

(2021) 07 DEL CK 0170

In the Delhi High Court

Case No : Civil Writ Petition No. 7150 Of 2021

Karan Chaudhry

APPELLANT

Vs

Indira Gandhi National Open University And Ors

RESPONDENT

Date of Decision : 28-07-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2021) 07 DEL CK 0170

Hon'ble Judges : Prateek Jalan, J

Bench : Single Bench

Advocate : Kuber Boddh, VS Dubey, Kalyani Lal, Aly Mirza

Final Decision : Dismissed

Judgement

Prateek Jalan, J

CM APPL. 22571/2021 (for exemption)

Exemption allowed, subject to all just exceptions.

This application stands disposed of.

W.P.(C) 7150/2021 & CM APPL. 22572/2021 (for interim relief)

1. The petitioner is a student in the B.A. Programme in the respondent-Indira Gandhi National Open University [the University?]. He has

completed the first year and second year of his three-year degree. The grievance with which he has approached the Court is that he has not been

permitted to take the third year examinations scheduled to take place in August 2021, and the University has informed him that he will be permitted to

take the examinations only in December, 2021.

2. The petitioner enrolled in the course in 2018. He was unable to take the first year examinations as scheduled in June, 2019, and instead proposed to

take the examinations alongwith his second year examinations in June, 2020. He ultimately took the first year examinations only in February-March,

2021, as the examinations were postponed due to the Covid-19 pandemic. As far as his second year examinations are concerned, they were not held

in June, 2020 and all students were promoted to the third year pursuant to a notification of the University dated 10.12.2020.

3. It is undisputed that the University requires students to register annually for their courses. The petitioner registered for his first year courses in July

,2018 (at the time of taking admission), and for his second year courses in March-July, 2019. He registered for his third year courses in January, 2021.

4. The University, thereafter, issued a notification dated 9.07.2021, scheduling the examinations for the final/end-semester students in August, 2021.

The students were required to register for the aforesaid examinations between 17.05.2021 and 12.07.2021.

5. The claim in the writ petition is that the petitioner tried several times to fill the online examination form, but his third year courses were not shown

on the online portal, and he was therefore unable to register. The petitioner has further stated that he was informed on 14.07.2021 that registration for

the final year examinations to be held in August, 2021 is closed, and he would be eligible to appear for the examinations in December, 2021. His

subsequent representations have also not been accepted by the University.

6. Mr. Kuber Boddh, learned counsel for the petitioner, submits that the petitioner is being prevented from taking the third year examinations in

August, 2021 only due to the fact that he had not registered for his third year courses in June, 2020, but registered only in January, 2021. Mr. Boddh

refers me to the averments made in the writ petition to the effect that the petitioner was unable to re-register at the required time due to the Covid-19

pandemic situation and due to the fact that the University had not sent any intimation to him. As he was confused about the re-registration process for

the third year, the petitioner claims that he was unable to complete the process. He further states that he was unable to step out of his home due to the

Covid-19 lockdown, and that his calls to the University were unanswered.

7. Mr. Aly Mirza, learned counsel for the University appearing on advance notice, disputes the assertions of the petitioner. He submits that the

petitioner is ineligible to take the third year examinations in August, 2021 as a

minimum period of one academic year is required between registration for a particular year and taking the end-term examinations. Mr. Mirza submits that the entire process of registration is an online process, and the petitioner could well have undertaken the re-registration in July, 2020 as required. He states that 3.5 lakh students did so register at the required time. He further submits that the petitioner himself was aware of the requirement of re-registration, as is evident from the fact that he did, even according to the averments in the writ petition, complete the procedure for the second year in the period of March-July 2019.

8. Mr. Mirza has referred to certain documents in support of his contention. In view of the urgency in the petitioner's case, he has been permitted to screen-share the documents during the video-conference hearing. He has also sent them by e-mail to the Court Master and to Mr. Boddh. The documents are taken on record.

9. Mr. Mirza has drawn my attention to the University's Ordinance on Conduct of Examinations and Evaluation of Student Performance [the

Ordinance]. In clause 5(e)(v) thereof, it is provided as follows:-

"A candidate admitted to a programme can sit for the term- end examination only after completing the full academic year on the programme as

well as the prescribed number of assignments, term papers etc. for it." (Emphasis supplied.)

