
(1996) 01 GAU CK 0010
In the Gauhati High Court
Case No : Civil Rule No. 65 of 1994 (AB)

L.V. Zodinpuui

APPELLANT

Vs

North Eastern Hill University and Others

RESPONDENT

Date of Decision : 23-01-1996

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1997 Guw 122

Hon'ble Judges : H.K. Sema, J

Bench : Single Bench

Advocate : C. Lalramzauva, for the Appellant; S. Sailo, for the Respondent

Final Decision : Allowed

Judgement

H.K. Sema, J.—Heard Mr. C. Lalramzauva, learned counsel for the petitioner as well as Mr. Sailp, learned counsel for the respondents Nos. 1 to 4.

2. Facts leading to the filing of the present writ petition may be briefly recited. After completing of three years degree course in Education in the year 1988, petitioner joined the Post Graduate course in the Department of Education for the Session 1989-90 under the North Eastern Hill University, in short (NEHU).

3. Petitioner completed first three semesters from Shillong Campus and one semester from Mizoram campus. Aizeal Petitioner was assigned Roll No. A-004 of Shillong Campus. The Post graduate course under NEHU consists of four semesters and can be completed within a period of two years. In each of the semesters there are four papers carrying 100 marks each. Out of total 100 marks, 25% is allotted to Sessional works (Internal Exams.) and the rest 75% is allotted for Semester Exams (External). Accordingly the Sessional Works carries 100 marks, while Semester Exams carries 300 marks. In the end of 4th Semester in M.A. Course (Education), four papers were prescribed in syllabus. These are:--(a) Laboratory Practical (b) Education of Exceptional children (c) Pre-School Education, and (d) Yoga Education. Out of the four semesters, students

can opt for writing of Dissertation which carries 200 marks in lieu of any two other papers. The petitioner opted for writing of dissertation in lieu of the two papers viz"; "Pre-School Education" and "Yoga Education" and therefore, she appeared and sat for the exam only in the papers namely; Laboratory Practical and Education of Exceptional children.

4. Petitioner completed Sessional works and Semester exam some time in the month of Dec. 1990 and the petitioner started her project/ Dissertation on the subject of "A STUDY OF THE TEENAGE MIZO FEMALE DROPOUTS BETWEEN 13 TO 19 AGE GROUP FROM HIGH SCHOOLS AIZAWL" under the Faculty Supervisor of Dr. R.S.. Wangu, Reader of the Department of education, NEHU (Mizoram Campus) which was approved by the School Board meeting held on 17-7-1990.

5. At the time of undergoing Dissertation work, she was referred to Christian Medical College Hospital at Vellore, Madras some time in the month of Feb. 1991. It is slated that while coming back from Vellore, she met with road accident on 5-3-1991 near Madras, sustaining serious injuries of Pelvic bone fracture and Lumber disc prolapse. Thereafter, she was admitted at Sri Balaji Hospital. Madras and was discharged on 15-3-1991 with advise for complete bed rest.

6. It is also stated in para 7 of the petition that, she further underwent treatment at the Institute of Neurological Science. Dispur, Assam, and after thorough medical check up, it was diagnosed that the petitioner was having Lumber Disc Prolapse and Pelvic bone fracture. She was advised to avoid lifting heavy weights or stooping forwards, bending or stooping, to avoid travel over two wheelers, or on rough roads, to avoid prolonged sitting or standing, to sleep on a firm bed and to wear a lumber belt always except while sleeping or for toilet activities.

7. According to her, due to the injuries sustained at the time of accident, she could not perform her duly of Dissertation w.e.f. 5-3-1991 till 12-11-1991. Against all these odds, petitioner finally completed her Dissertation work, on the topic "A STUDY OF THE TEENAGE MIZO FEMALE DROPOUTS BETWEEN 13 TO 19 AGE GROUP FROM HIGH SCHOOLS AIZAWL" and submitted the Dissertation work on 8-10-1993 duly signed by her Supervisor namely; Dr. R.S. Wangu. Reader. She also applied for condonation of delay in submitting the Dissertation work. Her Supervisor also has written a letter dated 19-11-1993 (Annexure 11) addressed to the 3rd respondent for condoning the delay-in submitting the Dissertation work. In the letter aforesaid, her Supervisor had slated that she could not complete the work of Dissertation due to unfortunate road accident in Madras, and she was advised complete rest. The Supervisor also stated in para 2 of the letter that, she is very hard working student, and has obtained more than 60 marks in the other Theory papers. In para 3 of the letter, it has been stated that in the past also laic submission of the Dissertation work by the students from Mizoram Campus has been condoned by the University and the result of the students have been declared. Keeping in view of the past practice, and the medical background, the case of the petitioner was recommended for consideration by her Supervisor.

8. The request for condoning the delay in submitting the Dissertation work in the background of the aforesaid circumstances has been denied by impugned order dated 21-7-1994 (Annexure 13) from the 3rd respondent. Hence the present petition.

