

(2015) 02 GUJ CK 0037

In the Gujarat High Court

Case No : Special Civil Application No. 8974 of 2014

Narendra Champaklal Trivedi

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 20-02-2015

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 21

Citation : (2015) 02 GUJ CK 0037

Hon'ble Judges : K.M. Thaker, J.

Bench : Single Bench

Advocate : Akshat Khare and Suman Khare, for the Appellant

Final Decision : Dismissed

Judgement

K.M. Thaker, J.—In present petition, the petitioner has prayed, inter alia, that:

"12A. Your Lordship may be pleased to direct the respondent authorities to conduct examinations for old course LLM students by giving four trials as per their own resolution No. 127 and University order dated 22/06/2011 and as per minutes of meeting dated 18/08/2012 of executive Council of Gujarat University.

B. Your Lordship may be pleased to direct the respondent authorities to check the answer sheet of the students as per their merits only."

2. The petitioner herein had secured admission in the Course of LLM (Criminal) in Academic Year 2005-06 (which was of two years duration).

2.1 The said course came to be discontinued in 2011-12.

2.2 The petitioner had, until then, not cleared the course.

2.3 Now in 2014 the petitioner has come out with present petition against the decision and action of the respondents of not conducting examinations for said old course of LLM after April 2013.

2.4 The respondents decided to not grant further trials/opportunities by

conducting examinations after 2013 of the old course which has been discontinued since 2011.

2.5 After discontinuing the course under which the examinations were held on yearly basis and substituting the same by new course from Academic Year 2011-12, the respondents discontinued to conduct examinations for the old course after April 2013.

2.6 Aggrieved by the said decision and action, the petitioner has taken out present petition.

3. From the facts mentioned by the petitioner to support to and justify his request, it has emerged that:

3.1 The petitioner had secured admission and registration in course of LLM (Criminal) in the Academic year 2005-06.

3.2 As per the curriculum prescribed for the said course, at the relevant time, the examinations were conducted on yearly basis and the students prosecuting the said case were required to pass examinations of LLM Part I and LLM Part II for which examinations were conducted on yearly basis.

3.3 Subsequently, from Academic Year 2011-12, the respondent university introduced new course and also introduced semester system as per which the students are required to pass semester-end-examinations during four semesters.

3.4 While introducing the new course and new system for examinations, i.e. semester system, the respondents had decided to allow additional trials until 2013 to the students (who had secured admission and registration in the old course) so that they can clear/pass LLM (old course).

3.5 The petitioner has claimed that certain students who had secured admission in the old course, had represented against the said decision of the respondent university and had requested the respondent university to grant more trials/opportunities to clear the examinations and the course.

3.6 The petitioner has claimed and alleged that the respondent university had accepted the said request/representation by the students and agreed to grant additional trials until April 2015. The petitioner has claimed that the respondent university had issued a circular dated 22.6.2011 to the said effect.

3.7 The petitioner has further alleged that subsequently, the respondent university stopped conducting examinations for LLM course after April 2013 which, according to the petitioner, is contrary to university's decision and the said circular dated 22.6.2011 read with resolution dated 18.8.2012.

3.8 The petitioner has alleged that since the respondent university did not conduct examinations for old course after April 2013, inquiry was made and the petitioner was informed that the decision to grant more trials, i.e. until 2015 was cancelled and there would not be any further/more trials - examinations for old

course after April 2013.

3.9 The petitioner is aggrieved by the said decision and action of the respondent university. Hence this petition.

4. So as to support and justify the request, the petitioner has averred and stated, inter alia, that:

"2. This petition is preferred against the action and inaction of the respondents for not conducting the examination for the old course of LLM after April 2013 despite having explicit Gujarat University circular dated 22/06/2011 for conducting examination of old course till 2015.

3. The petitioner submits that he has taken admission in LLM (criminal) in the academic year 2005-06. As per the prescribed course of LLM by Gujarat University, the examinations were held on yearly basis and the students were required to pass the exam of LLM - part-I and LLM - part-II only. Thereafter, Gujarat University has introduced new course of the semester system from academic year 2011-12 as per which every students were required to pass 4 semesters.

