

(2002) 05 DEL CK 0142
In the Delhi High Court
Case No : CW. No. 6227 of 2001

Md. Shahabuddin

APPELLANT

Vs

Jawaharlal Nehru University and Others

RESPONDENT

Date of Decision : 22-05-2002

Acts Referred:

Citation : (2002) 98 DLT 732

Hon'ble Judges : Ramesh Chandra Chopra, J

Bench : Single Bench

Advocate : M. Tarique Siddique, for the Appellant; S.C. Dhanda, Prashant Sharma and Manoj Duggal, for the Respondent

Judgement

R.C. Chopra, J.—The petitioner, who was a student of M.Phil(Arabic) at the Centre of Arabic and African Studies School of Language, Literature and Cultural Studies, Jawahar Lal Nehru University, is aggrieved by the decision taken by the respondents under clause (7) of Academic Ordinance No.13 declining to extend the period for submission of his dissertation, which was to be submitted by the end of 27th July, 1999. According to the petitioner, he had fallen sick in the month of June and July, 1999 and as such could not get his dissertation work typed out and compiled within time frame. One of the reasons was that Arabic computers were available only at few places. The petitioner applied for grant of extension for submission of his M.Phil on medical grounds, but it was refused primarily for the reason that he had submitted medical certificate from a private doctor. His request for reconsidering the decision was also declined in spite of the fact that later he had submitted medical certificates/documents from respondent's Health Centre also. On 5.10.1999 the petitioner submitted his draft dissertation to respondent No.4 after making required corrections and complete in all forms with three chapters, as approved by the expert committee, but in the meeting of CASR held on 8.10.1999, when respondent No.4 was absent, the CASR got misled and rejected the petitioner's request under a misapprehension that the petitioner's dissertation had not been completed. On 18.11.1999 respondent

No.4 made one more recommendation to respondent No.2 pointing out that the dissertation had been finally submitted to him on 16.11.1999 and as supervisor he was satisfied with the work. It was also suggested that the petitioner may be allowed to submit and the office may be asked to accept petitioner's dissertation. However, the recommendation was declined on account of mischief and mala fides of an Administrative Officer. It was prayed that the writ petition may be allowed and the respondents be directed to award M.Phil degree in Arabic to the petitioner. Directions were also sought to register/admit the petitioner for Ph.D degree in Arabic. In the counter-affidavit filed on behalf of the respondents, it was pleaded that the petitioner had failed to complete his M.Phil, course within the time frame prescribed by clause (7) of the Academic Ordinance No.13. In para-4 of the affidavit it was submitted that the petitioner had applied for extension of one semester to complete his dissertation but his application was supported by a medical certificate from a private doctor. His request was not accepted. It was added that the respondent University had Health Centre and any student having any problem is required to go to the Chief Medical Officer of the University and get himself medically examined. If the C.M.O. finds it necessary, he prescribes not only the medicines, but medical rest also. It was denied that the Administrative Officer of the respondents was biased against the petitioner. It was also stated that the petitioner was offered admission to Ph.D., without completion of his M.Phil, but he declined. It was added that as per petitioner's own showing, his dissertation was finalised on 16.11.1999 and as such, rejection of the request on 8.10.1999 on the ground that his dissertation was not ready, was fully justified.

2. I have heard learned counsel for the parties and gone through the averments made by the petitioner and the response filed by the respondents thereto.

13th Ordinance relating to the award of Master of Philosophy degree issued by the respondents contains clause (7), which says that M.Phil course including dissertation shall be completed within four consecutive semesters and no registration shall be permissible beyond the period of four semesters from the date of admission to the programmed. Learned counsel for the petitioner, however, relies upon clause (12) of this Ordinance which says that notwithstanding anything contained in the Ordinance, Academic Council may, in exceptional circumstances and on the recommendations of the Committee for Advanced Studies and Research concerned or an appropriate Committee or Board of the School as well as on the merits of each individual case, consider relaxation of any of the provisions at its discretion for the reasons to be recorded. Learned counsel for the petitioner submits that the only fault of the petitioner was that after he fell sick in June/July of 1999, he went to a private doctor and not to Health Centre of the respondents and as such, his application for extension of time was supported by a medical certificate from a private doctor only. When he came to know that his application had been rejected on the ground that it was supported by a certificate from a private doctor only, he went to Health Centre also and after obtaining necessary certificate, produced the same before the

respondents but still no relaxation was given to him in terms of clause(12).

