

(1997) 07 DEL CK 0085

In the Delhi High Court

Case No : Civil Writ Appeal No. 2916 of 1997

Arjun Singh and Others

APPELLANT

Vs

Vice Chancellor, Jamia Millia Islamia and Others

RESPONDENT

Date of Decision : 24-07-1997

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : AIR 1998 Delhi 82 : (1997) 70 DLT 95

Hon'ble Judges : Cyriac Joseph, J

Bench : Single Bench

Advocate : Kirti Uppal and A.K. Sikri, for the Appellant;

Judgement

Cyriac Joseph, J.

(1) The petitioners are three students of first year LL.B Course in Jamia Millia Islamia, a Central University, governed by the provisions of the Jamia Millia Islamia Act, 1988. The respondents in the writ petition are the Vice Chancellor, the Registrar and the Dean, Faculty of Law of the said University.

(2) The petitioners challenge the decision of the respondents to detain them from appearing in the examination of LL.B. first year (1996-97) on account of their having secured attendance less than the minimum prescribed by the Academic Council for the year 1996-97. The main prayer in the writ petition is for a direction to the respondents to allow the petitioners to appear in the examination.

(3) ANNEXURE-A to the writ petition is an office order dated 21st July, 1997 issued by the Joint Registrar in the Office of the Registrar, Jamia Millia Islamia. It reads thus:

"OWING to the unusual conditions which prevailed during the year 1996-97 the students who have secured attendance less than 40% are also allowed to appear at the examination to be held in 1997. In case of Faculty of Law, this concession has\\not been extended to the students of Law Faculty as per the Regulations of

the Bar Council of India. Resultantly students, who have secured less than 25% attendance are detained in appearing in examinations of 1997. No relaxation or exception in the prescribed percentage of attendance in various faculties shall be allowed from the next year (1997-98)."

(4) It clear from the said office order dated 21st July, 1997 that though students who have secured less than 40% attendance are also allowed to appear at the examination to be held in 1997, the said concession has not been extended to the students of Law Faculty in view of the regulations of the Bar Council of India regarding attendance. It is stated in the writ petition that as per the regulations of the Bar Council of India the minimum attendance required is 66%. However, as per the office order dated 21.7.1997 (Annexure-A) students of Law Faculty who have secured less than 25% attendance alone are detained from appearing in the examinations of 1997.

(5) ANNEXURE-C to the writ petition is a list on the student of LL.B first year 1996-97 who have been detained from appearing in the examination on account of their having secured attendance less than the minimum prescribed by the Academic Council for the year 1996-97. The petitioner herein are at Serial Numbers 5, 13 and 18 in the said list and all the three have secured only 23% attendance.

(6) According to the petitioners they have already missed their first paper which was held on 22nd July, 1997 and they are seeking the intervention of this Court to enable them to appear for the remaining papers. -The main contention raised by the learned Counsel for the petitioner is that the petitioners have been subjected to hostile discrimination since the students of other faculties who secured even less than 25% attendance have been allowed to appear in the examination while the students of Law Faculty alone have been denied such a concession. It is also contended that the cut off point at 25% has been fixed arbitrarily.

(7) The office order dated 21st, July, 1997 (Annexure-A) shows that the students of the Law Faculty and the students of other faculties are not similarly placed. In the matter of attendance the students of the Law Faculty are also governed by the regulations of the Bar Council of India whereas the students of the other faculties are governed only by the rules of the University. Consequently, in the case of the students of other faculties the University has the exclusive power and competence to allow relaxation of the rules relating to attendance whereas in the case of the students of Law Faculty the concurrence or approval of the Bar Council of India is also required. Mr. A.K. Sikri, learned Counsel for the respondents who has been served with a copy of the writ petition clarified that the University felt that the Bar Council of India would not agree to a total exemption from the minimum requirement regarding attendance and hence the University decided to insist on at least 25% attendance in the case of the students of Law Faculty. Learned Counsel also submitted that during the last year also the Bar Council of India agreed to allow relaxation in the matter of

attendance only to students who had secured at least 25% attendance. Whatever that be, since the students of the Faculty of Law and the students of the other faculties are not similarly placed, as already stated above, there is no legal basis for the contention of the petitioners that they are subjected to hostile discrimination and that their fundamental right guaranteed by Article 14 of the Constitution has been violated. Article 14 strikes only at discrimination between persons similarly circumstanced.

(8) There is also no merit in the contention of the petitioners that the fixation of the cut off point at 25% is arbitrary. The argument of the learned Counsel for the petitioners is that as per the regulations of the Bar Council of India the minimum attendance required is 66% and once the University decided to allow relaxation, the petitioners who secured 23% attendance also should be allowed to appear in the examination. As already pointed out by the learned Counsel for the respondents, in the case of students of other faculties the respondents themselves can allow relaxation from the minimum requirement regarding attendance whereas in the case of students of the Faculty of Law the concurrence of the Bar Council of India also will be required. In case the Bar Council of India refused to give concurrence the students will have to face difficulties. The University felt that unless a reasonable percentage of attendance is not insisted upon and a reasonable cut off point is not fixed the Bar Council of India might not give concurrence to the relaxation in the matter of attendance. The University is also stated to have taken into account the fact that in the last year the Bar Council of India had given concurrence to relaxation from the requirement of attendance only when 25% attendance was insisted upon: Admittedly, the petitioners are governed by the rules of the University and the regulations of the Bar Council of India in the matter of attendance. They have no legal right to say that they should be allowed to appear in the examination without satisfying the rules and the regulations relating to minimum attendance required. It is by way of relaxation of the rules and as a concession that the students of the Faculty of Law who have not secured the minimum attendance required under the rules and the regulations but have secured at least 25% attendance, are allowed to appear in the examination. I am not impressed by the argument that if the relaxation can be extended down to 25% why can't it be further extended down to 23%. In such matters it is necessary to fix a cut off point and it is for the Authorities of the University to fix such cut off point. When such a line has to be drawn or a point has to be fixed and there is no mathematical or logical way for fixing it precisely, the decision of the Authorities of the University must be accepted unless it can be said that it is very wide of any reasonable mark. I do not consider that fixing 25% as the minimum attendance required is in any way unreasonable. The decision of the Authorities to fix the cut off point as 25% is not in any way capricious or whimsical in the circumstances.

(9) Lastly, the learned Counsel for the petitioners appealed for a sympathetic consideration by the Court. I am of the view that in such academic matters the

well considered decision of the academic bodies should be respected and accepted and that the interference, by the Courts should be avoided to the extent possible. Misplaced sympathy and compassion of the Courts can adversely affect the academic standards and the discipline of educational institutions. It is also to be noted that in the petition or the affidavit there is no whisper about the reasons for the failure of the petitioners to secure the minimum attendance required under the rules. If most of the students could secure 25% or above attendance why the petitioners could not do it is a question which should have been satisfactorily answered by the petitioners. Having made no attempt to explain why they could not secure even 25% attendance, the petitioners cannot appeal for sympathy of the Court. In these circumstances I am not inclined to exercise the discretionary jurisdiction of this Court under Article 226 of the Constitution of India in favor of the petitioners.

(10) I do not find any merit in the writ petition and it is accordingly dismissed in limine.