Insofar as DU is concerned, the students state in the writ petition that the mid-semester

break was till 15th March, 2020 and immediately thereafter, the lockdown was

announced. In effect, since March 2020 several students have not had any teaching except those who availed the teaching through the `Zoom` app, as submitted by Mr. Datta.

18. Several students may have already obtained employment and may be compelled to report to their jobs. Several other students may be scheduled to pursue post graduate studies in India and in foreign countries. It is a matter of common knowledge that the deadlines for submission of final year transcripts in all these Universities would be in August-September 2020. A large number of States, Universities and institutions have cancelled final year examinations " for eg., State of Maharashtra, Orissa, Haryana, MP, Punjab, NALSAR (Hyderabad), NUJS (Kolkata), IIT Kharagpur, IIT Bombay, Calcutta University, Lucknow University, Punjab University, Dr. APJ Abdul Kalam University etc., Some Universities and institutions have opted for conducting examinations online which have already been completed. A large number of Universities are also awaiting UGC's fresh guidelines.

19. Students in most Universities and institutions which have cancelled the examinations have been promoted on the basis of past performance coupled with internal assessments wherever available.

20. DU is a University of excellence. Studying in DU is a matter of pride as it attracts the best talent from across the country. Thus, the problems of DU students may be much more, and thus the difficulties of the large expanse of students hailing from different regions needs to be borne in mind. They cannot be judged on the basis of the facilities available in a city like Delhi or other metros.

21. Administrative authorities who are in-charge of conducting examinations in universities, including the UGC and the Central Government, ought to also bear in mind that the COVID-19 pandemic has resulted in enormous mental distress and agony to students. There are families which are suffering medical illnesses and giving of examinations is not just a technological issue but the state of mental preparedness of the students also needs to be assessed.

22. The UGC, which is an overarching body for all the universities, ought to in fact take a decision and give its recommendations to all the Universities across the country. UGC is a party in the present petition and it is admittedly

considering the issues relating to final year examinations. Thus, there should be no further delay in the UGC's Committee submitting its report and the advisory from the UGC/ Ministry of HRD, being issued to Universities in respect of conduct of final year examinations. Accordingly, it is directed as under:

i) UGC's Committee headed by Prof. Kuhad shall submit its report to the authorities concerned by 7th July, 2020 and the said report shall be placed on record on 7th July, 2020 by 4:00 pm i.e., when the matter is now listed. The UGC and the Ministry of HRD shall take a specific stand as to whether they recommend cancellation of final year examinations. Responsible officials from the Ministry of HRD and UGC shall join the hearing tomorrow i.e., 7th July, 2020 at 4 pm;

ii) Secondly, the DU shall place on record the following data:

a) The number of students who are studying in the final year of DU and the number of students who are registered for the final year examinations to

be conducted through the online process;

b) A state-wise break-up of the students and from where they have to take the examinations;

c) Preparedness of the website portal for handling of the traffic during examinations, keeping in mind the recent technical glitches faced by students during the mock exams;

d) The schedule of examinations i.e., evaluation of papers, date for announcement of results and date for issuance of transcripts. While preparing and placing on record the schedule before this Court, DU shall bear in mind the deadlines for all the final year students who have to seek employment, deadlines for postgraduate entrance examinations, deadlines for submission of documents to international universities where students may have secured admission etc.

23. Prof. Vinay Gupta, Dean of Examinations, Delhi University shall also join the hearing tomorrow. Mr. Sharma, Id. counsel agrees to e-mail another copy of the intervention application to Mr. Sachin Datta, Id. Senior Counsel and Mr. Rupal, Id. Counsel for DU.

24. List on 7th July, 2020 at 4:00 pm.