3. In para 8 of the Writ petition the petitioner had specifically pleaded that when he came to know that the respondents were not giving him extension on the ground that the certificate submitted by him was from a private Doctor he submitted the medical certificate and documents from the respondent's Health Centre also with the request for extension of time for submission of dissertation but his request was declined. The respondents did not file any affidavit to counter these assertions of the petitioner and in para 4 of the affidavit, it was merely stated that the petitioner did not produce any medical certificate from the C.M.O. The denial of the respondents in regard to the medical certificate from the Health Centre stands refuted by Annexure "A" to the Writ petition which is an application submitted by the petitioner to the Dean on 5.8.1999 in which it was specifically stated that since his request was declined on the ground that the certificate was from a private Doctor, he was attaching additional documents from the J.N.U. Health Centre in support of his claim. This application was forwarded by respondent No.4 for consideration to the Dean-respondent No.2 but still, it was discarded on the ground that in the meeting of the CASR held on 30.7.1999, the request of the petitioner had been rejected. The petitioner, Therefore, has established on record that in spite of submission of a certificate from a private Doctor as well as from the respondent's Health Centre, the respondents were not inclined to consider his request for extension of time in its proper perspective and were bent upon to reject the same.

4. It is pointed out that the petitioner had submitted his dissertation on 18.11.1999 and as such, there was no undue delay in submission thereof. It is also argued that respondent No.4 the guide/supervisor was always satisfied with the dissertation work of the petitioner, but in spite of his recommendations to extend the time, the respondents took an arbitrary and unjust decision, which set at naught the effort and work done by him in the matter of preparation of his dissertation. The petitioner also has a serious grievance in regard to the decision taken by CASR in its meeting held on 8.10.1999, which rejected the request of the petitioner under a mistaken belief that the petitioner's dissertation was nowhere near completion as only first draft of three chapters had been submitted to the supervisor till date. It is argued that CASR did not realise that the petitioner's dissertation had three chapters only, as approved, and as such when first draft of three chapters had already been submitted to the supervisor the dissertation was complete and had to be merely rearranged for submission.

5. Learned counsel for the petitioner contends that the decision of the respondents to refuse extension of time to the petitioner or accept his dissertation in spite of recommendations made by his guide/supervisor was arbitrary, unfair and unjust and as such, was liable to be set aside. Learned counsel for the respondents, on the other hand, relying upon a judgment of Apex Court in *Jawaharlal Nehru University and another Vs. Maj. General Y.M. Bhami* and another, contends that the Courts should not interfere in a matter, which is

based on purely academic perceptions. He also contends that the petitioner's case was not covered by clause (12) of 13th Ordinance in as much as no exceptional circumstance was made out forgiving relaxation to the petitioner. He submits that as [per Clause (7) of Ordinance 13 the petitioner was unable to submit his dissertation within the time frame and as such the respondents were fully justified in rejecting his request for extension of time. It is also submitted that the request for extension of time was supported by a medical certificate from a private Doctor only which the Committee for Advanced Study and Research in its meeting held on July 30, did not accept.

6. It is argued that when a Health Centre was available in the respondent's university, the petitioner ought to have got himself medically examined from there and obtained a medical certificate. The representation of the petitioner to the Vice Chancellor and Academic Council was considered by CASR in its meeting held on 8.10.1999 and the recommendations of respondent No.4 the guide of the petitioner were also considered but since the dissertation had a draft of three chapters only the respondents decided to decline his request.

