

(2023) 02 KL CK 0119
In the High Court Of Kerala
Case No : Writ Petition (C) No.1142 Of 2023

Dyuthisree. K.C.

APPELLANT

Vs

Kerala University Of Health Sciences

RESPONDENT

Date of Decision : 08-02-2023

Acts Referred:

Citation : (2023) 02 KL CK 0119

Hon'ble Judges : Sathish Ninan, J

Bench : Single Bench

Advocate : T.P.Pradeep, P.K.Sathees Kumar, Minikumary M.V., R.K.Prasanth, Jijo Joseph, P.Sreekumar, Manu S, , George Jacob, Roshan Jacob Oommen

Final Decision : Dismissed

Judgement

Sathish Ninan, J.

1. This writ petition is filed by the students of Pharm-D course. They are studying in the 5th respondent College. They belong to the 2020 year admission batch. They completed second year of the course in the year 2022. Both of them failed in one subject each of the first year examination. As per the regulations of the University, to join third year, first year papers must be cleared. In view of the Regulation, the petitioners were not permitted to attend the classes of the third year. The petitioners seek for a direction to grant relaxation from the regulation and permit them to attend the third year classes provisionally subject to them clearing the papers before the third year exams.

2. Heard Sri.T.P.Pradeep, learned counsel for the petitioners, Sri.P.Sreekumar, learned Standing Counsel for respondents 1 to 3, learned Assistant Solicitor General on behalf of the 4th respondent and Sri.George Jacob Jose on behalf of the 5th respondent college.

3. The relevant provision of the University Regulations, 2017, reads as under:-

"1.18. Criteria for promotion to next year:-

All the students of Pharm D. course who have registered for all the papers in the annual regular examinations, shall be permitted to attend the classes of the next higher year, on condition that he/she shall have to discontinue the studies in the higher year, if he/she fails in more than two subjects of the lower year even after the 1st supplementary examination available for him/her for that particular year.

Explanation :- The failed students of regular examinations are eligible to appear for the 1st supplementary examinations in the failed papers, and if they pass in the failed papers, they are eligible to continue with the original batch without losing additional six months. However, if the student has more than two failed papers of the 1st year, even after the 1st supplementary examination, he/she shall have to discontinue the 2nd year studies and considered as not promoted to 2nd year.

A student after first year supplementary examination can carry two or less than two subjects of the first year to the second year and continue with the second year. Failure in more than two subjects shall keep the student with the succeeding regular batch.

For promotion to third year the candidate should have cleared all the first year papers and for promotion to fourth year he/she should clear all the papers in the 2nd year and so on.

Before registering for the fifth year exam, the candidate should have cleared all the papers of the past years. Only after the passing of all the papers including the fifth year the students are eligible for internship.

Attendance will be counted for each year from day one only when the candidate is qualified to be promoted to that year."

4. Therefore, for promotion to the third year, it is mandatory to have cleared all papers of the first year.

5. In the case at hand, the 1st year examination(mains) were held in January 2022, and the supplementary examination was held in June, 2022. The petitioners were unable to clear the failed papers in the supplementary examination also. Therefore, going by the regulations, the petitioners are not entitled to attend the third year.

6. The contention of the petitioners is that, relaxation was granted by the Pharmacy Council and the University with regard to B-Pharm students and the same benefit may be extended to them. The learned counsel on behalf of the Pharmacy Council submits that exemption was granted to B-Pharm students treating it to be not a precedent and on the factual situation obtaining therein.

7. Though the petitioner would contend that consequent on the Covid-19 Pandemic examinations were not being conducted regularly and it disabled them from properly preparing for the examinations, as noticed supra, the supplementary examination for the first year was held in June, 2022 that is after

the Pandemic had settled down. So also, they had sufficient time to make preparations. As noticed, the Pharmacy Council of India also is not in favour of relaxation of the regulations any further.

8. The learned counsel for the University would further point out that, the classes for the third year had commenced and if the petitioners are now permitted to attend the same, it would result in shortage of attendance to the petitioners. Thus, the petitioners would be disabled from appearing for the next examinations.

9. Considering all the facts as above, I don't think that any interference by this Court is warranted.

Resultantly, this writ petition fails and is accordingly dismissed.