

(2009) 11 RAJ CK 0063
In the Rajasthan High Court

Nandini Mirdha

APPELLANT

Vs

University of Rajasthan and Others

RESPONDENT

Date of Decision : 26-11-2009

Acts Referred:

Rajasthan University Ordinances, 2009 — Ordinance 144, Ordinance 251

Citation : (2010) 1 WLN 199

Hon'ble Judges : Govind Mathur, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Govind Mathur, J.—The petitioner, a regular student of five years law course, appeared in first semester examination in the month of December, 2008 but on account of registration of a case for using unfair means, her examination for paper third was cancelled. A provisional admission then was given to her in second semester of the course but she was not permitted to face the examinations, thus, the instant petition for writ is preferred claiming the reliefs as follows:

- i) issue appropriate writ, order or direction to the respondents to grant permission to the petitioner to appear in the second semester examination April 2009 in all subjects and allow other consequences of the same;
- ii) issue appropriate writ, order or direction to the respondents to quash the proposed substituted Ordinance 251 (Annexure-2) and instead amend the existing Ordinance 251 suitably and justly;
- iii) issue appropriate writ, order or direction to give weightage to internal awards only to the extent of 10% or any other appropriate percentage and that too only in those subjects where there are practical examination etc. and the reminder weightage must be given to written examination;
- iv) issue writ, order or direction to get the answer sheets of written examination

of paper-III of First Semester Examination December-2008 of the petitioner evaluated and award her the marks obtained by her instead of the 0 marks awarded to her.

2. On 22.4.2009, by an interim order, this-Court permitted the petitioner to appear in second semester examinations provisionally, however, she failed to avail appearance in first paper of the examination as that was conducted on 2.4.2009 itself. An application is now preferred seeking direction to grant admission to the petitioner in third semester, however, I consider it appropriate to hear the matter finally at this stage as pleadings of the case are complete.

3. As per the respondents, the five years course for degree of B.A. LL.B. consist of ten semesters and the examination of each paper in each semester consist of term "written examination" at the end of semester and internal awards including weekly tests project work and presentation, case law study, attendance and conduct of the student. A candidate after passing B.A. LL.B. first semester examination or obtaining more than 50% marks in at least four papers on completing a regular course of study in second semester is eligible to appear at B.A. LL.B. second semester examination. It is also stated that as per Ordinance 144 of the Rajasthan University Ordinance a candidate shall be required to put in at least 66% attendance in lectures in each subject and also in tutorials, moot courts and practical training course. The requirement of attending 66% classes is increased to 75% as per the directions given by this Court in a Contempt Petition arising out of a public interest litigation (SB Civil Writ Petition No. 455794 Damodar Prasad Goyal v. Smt. P.L. Kushwalia and Ors. decided on 24.10.1997). The petitioner failed to put in required attendance and also in securing the required percentage of marks awarded upon the weekly tests, seminars and subject lectures. The respondent university in definite terms also denied that the petitioner obtained 50% marks in aggregate of four papers of second semester examination and as such she was not eligible for admission to second semester. Certain details are also given by the respondents relating to her attendance and marks obtained in 14 weekly tests and those are as follows:

Subject	Total	Lectures	Delivered	Lectures	Attended	Trust & Equity	38	3	Pol.
Science	40	8	Computer	41	2	History	45	1	English
Trust & Equity	Nil	Pol.	Science	Nil	Computer	Nil	History	2	(3rd & 7th test only)
English	Nil	Child Law	Nil						

4. With the legal and factual background above, it is asserted that the petitioner was not at all eligible to appear in second semester examination of five years law course.

5. Heard counsel for the parties.

6. Much stress is given by counsel for the petitioner to examine vires of Ordinance 251, however, no adequate foundation is available to do so in entire petition for writ. There is nothing on record on basis of that it can be said that the provisions of Ordinance 251 are unjust and arbitrary in any manner or were

enacted without competence. It is also pertinent to note that the petitioner is undergoing studies of five years law course as per the scheme of Ordinance 251 itself. Thus, I do not consider it appropriate to entertain challenge to the validity of Ordinance 251.

7. The other argument advanced is that the petitioner even otherwise is eligible to appear in B.A. LL.B. second semester as well as B.A. LL.B. third semester examinations as she has fulfilled all requirements prescribed under Clauses (4) and (5) of Ordinance 251. The eligibility as claimed by the petitioner is denied by the respondents in most unambiguous terms. From perusal of the facts given by the respondents it is apparent that the petitioner as a matter of fact is having attendance even below 11% and she also failed to appear in weekly tests as per Clause (1) of Ordinance 251. She is certainly not entitled to appear even in B.A. LL.B. second year examinations. It is also pertinent to note that while permitting the petitioner to provisionally appear in second semester examination, this Court made it clear that her appearance in examination would liable to be cancelled, if it is found that she has not secured at least 50% marks in four papers of first semester. The respondents have categorically stated in their reply that the petitioner-has not secured 50% marks as required.

8. In view of whatever stated above, I do not find any merit in this petition for writ. Accordingly, the same is dismissed.