

(2012) 10 DEL CK 0352

In the Delhi High Court

Case No : Writ Petition (C) 5321 of 2012 and CM. 10881 of 2012

Archit Kothari and Others

APPELLANT

Vs

University of Delhi and Another

RESPONDENT

Date of Decision : 19-10-2012

Acts Referred:

Citation : (2012) 10 DEL CK 0352

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

Bench : Single Bench

Advocate : Atulesh Kumar and Mr. Sudhakar Dwivedi, for the Appellant; A.P.S. Ahluwalia with Mr. S.S. Ahluwalia, Advocate for the Respondent No. 3/College and Mr. M.J.S. Rupal, Advocate for Rs-1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Sistani, J.—Rule. With the consent of counsel for the parties, present petition is set down for final hearing and disposal. All the petitioners were admitted to the respondent No. 3 college in B.A. Par-II English (Hons.) course. It is the case of the petitioners that they appeared in the final year examination of B.A. II English (Hons.), but their results have not been declared, on account of shortage of attendance.

2. Counsel for the petitioners submits that it is the respondents which had issued admission Tickets to the petitioners, on the basis of which the petitioners appeared in the final year examination of B.A. II English (Hons.), but the respondents are not declaring the result of the petitioners on account of shortage of attendance. It is submitted by counsel for the petitioners that on 24.05.2012 the college issued notice regarding the students who fell short of attendance, whereas by that time i.e. on 24.05.2012 except two papers all the papers were over. The names of the petitioners were mentioned in the notice dated 24.05.2012. Thereafter on 07.08.2012 petitioners made a written request to the Principal and Dean of the Students' Welfare, asking the University to provide/show the attendance sheet of B.A. English (Hons.), so as to check the

discrepancy in the same. It is also contended that petitioners also approached the Principle of the college and the Dean of Students' Welfare, Delhi University, whereupon petitioners were told/assured that since they have appeared in the examination, the result will be declared and there is no problem of short fall of the attendance at this stage.

3. Reliance is placed on the rules and ordinances of the respondent, university relating to attendance criteria and the undertaking which permits a student to appear for the annual examination if he/she has 40% attendance in the 1st year, and not less than 55% attendance in 1st and 2nd year (combined). It is thus contended by counsel for the petitioners that petitioners have missed the 50% criteria marginally. Hence, it is prayed that it is a fit case for the court to exercise its discretion and direct the respondents, to declare the result of the petitioners and grant them admission in Part-III of B.A. English (Hons.).

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

5. Counsel for respondent, college submits that the petitioners have 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 that the petitioners secured the attendance far below the percentage of 66.66 and so their result was rightly not declared. It is denied that the action of the college is arbitrary and violative of principles of natural justice, as the college has only followed the directive of the University.

6. Counsel for the college further submits that the monthly attendance record of the petitioners were posted on the college notice boards as was instructed by the University and that the petitioners were also given due notice for attending the classes regularly at the time of admission in the college as well as through the prospectus. The comprehensive attendance details for the whole year were posted and the list of those who failed to meet the eligibility requirement vis-à-vis attendance was also posted. It is submitted that the petitioners were well aware about the attendance rules and also the consequences of violating the same, however, petitioners chose to be unmindful of the same. It is strongly urged by counsel for respondent, college that the respondent, college has complied with the directive of respondent No. 1 dated 07.02.2012 and posted the attendance records of the petitioners, along with all other students, on the College notice boards. Counsel for the respondent, college has denied that respondent, college has informed the students, much less the petitioners herein at any point of time that their results would be declared, despite their attendance being short. It is next submitted that petitioners were permitted to appear in the examination provisionally, subject to their fulfilling the attendance requirement as per the undertaking furnished by them.

7. It is further submitted that the university rule referred to by the petitioners is no longer in force, as the same was amended and after the amendment every

student has to obtain 66.66% for one year/semester.

8. 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.

9. Mr. Rupal, further submits that the notification dated 07.02.2012 was issued by the University and all the colleges are duty bound to display the attendance every month to enable a student to verify their attendance status every month. It is next contended that every college and the students are duty bound to follow the rules laid down by the University from time to time. It is for this reasons that every teacher is also required to keep a daily record of attendance of students and to submit the same for uploading on the college website on a monthly basis. The University has also written to every College for time-tables of each teacher to be placed on the College website in order that students may acquaint themselves with the class schedule and to facilitate their attendance on a regular basis in class.

10. 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.

11. I have heard counsel for the parties and considered their rival contentions. 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 practical's, 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.

12. 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."

13. Petitioners have not mentioned any specific ground, nor substantiated the same by way of documentary proof, for not attending the classes regularly, but only emphasized on the issuance of Admit Card by the respondent to appear in

the examinations and also that they appeared in all the papers of B.A. English (Hons.) II year. The Admission Tickets issued to the petitioners were provisional in nature. Even otherwise, the stand taken by the petitioners is unacceptable in view of the Ordinance VII of the University. The respondent, college has produced details of attendance of the petitioners in court. As per which the attendance of the petitioners are far below and none of the petitioners qualify the criteria fixed by the University through its Ordinance VII.

14. 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.

15. The attendance criteria is also find mention in the prospectus which would have been purchased by all the students at the time of filling up of the admission form, thus it cannot be said that petitioner was not aware about the minimum prescribed attendance. Even otherwise, the stand taken by the petitioner is unacceptable in view of the Ordinance VII of the University.

16. The Ordinance VII of the University lays down the criteria, according to which the petitioner is to attend the minimum 66.66% classes in each semester/year. In view of Ordinance VII, no relief can be granted to the petitioner, consequently, the writ petition and the application stand dismissed. No costs.