It is pertinent to mention herein that initially the respondents have given three trials to the students who have taken admission in old course for clearing/passing LLM. Thereafter, at the request and representations of the students, two more trials till April 2013 were given by university circular of October 2012.

5. The petitioner respectfully submits that Gujarat University in its resolution No. 127 has resolved that the exams for the all old course would be conducted for both graduate and postgraduate degree till year 2015. In this regard, Gujarat University has issued circular dated 22/06/2011 [Annexure - A] for informing all the concerned departments, colleges, institutions. The petitioner, after getting the knowledge of aforesaid university circular dated 22/06/2011, had immediately made a representation to the respondents and requested to conduct exams for old course LLM till 2015.

It is respectfully submitted that the respondents have neither conducted the examination for old course LLM not replied to any of the representations made by the petitioner.

8. The petitioner states that the respondents have not conducted exams for old course LLM after April 2013 even after passing/issuing resolution/circular for exams trials of all old courses till year 2015. The executive council of Gujarat University has also specifically resolved to conduct examinations for old course LLM till April 2015. But the students of old course LLM have been denied four more trials for completing their degree by the respondents.

It is pertinent to mention herein that the Gujarat University is conducting examination for all the other old courses, except for old course LLM in law faculty. The students of old course LLM were not allowed to fill examination form

in November 2013 and April 2014 by the respondents stating that no further trials are available to them. As a result of which the students have missed two trials till date for completing their LLM degree. Thus, the respondents are required to give four more exam trials as per their own resolution and circular. In other words, the respondents are required to conduct old course examination for LLM in November 2014, April 2015, and April 2016. Therefore, the action and inaction of the respondents for not conducting examination for old course LLM is mala fide, illegal arbitrary and unconstitutional. The petitioner has preferred this petition by involving the provisions of Articles 14, 16 and 21 of Constitution of India."

5. The petition is opposed by the respondents who have filed reply affidavit, wherein it is averred and stated, inter alia, that:

"3. I submit that the petitioner is not entitled to relief as claimed for by him in para - 12(A) for direction to the Gujarat University to conduct exam for Old Course L.L.M. students by giving four trial as per the Resolution No. 127 and University Order dated 22.06.2011 and Minutes dated 18.08.2012 of Executive Council in view of the following:--

3.2 The petitioner was admitted in L.L.M. 2003-2004 and 2004-2005. After the petitioner became eligible the petitioner had following opportunities to appear at L.L.M. exam. After April, 2005

- (1) October, 2005
- (2) April, 2006
- (3) October, 2006
- (4) April, 2007
- (5) October, 2007
- (6) April, 2008
- (7) November, 2008
- (8) April, 2009
- (9) November, 2009
- (10) April, 2010
- (11) October, 2010
- (12) April, 2011
- (13) October, 2011
- (14) December, 2012 and
- (15) April, 2013

I submit that the petitioner is not a student who is entitled to further trial as requested by him.

The petitioner had an opportunity of fifteen trials and petitioner appeared at following trial:--

(1) November, 2008

(2) April, 2009

(3) October, 2009

(4) November, 2010

(5) December, 2012 and

(6) April, 2013

3.3 The Ordinance and Regulation relating to Master of Law provide as under:--

OLLM. - 1 Eligibility

(4) The registration of the candidate in the L.L.M. Program shall be for a period of five years from the date of registration. The Vice-Chancellor may extend the period by one more year on behalf of the Executive Council.

In view of above regulation the petition cannot prosecute study further for appearing at L.L.M. Exam. However, the petitioner has been given further opportunity as disclosed by him. I submit that as such after April, 2012 he could not have appeared at L.L.M. Examination but two further trials were offered by the respondent University.

3.4 A joint meeting of Board of Law held on 19.07.2012 and it was resolved that there need not be any further trial for L.L.M. students as ex-students have been given enough trial.

3.5 Since there was conflict of resolution, joint meeting of Board of Law and also faculty of Law was convened on 27.03.2014 and unanimously resolved that no further trial be given as L.L.M. students have been offered time upto April-May, 2013."

