
(2013) 09 PAT CK 0028
In the Patna High Court
Case No : CWJC No. 18275 of 2013

Malvika Singh

APPELLANT

Vs

The Chanakya National Law University and Others

RESPONDENT

Date of Decision : 16-09-2013

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2014) 1 PLJR 211

Hon'ble Judges : Ravi Ranjan, J

Bench : Single Bench

Advocate : Abhinav Srivastava, N. Chatterjee and Gouranga Chatterjee, for the Appellant; Anil Upadhyay for Nos. 1 to 4 and Dr. Anshuman, for the Respondent

Final Decision : Dismissed

Judgement

Dr. Ravi Ranjan, J.—I have heard learned counsel for the petitioner and the respondent nos. 1 to 4. Through this writ application petitioner seeks following reliefs:--

(i) For issuance of an appropriate writ in the nature of a writ of certiorari for quashing the impugned End Semester Examination Result of May, 2013 so far as it relates to this petitioner which has been published under the signature of Registrar of the Chanakya National Law University, Patna (here in-after called CNLU) in August, 2013 by which this petitioner stands detained provisionally in the 8th semester and has not been promoted to 9th semester i.e. 5th year, because the aforesaid impugned result is in complete contravention to the provisions of CNLU Act, 2006 and as such cannot be sustained in the eyes of law and fit to quashed.

(ii) For issuance of an appropriate writ in nature of a writ of mandamus calling upon the respondents no. 1 to 4 to frame a policy with regard to examination and detention of the students on the same line as have been framed by other colleges/universities who are taking combined examination known as Common

Law Admission Test (in short CLAT)

(iii) For issuance of a mandamus directing the respondent no. 1 that until a policy as prayed above is not framed with a view to maintain uniformity as regards detention and a candidate who has not failed in at least 4 papers be given promotion to the next year of his/her five years law course;

(iv) For issuance of an appropriate writ in nature of mandamus commanding upon the respondents to promote the petitioner in the 5th year (9th semester) and continue her studies and further to provide opportunity for appearing in a repeat examination for clearing in a repeat examination for clearing the backlog papers of Corporate Law-I and Corporate Law-II of 7th semester and 8th semester respectively by continuation of the prevalent practice of conducting repeat and special repeat examination for clearing the backlog papers.

(v) For further issuance of an appropriate writ(s)/order(s)/direction(s) as Your Lordships may deem fit and proper in the facts and circumstances of the case and in the interest of justice.

2. It is stated on behalf of the petitioner that the Chanakya Law University, Patna has been established under the CNLU Act, 2006 and it is financially supported by the Government and the University Grants Commission. The petitioner was admitted in CNLU, Patna on the basis of Common Law Admission Test (CLAT)/NRI sponsorship in the year 2009 for the five years B.A., LL.B. (Hons.) Course of batch 2009-14. It is claimed that she has regularly attended her classes and also regularly appeared at the examination from 1st semester to the 8th semester and cleared all the papers except Corporate Law-1, Environmental Law and Corporate Law-2 in the 7th and 8th semester respectively. It is submitted that though the CNLU Act, 2006 does not provide detention of students for failure in any papers, surprisingly, the petitioner has been detained. It is further stated that Section 30 of the CNLU Act, 2006, inter alia provides that any punitive measure against any student cannot be imposed without granting a reasonable opportunity to show cause against the action proposed to be taken and as such the detention of the petitioner is in contravention of the provisions of the Act. It is further submitted that, in the absence of any policy or promotional scheme, the policies of other Law Universities should be adopted and in above view of the matter, since the petitioner has failed to clear three subjects but less than four subjects, she should be allowed to be promoted in the 9th semester and should be allowed to appear in the repeat examination for clearing the backlog papers. Learned counsel has submitted that several other students have been given such opportunity and after promotion they have cleared their backlog but the petitioner has been detained.

3. However, in the counter affidavit filed on behalf of the respondents it has been stated that the Regulation of Chanakya National Law University came into force from the Session 2006-07 itself. It is stated that initially it was provided in the promotion scheme that no student would be promoted to 3rd year without

