

(1991) 11 AHC CK 0065

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 17433 of 1991

Hitendra Kumar Singh

APPELLANT

Vs

Vice Chancellor, G.B. Pant University of Agriculture and
Technology and Another

RESPONDENT

Date of Decision : 29-11-1991

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1992) 1 AWC 421

Hon'ble Judges : M.L. Bhat, J

Bench : Single Bench

Advocate : S.A. Gilani, for the Appellant;

Final Decision : Dismissed

Judgement

M.L. Bhat, J.—The Petitioner has been dropped from the Respondent institution on 21-1-91. He challenges the same and also the communication of the Vice Chancellor dated 11-5-91. He seeks a writ of mandamus to continue in the institution also to enable him to complete his studies. The facts on which the writ petition is filed are as follows

2. The Petitioner is said to have been admitted in M.Sc.Ag. (Horticulture) in January, 1989. He had fallen ill and had gone to his home for treatment after obtaining proper permission from the Respondents. After coming back from his home he is said to have suffered from an attack of typhoid fever and remained ill upto ending May, 1990. During the period of his illness, the examination of the First Year for M.Sc.Ag. had commenced and completed. The Petitioner could not appear in the said examination and in the report card he was awarded D grade which means that he was declared fail. The Petitioner was also dropped from the Roll of the University without there being any provision to permit the dropping of the Petitioner from First Semester. The order of dropping of the Petitioner was later on withdrawn and he got his registration in the IInd Serrester M.Sc.Ag. and he obtained 2,363 points which was below standard. He had failed, therefore, he

was dropped from the Roll of the University. On 16-6-90 the Petitioner is said to have made an application before the Respondents for dropping First semester of M.Sc.Ag. on account of his illness. He was informed by Respondent No. 2 that first semester of the Petitioner cannot be dropped as decided by the Academic Council.

3. The Petitioner's further case is that one Miss Julia Sheeba of M.Sc.Ag. had also sought dropping of her Ist Semester on account of her illness. Her case was allowed and she was given admission in the First Semester of IInd Year for the year 1990-91. The Petitioner had claimed the same treatment which was given to Miss. Julia Sheeba. On 11-5-91 the Petitioner's application was rejected.

4. It is contended that one Mr. M.K Tiwari who was a student of B.Sc. (Forestry Programme) was dropped from his first Semester and had been given admission in the Ist year of IInd Semester, 1990-91. Some other students whose case was similarly situated with that of the Petitioner, were given orders of admission by the High Court or the Supreme Court. The Petitioner submits that he is being discriminated and has not been dropped from Ist semester and has been refused admission in the IInd semester of M.Sc.Ag., Reliance is placed on some opinions of the Council for the Respondent University. The Petitioner's case is that dropping him from the rolls is arbitrary, violative of Article 14 of the Constitution of India and bad in law. The action of the University is said to be against the principles of natural justice. The decision taken by the Academic council in this regard is said to be illegal.

5. Counter affidavit has been filed by the University. The facts set up by the Petitioner are said to be concocted, to cover up his bad performance. It is stated that there is no provision for dropping First semester of the Ist year examination. It is stated that the Petitioner's absence for a few days was condoned but his bad performance in the examination could not be condoned. Medical certificate produced by the Petitioner are said to be not genuine. The postgraduate students are required to maintain a minimum of 4,000 Over All Grade Point Average, out of 5.000 where as the Petitioner's Average Grade Point was 2,363 which is far far below the required minimum of 4,000. A decision was taken by the top Academic Body of the University, not to permit dropping of first semester and the Petitioner was informed accordingly. In reply to the case of Miss. Julia Sheeba it is stated that case was special and the Academic Council permitted to drop the semester on medical ground. The Petitioner's representation was considered but he was not found entitled to drop the first semester. The case of Mr. M.K. Tiwari was also distinct as the Forestry Programme is different from other Programme. His case was also considered by the Council. Each case is decided on its own merits and there is no parity between his case and the Petitioner's case. The Petitioner could not be continued on the basis of his poor performance.

6. The Petitioner has filed a rejoinder affidavit also. He has reiterated the assertions made in the writ petition and refuted the contents of the counter affidavit.

7. I have heard learned Counsel for the parties. The Petitioner's main argument was that the treatment given to other two students, namely Miss Juila Sheeba and Mr. M.K. Tiwari has been denied to the Petitioner. The Petitioner is entitled to be treated like other students who were permitted to drop the first semester and admitted in the IInd semester and allowed to continue the studies. The assertions in the writ petition are repeated at the lime of arguments also.

8. Mr. Kakkar, appearing for the other side has submitted that on the basis of the bad performance of the Petitioner he cannot be permitted to continue and dropping him from the Roll of the University is justified. It is stated that Courts do not interfere with the decision of educational institution in the matter of academic performance of student. He has relied on *Jawaharlal Nehru University Vs. B.S. Narwal*, . Assessment by qualified and competent academic authorities in respect of academic performance of a student cannot be interfered by "he Court except on the ground of bias or mala fides. While assessing the academic performance of a student of the academic authorites question of giving opportunity of bearing does not arise. Mr. Kakkar has also relied on *Dr. J.P. Kulshreshtha and Others Vs. Chancellor, Allahabad University and Others*, . He has also relied on an unreported judgment of this Court in writ petition No. 646 of 1991 dated 18-1-91, *Paakaj Sinha v. Director and Senate Chairman I.I.T, Kanpur*. The writ petition was dismissed in similar circumstances, which are presented in this writ petition.

9. The allegation of discrimination to have been metted out to the Petitioner by the Respondents, does not inspire confidence. In Miss. Julia Sheeba's case she was slipped in the hostel bath room and her ankle was fractured. She was treated in AIIMS at Delhi. Her treatment had last for two months. She wanted to drop first semester on medical ground which she could not do due to absence of specific provision for the same in the regulations. On account of attendance shortage and missing all the examinations, she had to repeat all the courses and obtained a G.P.A. of 2.00 in that semester. She also stands dropped from the University due to poor academic performance, and cannot seek admission to any degree programme in the University again. She made an application, seeking permission to drop the semester as special case. The matter was placed before the Academic Council for consideration which took decision in her case. Mr. M.K. Tiwari's case is quite different as it is a case of B.Sc. (Forestry) which has nothing common with the case of the petitioner.

10 On the basis of the aforesaid authorities cited by Mr. Dinesh Kakkar it is not possible to grant any relief to the Petitioner as this Court will not interfere with the decision of the University in respect of the academic performance of a candidate. If the regulation requires a candidate to obtain 4,000 out of 5,000, he cannot be permitted by the Court to continue bis studies if he does not secure the minimum required point. That will be interference by the Court with the academic institutions As stated above the Petitioner has obtained the point for below the minimum required. Therefore, this Court cannot help him. The decision

of the University does not appear to be against regulations.

11. The University's decision has not been challenged on the ground of mala fide or bad faith. The ground of challenge is discrimination and arbitrariness which are not proved by the Petitioner.

12. As a result of the aforesaid discussion, the Petitioner's petition has no merit. The same is dismissed. However, the parties are left to bear their own costs.