6. The petitioner has filed rejoinder and claimed that:

"6. I say and submit that the respondent university in para 3.4 of their reply have taken conditions that faculty of law held a meeting on 19/07/2012 and decided for not giving further trial to old course students and the said decision was approved by Academic Council on 18/07/2012. It is submitted that after going through the copy of aforesaid minutes of meeting. It reveals that faculty of law in its meeting on 19/07/2012 has decided not to give further trials to the old course students of LLM. but the same has not been under consideration of Academic Council in meeting on 18/08/2012 and accordingly nothing has been approved by them. Thereafter, when on the same day i.e. 18/08/2012. Executive

Council held a meeting, then while deciding specific point listed at serial No. 36, it has been explicitly resolved that exams for old course LLM to be conducted to April 2015. Therefore, the resolution/decision taken by Board of Law/faculty of law on 19/07/2012 is automatically disapproved by Executive Council. It is hard to believe the contention of respondent that the said resolution passed by Executive Council for conducting old course LLM exam till April 2015 is a bona fide mistake of Executive Council, which is the highest deciding committee of Gujarat University.

8. I say and submit that the respondent university in para 3.5 have also contended that the resolution passed by board of law/faculty of law on 27/03/2014 has been approved by Academic Council on 01/06/2014 which has also been further approved by Executive Council on 01/06/2014. It is submitted that upon perusing the minutes of the meeting dated 01/06/2014 of both Academic Council and Executive Council, is found that the issue of extending the trial terms of exam for old course LLM has not been discussed in the said meetings. Therefore, the said minutes of the meeting does not refer any decision/approval of both Academic Council and Executive Council with respect to conducting exams for old course LLM.

10. I say and submit that the Gujarat University is conducting examination for all the other old courses, except for old course LLM in law faculty. The students of old course LLM were not allowed to fill examination from in November 2013 and April 2014 by the respondents stating that no further trials are available to them. As a result of which the students have already missed two trials till date for completing their LLM degree. Thus, the respondents are required to give four more exam trials as per their own resolution and circular. In other words, as per present facts and scenario the respondents are required to conduct old course examination for LLM in November 2014, April 2015, November 2015 and April 2016. Therefore, the action and inaction of the respondents for not conducting examination for old course LLM is malafide, illegal, arbitrary and unconstitutional."

7. Learned advocate for the petitioner submitted that the respondent university could not back out from the decision of Academic Council and Executive Council which is reflected in Circular No. 127 dated 22.6.2011. Learned advocate for the petitioner submitted that the Executive Council of the respondent university is the final decision-making body and any decision by said body cannot be altered by board of law and faculty of law. Learned advocate for the petitioner submitted that the decision dated 22.6.2011 by the Executive Council and Academic Council is not cancelled/withdrawn by Executive Council and Academic Council and that, therefore, the said decision is binding on the respondent university and consequently, it was and it is obliged to conduct examinations for the course of LLM (old course) till 2015. Learned advocate for the petitioner submitted that if the action or inaction of the respondent university is not set aside and if it is not directed to conduct examinations of LLM course (old course), then the petitioner

would be deprived of sufficient opportunity to clear the examinations of old course.

8. Mr. Shelat, learned senior counsel with Ms. Nanavati, learned advocate for the respondent university disputed and opposed the submissions claimed by learned advocate for the petitioner. On behalf of the respondent university, it is submitted that in the subsequent joint meeting of the Executive Council and Academic Council, it was resolved that it was not necessary to grant any other or additional trial/opportunity by conducting examinations for LLM (old course) after April 2013. The respondent university also relied on the resolution passed in the meeting of Board of Studies in Law which was convened on 27.3.2014 and the resolution dated 1.6.2014 passed by Academic Council as well as the resolution dated 1.6.2014 by the Executive Council and that, therefore, the petitioner is unjustified in contending and claiming that the decision dated 22.6.2011 (Annexure-A, page 9) still holds the field. It is claimed on behalf of the university that the resolution dated 1.6.2014 approving the decision of the Board of Studies and Faculty of Law, the petitioner is not entitled to relief for a prayer for holding old course LLM examination upto April 2015.

