
(2012) 03 DEL CK 0226

In the Delhi High Court

Case No : Writ Petition (C) No. 883 of 2011 and C.M. No's. 1855 of 2011 and 1026 of 2012

Arpita Rathore

APPELLANT

Vs

University of Delhi and Another

RESPONDENT

Date of Decision : 14-03-2012

Acts Referred:

Citation : (2012) 03 DEL CK 0226

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Vishwa Bhushan Arya, with Petitioner in Person, for the Appellant; Maninder Acharya, for R-1 and Ms. Beenashaw Soni, for R-2, for the Respondent

Judgement

Hima Kohli, J.—The present writ petition is filed by the petitioner praying inter alia for quashing the action of the respondents in refusing to grant her re-admission in the B.A.(Programme) course Part-II Session 2010-11 and to give her re-admission in the said course in Session 2010-11. The petitioner had also sought permission to take the B.A. (Programme) Part-II Annual Examinations in April/May, 2011.

2. The brief facts of the case are that the petitioner took admission as a regular student in respondent No. 2/College, affiliated to respondent No. 1/University of Delhi, in B.A. (Programme) Part-I course in the academic year 2008-09. In April 2009, she sat for the Part-I annual examinations and was declared as having passed the same. Thereafter, the petitioner took admission in the B.A. (Programme) Part-II course as a regular student in the academic year 2009-10.

3. It is the case of the petitioner that she had been regularly attending the classes for the said session and her attendance for the said academic year was 59%. As per the petitioner, on 16.11.2009, she had filled up her examination form for taking the B.A. (Programme) Part-II Annual Examinations that were to be held in April/May 2010. However, when she went to sit for her first examination in April 2010, she was not permitted to take the same and it was

only then that she discovered that her application form for taking the annual examinations had not been received by the respondents. The petitioner claimed that she had approached respondent No. 2/College on 11.4.2010 with a request to accept her application for taking the annual examinations alongwith the late fee, but her request was not acceded to and as a result, she could not take her B.A. (Programme) Part-II annual examinations for the academic year 2009-10.

4. It is averred in the petition that in August, 2010, the petitioner started visiting the office of respondent No. 2/College seeking re-admission in B.A. (Programme) Part-II course for the session 2010-11. She also submitted an application to respondent No. 2/College with the same request, but did not receive any response. Finally, a legal notice dated 26.10.2010 was addressed on behalf of the petitioner to respondent No. 2/College for the grant of permission to submit her application for B.A. (Programme) Part-II Annual Examinations 2010-11 that were to be conducted in April/May 2011. The petitioner claims that as she did not receive any reply to the aforesaid representation, the present writ petition came to be filed in February 2011.

5. Notice was issued on the present petition on 10.2.2011. Vide order dated 11.3.2011, the petitioner was directed to appear before the Dean (Colleges) of respondent No. 1/University, who was asked to sympathetically consider as to whether an academic year of the petitioner could be saved. On 7.4.2011, counsel for respondent No. 1/University informed the Court that since the petitioner had failed to obtain re-admission in the second year in B.A. (Programme) Part-II course in respondent No. 2/College, she could not be permitted to take the examination as a student of respondent No. 2/College and further, that she could not be permitted to appear in the examination as an ex-student also because under Ordinance VIII-4(b) of respondent No. 1/University, only those who, after applying for admission to examination and are otherwise eligible to appear in the examination; fail for good reason to appear in the examination or having so appeared, are declared unsuccessful at the examination, are entitled to so appear as an ex-student. Counsel for respondent No. 1/University contended that the petitioner had not even applied in the previous year for taking the examination and having not given any good reason for failing to appear in the examination, she was not entitled, in the next year, to take the examination as an ex-student also.

6. After considering the submissions made by both the sides, the petitioner was directed to amend the writ petition and it was further directed that upon her approaching the respondents within one week from the date of passing the aforesaid order, the respondents would permit the petitioner to fill up the examination form and complete other formalities for appearing in the B.A. (Programme) Part-II end-term examinations that were to be held in April/May 2011 as an ex-student. It is stated that pursuant to the aforesaid order, the petitioner was allowed to appear in the B.A. (Programme) Part-II end-term examinations that were held in April/May 2011.

7. Vide order dated 21.11.2011, the respondents were directed to produce the result of the petitioner in a sealed cover. On the next date of hearing, the result of the petitioner for the aforesaid examination was produced by respondent No. 1/University and duly opened. As per the said result, the petitioner has passed the B.A. (Programme) Part-II examinations for the session 2010-11. The said result is taken on record.