He has also referred to clause 9(1) of the said Ordinance, which provides as follows:-

"The term-end examinations shall ordinarily be conducted twice a year in each course for each programme on such dates in the months of June

and December and at such places as may be notified by the University from time to time. A candidate who has prosecuted the course of study for the

required duration and who has submitted the required number of assignments shall be eligible to appear at the term-end examination in the course

concerned." (Emphasis supplied.)

10. Mr. Mirza also relies upon the stipulation in the prospectus of the University with regard to term-end examinations and payment of examination

fees. One of the conditions prescribed for appearance in the term-end examinations conducted in the months of June and December is that the student

must have completed the minimum time to pursue the course as per the

conditions of the programme. The aforesaid condition is also evident from a screenshot of the website of the University, wherein the notice regarding examinations in August, 2021 has been displayed. One of the requisites of appearance in the examination is that the minimum duration for the courses should have been completed.

11. Mr. Mirza has lastly drawn my attention to the notice dated 9.07.2021, issued by the University in respect of the aforesaid examinations, which provides as follows:-

1. In view of the nation -wide Covid-19 pandemic situation, the Indira Gandhi National Open University is conducting Term-End- Examination

(TEE), June, 2021 from 3rd August, 2021 for the final year/final semester students of Master's Degree, Bachelor's Degree, Post-Graduate

Diploma, Diploma and Certificate Programmes subject to fulfilling the University norms on admission year and registration validity period.

(Emphasis supplied.)

12. Having heard learned counsel for the parties, I am of the view that the relief sought by the petitioner cannot be granted in the facts and

circumstances of this case. The petitioner admittedly registered for the third year of his course only in January, 2021. The minimum period of

enrolment in each year of the B.A. programme is one year. He has, therefore, not completed the period of one year since his enrolment. None of the

stipulations in the Ordinance have been challenged by the petitioner. Instead, Mr. Boddh submits that despite not meeting the requirement, he ought to

be permitted to take the examinations.

13. The reasons put forth for the petitioner's failure to re-register for the third year courses at the required time are untenable. The petitioner

would have been aware of the requirement of re-registration, as he had already undertaken the process for his second year. The registration process

in the present case was entirely online, and reference to the Covid-19 pandemic and consequent lockdown is therefore inadequate to explain the

petitioner's failure. Mr. Mirza's submission that 3.5 lakh students re-registered at the required time is also an indication that the matter was

not shrouded in such confusion as the petitioner claims.

14. In any event, even if the petitioner was unaware of the procedure for re-registration, as he claims, or otherwise unable to complete the process, he

has not placed on record any communication addressed to the University at that time raising such issues. The representations filed by the petitioner

are all of July, 2021, after the last date for filing the examination forms for the August, 2021 examinations had already passed. It is difficult to

appreciate that a diligent student, who wished to determine the procedure for re-registration upon which his continuing education was based, made

phone calls which remained unanswered for a long period, but did not address a single written communication to the University.

15. The situation is compounded by the fact that the petitioner also has not submitted the examination forms for the August, 2021 examination within

the stipulated time. The screenshot of the University's website shared by Mr. Mirza shows that a period of almost two months (from 17.05.2021

to 12.07.2021) was available to candidates to register themselves for the examinations in question. If the petitioner was indeed earnest in his desire to

take the examinations in this session, he would have taken steps to register for the same. Upon not being permitted to register, as he claims, it is

expected that the petitioner would have raised the issue with the University in good time. There is however nothing on record to show that the

petitioner made any effort to address his grievances to the University during the entire period when the examination forms were to be filled.

16. As things stand today, therefore, not only is the petitioner ineligible for the August, 2021 examination by virtue of his belated registration for the

third year, but the last date for filling the examination forms has also passed.

17. In these circumstances, the petitioner has failed to make out any ground for exercise of the equitable jurisdiction of this Court under Article 226 of

the Constitution. The writ petition, alongwith the pending application, is therefore dismissed.