9. I have heard learned advocate for the petitioner and learned senior counsel for the respondent university and have also examined the material on record including circular dated 22.6.2011, circular dated 13.10.2012, the respondents passed during the joint meeting of Board of Law and Faculty of Law on 19.7.2012 and the resolution/decision by Academic Council, the meeting convened on 18.8.2012 and resolution dated 13.2.2013 by Executive Council and also resolution dated 27.4.2014 as well as the resolution dated 1.6.2014 by Academic Council and resolution dated 1.6.2014 by Executive Council.

10. It is not in dispute that the petitioner secured registration in admission in course of LLM as back as in 2005-06.

10.1 It is also not in dispute that for almost 5-6 years, i.e. till 2011 (when the university discontinued the said course of LLM and introduced new course and new system for examination), the petitioner could not and had not cleared LLM course/LLM examination for Part-II.

10.2 It is also not in dispute that while discontinuing the said course of LLM (which was offered by the university at the time when the petitioner secured admission and registration in 2005-06), the university had resolved to offer opportunity/trials to the students of said old course to clear the examinations and complete the course by conducting examinations until April 2013.

11. In this background, the petitioner has alleged and claimed that in response to the request and representation by the students of old course of LLM, Executive Council had resolved to offer more trials to the students and for that purpose to conduct examinations of old course until March/April 2015.

12. So as to support the said claim, the petitioner has relied on the university's

Circular No. 127 dated 22.6.2011, the said circular refers to the resolution passed by Academic Council in its meeting held on 11.6.2011. There is reference about course of B.A., B.C.A., M.A., M.Com and M.Sc., however, the said circular does not expressly and specifically refer to the course of LLM but it does, though generally, make reference of all courses, wherein semester systems were introduced and at Sr. No. 4 of the said circular, it is mentioned that the examinations conducted on yearly basis will be conducted until March/April 2015 and by that time, the students who prosecuted their studies/course in the old course where examinations were held on yearly basis, must clear their examinations within that time limit. The petitioner has then relied on the circular dated 13.4.2012 which is specifically related to course of LLB and LLM. According to the petitioner, the said circular provides that two more trials will be allowed to the students of LLM (old course).

13. On strength of the said circulars, the petitioners has claimed that the university is obliged to continue to conduct examinations for the old course (yearly basis examinations) until March/April 2015 and the action of not conducting examinations after 2013 is arbitrary and contrary to the said circulars.

14. As against the said contention by the petitioner, the respondent university has given the details of the opportunities/trials which the petitioner got from the date he got enrolled in the course and secured registration/admission to April 2013.

15. According to the respondents, the petitioner got about 15 trials/opportunities until April 2013 to clear examinations of LLM course, however, the petitioner failed to do so. According to the respondent university, a student who could not clear the examinations even after 15 trials/opportunities (i.e. present petitioner), does not deserve further chance/trial/opportunity.

16. This could hardly be a reason to reject a student's claim (for further trial/opportunity) which is based on the strength of the decision by Academic Council and Executive Council as contained in the resolutions dated 22.6.2011 and 18.8.2012.

16.1 If, in fact, the competent body of the respondent university decided to grant additional opportunity/trial to the students of old course so that they can clear the examinations and complete the course and if such decision is declared by issuing a circular, then merely because a student or some students could not clear the examinations during most of the trials out of the maximum number of trials made available by the decision of the competent body, then it cannot form a ground or reason to deprive them from the additional opportunity which the competent body granted in its wisdom.

16.2 Therefore, the said contention or objection by the respondent university is not legally sustainable and cannot be accepted and is rejected.

17. If right of opportunity/trial is created and made available by the competent

body of the university, then it should be made available to the student/s, provided such decision is not cancelled/withdrawn by the competent body after following prescribed procedure and in accordance with the applicable regulations.

18. However, in facts of present case and in light of the details mentioned by the respondent university, the question which arises is as to whether the circular dated 22.6.2011 and/or 18.8.2012 (i.e. the decision to grant additional opportunities/trials) after 2013, are still in force and/or legally enforceable.