passing all the 1st year courses. However, subsequently the Examination Regulation was amended and it was specifically incorporated that for promotion to the next higher classes a candidate must not fail in more than two courses. A copy of the Regulation and the amendment has been appended as Annexures-A and A/1. It has further been stated that by Annexure-B dated 29.11.2010 it was already clarified that under the academic regulation and promotional scheme no candidate would be promoted to next higher class unless he/she has completed all the courses in a given year. However, a student who has failed in not more than two courses may be promoted to the next higher class. Subsequently, vide notification contained in letter no. 1743 dated 9.2.2011 (Annexure-B/ 1) it was informed to all the students well in advance that a student who has failed in not more than two courses in a year may be promoted to next higher class. It has further been stated that the University has acted upon the detention and promotion scheme and students, who failed in more than two courses, have been detained. Reference has been made to certain students in this regard in paragraph 10 of the counter affidavit. It has been stated that the University has published the list of detained students which includes the petitioner as well as others on the ground that they have failed in more than two papers in a year. It has further been stated that, in order to provide opportunity to improve results, students were allowed to appear in the repeat examination, thereafter, the University even provided opportunity of re-evaluation by two independent examiners outside the University for credibility and transparency. The petitioner availed the opportunity of repeat examination and also re-evaluation. However, the petitioner at her own will absented in the examination and she had to be detained in 4th year. It has been stated in paragraph 13 of the counter affidavit that the University has acted uniformly and without any bias, ill will or discrimination.

4. Mr. Abhinav Srivastava, learned counsel appearing on behalf of the petitioner tried to demonstrate certain discrimination having been made and also urged that the Regulation concerned was not well circulated and is not available on the website of the University and as such it was not known to all the students. It has been urged that in above view of the matter petitioner should be provided an opportunity to be promoted and clear backlog thereafter.

5. I find no force in the submission raised on behalf of the petitioner.

6. The concerned Regulations amended update in the year 2011 have been appended as Annexures-A and A/1. However, relevant Regulation regarding promotion scheme (Annexure-A) as well as amended provision under Clause 2 (Annexure-A/1) are quoted for better appreciation of the matter:--

Academic Regulations for 5 Years law Course Leading to the Award of B.A., LLB. (Hons.) Degree

Amended Upto Date

X X X

R. Ac 6. Promotion Scheme

6.1. No candidate shall be promoted to the next higher class unless he/she has completed all the courses in a given year. However, a candidate who has failed in not more than two courses in a year may be promoted to the next higher class. Under such circumstances, the candidate has to reregister for the courses failed separately. A sum of Rs. 1,000/- will be collected from such candidates in the second year. No candidate will be promoted to the third year without passing all the first year courses. Similarly, this rule shall apply to all other promotions to next higher classes as well.

Note: A candidate who has secured less than 50% of marks in the project, may however re-write the project and submit the same for evaluation. The marks obtained based on the resubmission of the project will be taken into consideration for award of marks.

Academic Regulation for 5 Years Law Course Leading to the Award of B.A., LLB. (Hons.) Degree

X X X

2. Where a student, who has failed in more than two papers in a given year, but is likely to clear some courses in the repeat end-examination for the even semester "of the given year, so that the total courses he has failed remains two or less than two, will be promoted to the next higher class subject to the condition that he so clears the requisite number of courses, failing which, he shall be detained in the said class viz., the class in which he/she failed.

Till the aforesaid repeat end-semester examination is conducted, he/ she will be conditionally promoted to the next higher level. His/her admission will be entirely conditional.

7. From perusal of aforesaid Regulations it would appear that a student who has failed in more than two papers in the given year but is likely to clear some courses in the repeat end-examination so that total courses he/she has failed remains two or less than two will be promoted to the next higher class subject to the condition that he/she clears the requisite number of courses failing which he/she shall be detained in the same class viz., the class in which he/she has failed.

8. It has been clearly indicated in paragraph 12 of the counter affidavit that the petitioner has availed opportunity of re-examination and also re-evaluation and in the examination of one of the courses, at her own will, she had absented. As a result she could not clear three courses and as such she alongwith several others have been detained. Therefore, in my considered opinion, no ground of discrimination would be available to the petitioner. So far the ground that the Regulation was not well circulated would also not be available to the petitioner since the notice dated 9.2.2011 appended as Annexure-B/1 clearly indicates that only the students who has failed in not more than two courses in the year could be promoted to the next higher class. It is well settled that the court's

interference in academic/education matters would not be proper except in the cases where interpretation of a statutory provision or of law is involved. A reference is made to a decision of the Apex Court rendered in All India Council for Technical Education Vs. Surinder Kumar Dhawan and Others, . In State of U.P. and Others Vs. Rajkumar Sharma and Others,] the Hon"ble Supreme Court has held that Article 14 of the Constitution does not envisage negative quality thus if the State committed some mistake it cannot be allowed or asked to perpetuate the same mistake.

9. It has also been urged on behalf of the petitioner that her detention would also render huge financial liability upon her. However, learned counsel for the Chanakya National Law University has categorically stated that no such financial burden would be imposed upon the petitioner.

10. In above view of the matter, in my considered opinion, no ground could be raised by the petitioner warranting interference in the decision of Chanakya - National Law University.

11. As a result this writ application is dismissed. However, the respondents should also ensure that the Regulation as amended up to date should be well circulated and should also be made available on the website of the Chanakya National Law University.