8. In the counter affidavit filed by respondent No. 2/College, it is stated that the petitioner had attended her classes for the academic year 2009-10 and had 59% attendance. However, she approached respondent No. 2/College only when she did not receive her admit card to appear in the examinations that were to be conducted in March/April, 2010. Upon raising a hue and cry in the college, the petitioner was asked to produce her examination fee deposit receipt so as to ascertain the status of her examination form. However, she could not produce the same and on further inquiry, it transpired that the petitioner had neither filled up her examination form, nor had she deposited her examination fee. As a result of the same, her examination form could not have been forwarded by respondent No. 2/College to respondent No. 1/University and consequently, there was no question of respondent No. 1/University issuing an admit card to her for appearing in the said annual examinations.

9. It is further pointed out by learned counsel for respondent No. 2/College that the petitioner had taken a stand in the writ petition that she had filled up the examination form and had handed over the same to her class mate for submitting it to respondent No. 2/College. But admittedly, the same was not submitted to respondent No. 2/College. It is stated that even in the next academic session, i.e., 2010-11, the petitioner did not approach the college authorities for her re-admission or for any further enquiry and instead, right from March 2010 till mid September 2010, the petitioner sat pretty without even making any attempt to enquire as to what had to be done as she had missed her second year examinations. It was further stated that the last date for filling up the examination form was 31.12.2010 and as the petitioner had not filled up the examination form, the admit card could not be issued to her and she could not take the examinations scheduled for April 2011.

10. As regards the end-term examinations which the petitioner was required to take in April/May 2011, the said aspect was taken care of vide order dated 7.4.2011, whereunder the petitioner was permitted to appear for the end-term examinations as an ex-student and her result as produced later on in Court, reveals that she has passed the same.

11. On the last date of hearing, counsel for respondent No. 2/College had submitted that the petitioner did not fulfill the requirement of having 66% attendance and therefore, as per the rules, the respondents could not have permitted her to sit for the end-term examinations that were held in April/May, 2011 but for the orders passed on 7.4.2011. The aforesaid submission was refuted by learned counsel for the petitioner who had stated that the petitioner

had been participating in extra-curricular activities, which included intra-college debates, for which she was entitled to some relaxation of attendance.

12. Today, counsel for the petitioner hands over a letter dated 2.3.2012 addressed by the Principal of respondent No. 2/College to the petitioner, which states that the petitioner was the General Secretary of the College Debating Society during the session 2009-10 and she had participated in various debating society programmes to represent the College, for which she had been issued certificates, copies of which are enclosed with the said letter. The said letter is taken on record, along with the annexures enclosed therewith. It is submitted by the learned counsel that the petitioner is entitled to relaxation of attendance but the other side disputes the extent to which relaxation can be granted to her.

13. Undoubtedly, the situation in which the petitioner finds herself is of her own making. Had she been diligent enough to have personally deposited the examination fee for the examination that was to be conducted in March/April 2010, instead of relying on a classmate to do so, she would not have found herself in this predicament. However, the petitioner has suffered immensely for this folly and the same has costed her two valuable academic years in the process. The result is that instead of having completed the B.A. (Programme) course in the academic year 2010-11, till date, the petitioner has only been able to sit for the B.A. (Programme) Part II examination and that too, under the orders of the Court. If the result of the petitioner for the examinations held in April/May, 2011 relating to the B.A.(Programme) Part-II Course is not permitted to be declared, she shall stand to lose not one, but two running academic years.

14. The petitioner has paid dearly for her irresponsible conduct and looking at the entire facts and circumstances where her entire academic career has been jeopardized and brought to a grinding halt, this Court is of the opinion that her agony ought not to be prolonged any further. Therefore, having regard to the fact that much water has flown during the pendency of the present writ petition and taking into consideration the order dated 7.4.2011, whereunder the petitioner was permitted to appear in the B.A. (Programme) Part-II end-term examinations held in April/May 2011 as an ex-student, and in view of the fact that the results of the petitioner reveals that she has passed the said examination, in the peculiar facts and circumstances of the present case, the petitioner is granted a one-time relaxation with regard to her attendance and respondent No. 2/College is directed to forward the internal assessment marks secured by the petitioner in the academic session 2009-10 to respondent No. 1/University within one week. Thereafter, respondent No. 1/University shall add the internal assessment marks to the marks scored by the petitioner in the end-term examinations held in April/May, 2011 and then declare her results for the B.A. (Programme) Part II examination within a period of two weeks therefrom. The result of the petitioner shall be communicated by respondent No. 1/University to respondent No. 2/College, who shall in turn communicate the same forthwith to the petitioner.

15. While disposing of the present writ petition, it is made clear that the

aforesaid order has been passed in the peculiar facts and circumstances of the case and this Court has not examined the legal issue with regard to the applicability of Ordinance VIII-4 of respondent No. 1/University to the facts of the present case. Therefore, this decision shall not be treated as a precedent in any other case.

16. The petition is disposed of along with the pending applications, leaving the parties to bear their own costs.

A copy of this order be given dasti to the counsels for the parties.