
(2014) 04 RAJ CK 0018

In the Rajasthan High Court

Case No : Civil Special Appeal (W) No. 554/2014

Jai Narain Vyas University and Others

APPELLANT

Vs

Charu Vyas and Others

RESPONDENT

Date of Decision : 30-04-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (2014) 04 RAJ CK 0018

Hon'ble Judges : Amitava Roy, C.J.;Vijay Bishnoi, J.

Bench : Division Bench

Advocate : D.S. Beniwal, for the Appellant

Final Decision : Dismissed

Judgement

Vijay Bishnoi, J.?The instant appeal has been filed on behalf of the appellants-University against the order dated 19.02.2014 passed by the learned Single Judge in a writ petition preferred by the respondent-students along with eleven other writ petitions, whereby the learned Single Judge has partly allowed the writ petitions and directed the appellant-University to issue mark-sheets/degrees to the respondent-students, who have cleared all the semester examinations and completed Bachelor of Computer Application (hereinafter referred to as "the BCA"). The learned Single Judge has also directed that the students, who have appeared in the IV and V Semester Examinations of the BCA, pursuant to the interim order passed by this Court and were declared passed therein, may be permitted to appear in the VI Semester Examination and their results may also be declared. However, while giving such directions, the learned Single Judge has made it clear that the above directions are passed while taking into consideration the facts and circumstances of the case, essentially in the balance of equities and shall not form a precedent to be cited before any court or make entitle any other student pursuing BCA Course.

2. Brief facts of the case are that the respondent-students, who are pursuing BCA Three Years Degree Course having six semesters run by the various private

colleges affiliated to the appellant-University, have filed the writ petition being aggrieved with the action of the appellant-University of not permitting them to appear in the BCA IV, V and VI Semesters Regular Examinations on account of their failure to clear all the units of I, all the units up to II and all the units up to III Semester respectively. The appellant-University vide order dated 05.07.2007, constituted a Three Members Committee to solve various problems of BCA related "Allow To Keep Terms" (ATKT). The Three Members Committee, after going through the existing Rules and Regulations of BCA Course, resolved that the ATKT Rules and Regulations of BCA Course will remain the same as that of Master of Computer Application (for short "the MCA" hereinafter). The recommendation of Three Members Committee was later considered by the Committee of Courses and Studies ("COCS") in its meeting held on 01.02.2012, wherein it was resolved that no candidate shall be permitted to appear in IV Semester Examination unless he/she has cleared all the units of I Semester and that no candidate shall be permitted to appear in V Semester Examination unless he/she has cleared all the units upto II Semester. Pursuant to the resolution of the Academic Council of the University, the respondent-students were not allowed to appear in IV, V and VI Semesters Regular Examinations on account of their failure to clear all the units of I, II and III semesters respectively. The said action of the appellant-University was challenged by the respondent-students by way of filing the writ petition, while contending that the Vice Chancellor of the appellant-University, while exercising powers under section 12(5) of Jai Narain Vyas University Act, 1962 (for short "the Act of 1962" hereinafter) issued Notification dated 11.12.2010, whereby the students pursuing B.E. Course were granted exemption from check points and they were allowed to appear in the Final Year B.E. Examination, though they had not cleared ATKT papers of B.E. First Year, however, the same benefits were not extended to the students pursuing the BCA Course. The respondent-students, while alleging inequitable and discriminatory treatment, have approached the Vice Chancellor of the appellant-University through a representation claiming exemption from check points provided for BCA Course but to no avail, therefore, the writ petition was filed before this Court.

3. The claim of the respondent-students was disputed by the appellant-University, while contending that the policy decision taken by the appellant-University with regard to academic affairs cannot be a subject-matter of judicial review by this Court. It was also contended on behalf of the appellant-University that section 12 read with section 17 of the Act of 1962 read with sections 7, 9, 9A & 9C of the Statutes of the University make it abundantly clear that the Vice Chancellor acted well within its powers to constitute the Committee and the recommendations made by the Committee, were rightly made applicable to govern the ATKT Examination of BCA Course. It was also contended on behalf of the appellant-University that under section 12(5) of the Act of 1962, the Vice Chancellor is empowered to exercise its discretionary power if there exists any emergent situation and after taking into consideration the emergent situation,

the power exercised by the Vice Chancellor in respect of the students pursuing B.E. Course does not create any right in favour of the respondent-students to claim the relaxation as a matter of right. It was also contended on behalf of the appellant-University that the respondent-students appeared in ATKT Examination of I Semester, while appearing in II and III Semesters Regular Examinations, cannot be permitted to contend that they may be allowed to appear in IV Semester Examination despite the fact that they have not cleared all the units of I Semester.

