

(2009) 09 GAU CK 0001
In the Gauhati High Court
Case No : Writ Petition (C) No. 4393 of 2008

Kaberi Borah

APPELLANT

Vs

Gauhati University and Others

RESPONDENT

Date of Decision : 08-09-2009

Acts Referred:

Gauhati University Regulations — Regulation 14, 15

Citation : (2009) 5 GLT 679

Hon'ble Judges : Hrishikesh Roy, J

Bench : Single Bench

Advocate : L.P. Sharma, for the Respondent

Final Decision : Allowed

Judgement

Hrishikesh Roy, J.—Heard Mr. P.P. Dutta, learned Counsel appearing for the Petitioner. Also heard Mr. L.P. Sharma, learned standing counsel for the Gauhati University.

2. The Petitioner pursuing an LL.B. Course from the Gauhati University had approached this Court seeking direction for permitting her to appear in the LL.B. (Final Examination) scheduled in the year 2008 as the University authorities refused a further chance to the Petitioner to take the Final LL.B. Examination on the ground that, the Petitioner has failed to pass or has failed to appear and clear the Examination within the maximum permissible chances, as provided under the new Regulation and Syllabus for LL.B. Courses framed by the Gauhati University.

3. The relevant provisions of the Gauhati University's new Regulation 14 and Regulation 15 may be extracted hereinbelow for ready reference:

Regulation 14: A candidate who fails to pass or fails to appear in the first due examination shall have to pass in that examination within the period of holding the next 3 consecutive examinations.

Regulation 15: A candidate shall be required to clear his/her LL.B. Degree within

6 years from the date of his/her first due examination in LL.B. Preliminary, provided that a student shall be allowed to appear in not more than three chances in each part the LL.B. Examinations.

4. By Regulation 14 as noted above, a candidate who fails to pass or fails to appear in the first due examination is required to pass in the said examination within a period of holding of the next 3 consecutive examinations.

Similarly under Regulation 15, a candidate is required to clear the LL.B. Degree within 6 years from the date of first due Preliminary LL.B. Examination. It is provided further under Regulation 15 that maximum 3 chances are available to each student to clear each part of the LL.B. Examination.

5. The LL.B. students are however granted a special chance (4th chance) by the Gauhati University Notification dated 27.9.07, to clear any 2 of the 3 LL.B. Examinations (i.e. Preliminary, Intermediate or Final) and because of the notification 29.9.07 a student can avail of a special 4th chance, to clear 2 of the 3 LL.B. Examinations, beyond the 3 chances permissible under Regulation 15.

6. In the present case, the Petitioner took admission in the LL.B. Course in the year 2001-2002 and accordingly was due to sit in the Preliminary LL.B. Examination in 2002. Accordingly the Petitioner was required to clear the entire LL.B. Degree within 6 years from the due date of the Preliminary Examination (2002) and as such the candidate had to clear the Final LL.B. Examination within the outer limit of the year 2008.

7. The following chart would indicate how the Petitioner progressed during the LL.B. Course in the Gauhati University.

From the above chart it is clear that the Petitioner has availed of only 3 chances of the 4 maximum permissible to clear the LL.B. Final Examination. The Petitioner had time till the year 2008 to avail of the said 4 chances.

8. As the Petitioner because of disturbed marital life failed to appear in the Final LL.B. Examination for the year 2004 and having regard to the law laid down by this Court in WP (C) No. 6019/07 Sanowar Hussain v. Gauhati University and Ors., I am of the view that the Petitioner was entitled to avail of one more chance in the year 2008 to clear the LL.B. Final Examination.

9. This Court by interim order passed on 30.9.2008 has permitted the Petitioner to fill up the forms for the LL.B. Final Examination held w.e.f. 23.1.09 and to take part in the said examination. The learned Counsel for the Petitioner submits that on the strength of the interim order of this Court, the Petitioner availed of a 4th chance to clear the LL.B. Final Examination.

10. Since this Court has held that the Petitioner was entitled to a 4th (special) chance to clear the LL.B. Final Examination and considering the fact that such a chance has already been availed of by the Petitioner on the strength of the interim order passed by this Court on 30.9.2008, this writ petition is disposed of

by directing the University authorities to declare the result of the said LL.B. Final Examination of the writ Petitioner.

11. The writ petition stands allowed accordingly.