

(2021) 05 J&K CK 0057

In the Jammu And Kashmir High Court

Case No : Writ Petition (C) No. 1090 of 2021, CM No. 4446, 4447 Of 2021

Mohammad Shahnawaz Padihar & Ors

APPELLANT

Vs

Baba Ghulam Shah Badshah University & Ors

RESPONDENT

Date of Decision : 29-05-2021

Acts Referred:

Citation : (2021) 05 J&K CK 0057

Hon'ble Judges : Sanjeev Kumar, J

Bench : Single Bench

Advocate : M. R. Qureshi, Raman Sharma

Final Decision : Allowed

Judgement

Instant application seeking extension of time for annexing/ depositing the requisite court fee etc. with the writ petition, in view of the grounds urged

therein, is allowed. The petitioner shall deposit the requisite court fee with the Registry of this Court within a period of one week from the date

Registry resumes normal functioning.

1) In this petition, petitioners have, inter alia, sought a direction to the respondent University to allow the petitioners to participate in the 8th Semester

(final year examination) for the courses of B.E. Civil Engineering (B.E. evening programme lateral entry scheme) 2018-2021, scheduled to be held with

effect from 31st of May, 2021.

2) It is the contention of learned counsel for the petitioners that the petitioners pursuant to the permission granted by the employer were admitted to

the aforesaid course by the respondent University for the Sessions 2018 to 2021 and awaiting formal NOC from the administrative department, they

have been permitted to sit in the examination of 1st to 7th Semester.

3) It is the grievance of the petitioners that the respondent No.5 is sitting tight over the matter and is not taking any decision despite the fact that there is recommendation made in favour of the petitioners by the Chief Engineer concerned in the year 2018.

4) Learned counsel for the petitioners submits that in case the petitioners are not permitted to sit in the examination, they will suffer an irreparable loss and injury.

5) During the course of arguments, it has also come to the notice of the Court that the petitioners have also filed somewhat similar petitions i.e.

WP(C) No.125/2021 and WP(C) No.3749/2019, which are pending adjudication. The petitioners have not clearly stated as to what are the reliefs prayed in those petitions.

6) Going by the averments made in this petition, it appears that though the petitioners could have well moved an appropriate application in the pending matters, yet decided to file a fresh petition with a view to get immediate relief. The petition was filed three days back so that the Court is left with no time to put the respondents on notice for giving them audience and is persuaded to pass the interim directions keeping in view the urgency of the matter that the examinations are commencing from 31st of May, 2021.

7) I do not appreciate this conduct of the petitioners. However, keeping in view the larger interests of justice and to safeguard the academic career of the petitioners who have already appeared in seven semesters without there being a formal NOC from the concerned authority, I am inclined to show indulgence in the matter.

8) Notice returnable within four weeks. Requisite steps for service within one week.

9) List along with WP(C) No.125/2021 and WP(C) No.3749/2019 on 27th of July, 2021.

10) In the meanwhile, the petitioners, if otherwise eligible, shall be permitted to sit in 8th Semester (final year examination) for the course of B.E. Civil

Engineering (B.E. evening programme lateral entry scheme) 2018-2021, scheduled to be held with effect from 31st of May, 2021, without insisting for

the NOC from the respondent No.5. The participation of the petitioners in the said examination shall be purely provisional and at the sole risk and

responsibility of the petitioners. The result of the petitioners shall not be declared

until further orders from this Court.

11) It is made clear that the participation in the said examination shall not create any equity in favour of the petitioners in any manner and their participation in the examination shall remain subject to outcome of this petition.