7. The contention of learned counsel for the respondents, which is based upon the case of *Jawahar Lal Nehru University & Another Vs. Major General Y.M. Bammi & Another* (supra), that the Courts should not substitute their opinion in matters which are based on purely academic perceptions cannot be sustained for the reason that in the case before the Apex Court the Academic Council of the respondent was supported by the rules and the Court did not find any fault with the academic Council in its insistence on following the prescribed procedure. In the said case the Chairman had gone totally out of way and against the rules by holding a special examination for one particular candidate only. However, in the same judgment in para 9, the Court referred to Clause (12) of Ordinance 14 which gave powers to the Academic Council to relax the rules and observed that these powers could be exercised in fit and appropriate cases. The Court issued directions to the Academic Council to consider if the candidate could be permitted to retain the benefit of the Course in Japan and called upon the Academic Council to take a view which may appear to be just in special facts and circumstances of the case. Therefore, the Apex Court while emphasising the need for following the rules gave liberty to Academic Council to exercise its discretion in view of the provisions regarding relaxation of rules.

8. In the present case also Clause (12) of Ordinance 13 relating to the award of Master of Philosophy Degree vests the respondents Academic Council with powers of relaxation of any of the rules at its discretion for the reasons to be recorded and as such this Court would be well within its powers to examine as to whether the respondents had judiciously exercised or not their powers of relaxation under the facts and circumstances of this case. If it is found that the exercise of the discretion was arbitrary, mala fide or unjust, the petitioner may be held entitled to relief from this Court.

9. The pleadings of the parties and the documents placed on record clearly reveal

that the request of the petitioner for extension of time was based on medical grounds but it was declined mainly for the reason that he had produced medical certificate from a private doctor only and not from the Health Centre of the respondents. This Court is of the considered view that the stand taken by the respondents in this regard was too harsh, unjust and arbitrary for the reason that the rules nowhere prescribed that the relaxation on medical grounds could be granted on the basis of a medical certificate from respondents Health Centre only and the certificates issued by private doctors were not permissible. The petitioner, upon falling sick, had liberty to go to a doctor of his choice and get the treatment from a medical practitioner upon whom he had faith and as such no fault can be found with his conduct in this regard. The respondents chose to reject petitioner's request without giving any finding that medical certificate submitted by petitioner was false nor did they try to find out as to whether the petitioner was sick or not during the period mentioned in medical certificate. Therefore, without holding that the plea of the petitioner was false the respondents proceeded to punish him by taking shelter of rules. The impugned action of the respondents was absolutely unjust and unfair for the reason that the certificates submitted from the respondents' Health Centre were not even considered and petitioner's request was declined in an arbitrary manner.

9. It also appears that on 8.10.1999, when the representation of the petitioner for extension of time for submission of the dissertation was considered, the CASR was totally misled as it observed that the petitioner's dissertation was nowhere near completion as only first draft of three chapters had been submitted to the supervisor till date. Admittedly the petitioner's dissertation had only three chapters and such the draft of three chapters as submitted to the guide could not be stated to be nowhere near completion. It appears that the CASR was given a wrong impression that the dissertation of the petitioner had more than three chapters. This decision was taken in spite of the recommendations to the contrary by the guide of the petitioner, respondent No.4. On 18.11.1999 also the petitioner's guide, respondent No.4 had written to respondent No.3 that as a Professor he was satisfied with petitioner's work and petitioner be allowed to submit his dissertation to the office. This Court fails to understand if the respondents were not inclined to exercise their discretion in a case like the present one than what other case could be a case for exercising the discretion in the matter of relaxation of rules in terms of Clause (12) of Ordinance 13. The Universities, Educational Institutions and the Bodies controlling students' career should be more inclined to help and support the students than to demonstrate rigid compliance of the rules for the reason that the rules are only means and not the end. Provisions of relaxation are aimed at helping the deserving and bonafide students who for one reason or the other are unable to get covered under rules. Only a pragmatic and supportive approach can further the object of rules including those regarding relaxation. The petitioner who had fallen sick in the course of last Semester when his dissertation was almost complete and when his guide even was fully supporting him, was Therefore entitled to the benefit of

relaxation clause. The respondent's decision to decline his request was unjust, arbitrary and unfair and as such cannot be sustained.

10. In the result, this Court is of the considered view that the decision of the respondents to refuse extension of time to the petitioner for submission of his dissertation is liable to be quashed. It is ordered accordingly. The respondents are directed to receive and consider the dissertation submitted by the petitioner for M.Phil Arabic and thereafter award him M.Phil Degree as per rules, if his dissertation is found to be satisfactory.

11. The petition stands disposed of accordingly.