4. The learned Single Judge, after taking into consideration the contentions raised by the rival parties, has held that the appellant-University, an autonomous body created by the statute, is governed by the statutory provisions and, therefore, the decision of its academic bodies cannot be interfered with by this Court except when its authorities act malafide or with bias or arbitrary or exceeds its jurisdiction under the relevant statutes, rules and regulations. The learned Single Judge has also held that the respondent-students have not been able to make out any case as to how the decision taken by the academic bodies of the appellant-University providing for the check points for appearance in the IV and V Semester Examinations is arbitrary or exceeds the jurisdiction of the academic body under the statutes, rules and regulations. It has further been held by the learned Single Judge that while taking policy decision and providing check points, the appellant-University has not acted in irrational or arbitrary manner so as to warrant interference by this Court in exercise of its extra ordinary jurisdiction under Article 226 of the Constitution of India.

5. While dealing with the contentions of the respondent-students regarding the discretionary treatment vis-a-vis the students of B.E. Course, the learned Single Judge has held that on the given facts and circumstances of the case, the discretion exercised by the Vice Chancellor cannot be a ground for the students pursuing other courses to claim exemption from check points as a matter of right and therefore, merely because at one point of time, the relaxation was extended by the Vice Chancellor regarding the check points to the students pursuing B.E. Course, taking into consideration the hardship of the students in the given facts situation, the respondent-students cannot claim the parity vis-a-vis the students pursuing B.E. Course at the relevant time. The learned Single Judge has further held that the decision of the Vice Chancellor of the appellant-University in rejecting the representations of the respondent-students claiming removal of the check points from the BCA Course cannot be said to be arbitrary and discriminatory so as to violative of Article 14 of the Constitution of India. However, after observing this, the learned Single Judge has taken into consideration the fact that pursuant to the interim orders passed by this Court, the respondent-students were permitted to appear in IV and V Semesters of BCA Course and they have already cleared the ATKT Examinations. The learned Single Judge has further observed that it is not in dispute before this Court that most of the respondent-students have already cleared VI Semester Examination as well and it is not the case wherein the respondent-students were permitted to appear

in the higher semester examination without undergoing the regular studies of the course and, therefore, they have not cleared ATKT Examinations. After observing this the learned Single Judge has held that it will absolutely unjust to deprive them from the benefits of the semester examinations, they have already cleared and compel them to appear in the said examination all over again particularly when the ATKT Semester Examinations already stands abandoned by the appellant-University in the Academic Session 2013-2014 and onwards. The learned Single Judge has opined that it will be inequitable and unjust to deny the respondent-students the benefits of the interim order passed in their favour. After observing this, the learned Single Judge has partly allowed the writ petitions and granted the reliefs as referred above.

6. The learned counsel for the appellant-University has strenuously argued that the learned Single Judge has grossly erred in granting the relief to the respondent-students on the basis of equities though, while allowing the respondent-students to appear in the IV, V and VI Semester Examinations vide interim orders dated 11.09.2012, 13.09.2012, 24.01.2013 and 13.05.2013, this Court has clearly observed that their appearance in the semester examinations shall not create any right or equity in their favour. It is contended by the learned counsel for the appellant-University that when the respondent-students did not fulfill the requisite eligibility as was fixed in accordance with the recommendations made by the Three Members of the Committee, the action of the appellant-University of not allowing them to appear in the IV, V and VI Semester Examinations cannot be said to be bad in the eye of law. It is also contended by the learned counsel for the appellant-University that though the learned Single Judge has clearly held that there is no illegality in the action of the appellant-University in providing for check points for appearance in the higher semester examinations, the learned Single Judge has granted the relief to the respondent-students in an illegal manner. It is further contended by the learned counsel for the appellant-University that the Hon"ble Supreme Court in various judgments has held that equity cannot prevail over the law and could only supplement it but not supplant it, however, the learned Single Judge has illegally granted the relief to the respondent-students against the law, hence, the impugned order may kindly be quashed and set aside and the writ petition filed by the respondent-students may kindly be ordered to be dismissed.

7. Having given our anxious consideration to the arguments raised by the learned counsel for the appellants and after going through the impugned order as well as the material placed on record, we are of the considered opinion that in the facts and circumstances of the case, the learned Single Judge has not committed any illegality in passing the impugned order. It is not in dispute that almost all the respondent-students have cleared IV and V Semester of BCA Course and they have also cleared the ATKT Examinations. Most of the respondent-students have also cleared VI Semester Examination as well. When the Semester Examinations and ATKT Examinations have been cleared by the respondent-students, though under the interim orders by this Court, it would be

unjust to compel them to appear in the said Semester Examinations all over again and the learned Single Judge was right in holding that when the ATKT Semester System stands abandoned by the appellant-University for the Academic Session 2013-2014 and onwards, it will be unjust to deprive the respondent-students from the benefit of semester examinations, they have already cleared.

8. In view of the above mentioned facts and circumstances of the case, we are of the opinion that the learned Single Judge is perfectly right in allowing the respondent-students to get the benefits of interim orders passed in their favour on the basis of equity.

9. Hence, in the overall facts and circumstances of the case, we do not find any merit in this appeal and the same is hereby dismissed.