9. Countcron behalf of the respondents Nos. 1 to 4 has been filed. Mr. Sailo has invited my attention to the University Ordinance OC 7, particularly Clause 4 and Clause 15. Clause 4 of ordinance reads :--

"4. Ordinarily a student should complete sixteen course during the period of four semesters. However, a student may be allowed to participate in the academic programme upto a maximum six semesters."

10. Relying heavily on the provision of Clause 4, of the ordinance, it is contended by Mr. Sailo that the students are allowed to participate in the Academic programme upto maximum of six semesters and thereafter, there is no provision for extending or condonation of delay in submitting the Dissertation work.

11. Before I advert further to the other points raised in this petition, I may at this stage dispose of this argument.

12. A cursory reading of clause 4 of the ordinance, it is adequately elastic. The provision of clause 4 does not lay down a rigid formula which is prohibited the power of the competent authority to condone the delay in a fitting case. The starting word "Ordinarily" employed in clause 4 of the ordinance would make it adequately elastic to show that clause 4 of the ordinance is not mandatory.

13. Next it is contended by Mr. Sailo that, under clause 15 of the ordinance, no candidate will be allowed to appear in any course beyond six semesters of his admission to the programme. According to him, six semesters would be completed in three years and there is no provision to extend beyond the period of three years. This submission of Mr. Sailo cannot be accepted because the provision of ordinance could not be made applicable in the facts and circumstances of the case at hand. What the clause 15 forbids is that, candidate will not be allowed to appear in any course more than twice and he shall also not allowed to appear in any course beyond six semesters of his first admission. The present dispute at hand is with regard to the condonation of delay in submitting the dissertation work which cannot be submitted in time due to the petitioner prevented by sustaining bodily injuries out of motor accident.

14. Mr. Lalramzauva, counsel, for the petitioner has further referred to the Annexure 1A of the Reply Affidavit filed by the petitioner which is letter dated 17-8-1995. The letter dated 17-8-1995 is written by one K.P. Nath, Department of Education addressed to the Deputy Registrar, NEHU, Mizoram Campus Aizawl. In the letter aforesaid, it is stated that one Shri. K.G. Thomas was admitted in M.A. two years course in 1986 with Roll no. MC 81 and he submitted dissertation work, on 7-8-1991 and the result was published on 22-11-1991. Same is lallianzuali Fanai bearing Roll No. MC-84, date of submission of dissertation

25-2-1991 and the result was declared on 22-11-1991. There are other three more instances quoted in the letter which would show that the dissertation work was submitted after the prescribed period, but the competent authority accepted the dissertation work and the result was declared.

15. Mr. Sailo has also drawn my attention to the submission made in para 4 of the counter of the respondents No. 1 to 4 and makes a submission that the authority to condone the delay is the Academic Council. According to him, she has not approached the Academic Council for considering her requests for condoning the delay. He has also drawn my attention to the decision taken by the Academic Council held on 14-5-1993 in which the request of one Huzo Meru of the Department of Education, Nagaland Campus to condone the late submission of dissertation work for M.A. has been rejected.

16. It must be grasped that no facts of two cases are equal. Each case must be decided on the facts and circumstances of its case. The facts and circumstances in the background of which the Academic Council in its meeting held on 14-5-1993 rejecting the case of Shri. Huzo Meru may not be applicable in the facts of the present case. On the other hand the fact that the Academic Council in its meeting held on 14-5-1993 rejected the case of one Shri Huzo Meru would show that they have power to consider and condone the delay in submitting the dissertation work in a fitting case as in the case of the present.

17. In the case at hand as averred in paras 6 and 7 of the writ petition that the petitioner could not complete the dissertation work in time because petitioner sustained serious injuries including Pelvic bone fracture and Lumber disc prolapse. The averments made in paras 6 and 7 of the writ petition has not been controverted by the respondent No. 1 to 4 in their counter. Infact, the statement made in paras 6 and 7 has no answer in the counter of the respondent. Therefore, the averments made in paras 6 and 7 of the writ petition stands admitted and proved. If that is so, there is no reason to consider the case of the petitioner. I am of the firm view that the circumstances in which the petitioner has been prevented from submitting the dissertation work within the stipulated time deserved considerate attention of the Academic Council.

18. For the reasons aforesaid, the impugned order dated 21-7-1994 (Annexure-13) is hereby quashed and set aside. Petitioner is directed to file a fresh representation before the respondent No. 1 slating the entire background mentioned in this writ petition, particularly in-paragraphs 6 and 7 of the petition within a period of two weeks from today. On representation being received, the respondent No. 1 shall cause it to place before the Academic Council along with other documents including the recommendation dated 19-11-1993 by Dr. R.S. Wangu, Supervisor (Annexure-11) of the writ petition, within a period of one month from the date of receipt of the representation and the decision shall be taken on the same day. It is made clear that if the petitioner is aggrieved by any decision that may be arrived at by the Academic Council, she is at liberty to approach this Court again.

With the aforesaid direction and observation, this petition is allowed. No costs.