19. In this context, the respondent university has made reference of the joint meeting of the Board of Law and Faculty of Law and the resolutions passed by the said joint meeting which was convened on 27.3.2014 and the subsequent decisions by Academic Council and Executive Council on 1.6.2014. The respondent university has claimed and contended that while passing the resolution dated 18.8.2012, the Academic Council had failed to take into account the suggestion/resolution dated 19.7.2012 by the Board of Law and Faculty of Law and therefore, subsequently the resolution dated 18.8.2012 was not acted upon in view of the conflict between the resolution by the said two bodies.

20. According to the respondent university, the petitioner has conveniently ignored and overlooked the resolution dated 19.7.2012 passed in the joint meeting of the Board of Law and Faculty of Law and the resolution dated 1.6.2014 passed by the Executive Council and that the petitioner has not mentioned the said details.

21. The respondent university has raised another contention in light of Ordinance No. OLL.M-Part I and claimed that the registration of a student in the course of LLM would be valid only for five years and that, therefore, upon completion of five years, registration of the student does not continue and such student would not have any right or claim to appear in the examinations or to demand that examinations be conducted, unless he gets fresh registration. The said provision reads thus:

"OLL.M. - 1 Eligibility

(4) The registration of the candidate in the L.L.M. Program shall be for a period of five years from the date of registration. The Vice-Chancellor may extend the period by one more year on behalf of the Executive Council."

22. According to the respondent university, the registration of the petitioner came to an end or got cancelled on completion of five years from the date on which he enrolled himself and secured registration in LLM course.

23. In this context, it is relevant to note that the petitioner got enrolled and secured registration and admission in 2005-06. According to the university, in view of the above quoted provision, his registration expired in 2011 and since he did not clear the examinations, any right to appear in the examinations or demand examinations for the said old course for any time after 2011 is not available to the petitioner and such right does not survive after 2011.

24. On the other hand, the petitioner claims that ordinarily, the said contention and objection would be justified, however, in case of LLM students even during Executive Council's meeting on 18.8.2012, it was decided to continue to offer additional trial/opportunity for LLM course (old course) until 2015. So as to support the said submission, learned advocate for the petitioner relied on the Annexure-H, page 88 and on that basis the petitioner claimed that the Academic Council and Executive Council had resolved to grant additional opportunities/trials to the students until 2015 and prior to that the decision to continue trial/examination until April 2013 was taken. Thus, by the said decision, the registration was impliedly extended until April 2013 and thereafter until 2015.

25. There is some substance in the said contention by the petitioner. It is not in dispute that Executive Council is the highest decision-making body. The power of the body to extend the period of validity of registration is not denied by the university. Thus, when the said body and so also the Academic Council decided to discontinue the existing course of LLM w.e.f. 2011-12 and to give additional trial to the students registered in LLM course in or before 2011 so that they can clear the examinations and complete the course, their registration for the purpose of attempting examinations even after/beyond 2011 stood extended, initially until 2013 and then till 2015 (as per circulars dated 22.6.2011 and 18.8.2012). To this extent the petitioner is justified in claiming that in light of the said two circulars, the objection raised in light of the ordinance is not justified.

26. Per contra, the respondent university claims that in light of the subsequent two separate resolutions dated 1.6.2014 by Academic Council and Executive Council and in light of the decision dated 19.7.2012 by Joint Board of Studies in Law, the previous decisions by the Council do not survive. The respondent university would further contend that while passing the said resolution dated 18.8.2012 the council inadvertently missed to take into account the resolution dated 19.7.2012 passed in the joint meeting of the Board of Law and Faculty of Law, wherein it was decided and resolved that any further/additional opportunity or trial by conducting examinations is not required to be granted to the students of LLM (old course). The respondent university has also claimed that the said resolution dated 18.8.2012 was never acted upon. On this count, the respondent university relied on the resolution of joint meeting of the Board of Studies in Law which was convened on 27.3.2014.

27. Thus, the question arises as to whether the decision to grant further trial/opportunity after April 2013 holds good or it stands cancelled in view of the decision by the joint meeting of the Board of Studies in Law, during the joint meeting on 19.7.2012 and subsequently on 27.3.2014 and in light of the separate resolutions on same day, i.e. 1.6.2014 by Academic Council and Executive Council.

28. Before taking into account the resolutions said to have been passed by the said joint meeting of Board of Studies in Law, it is relevant to note and mention that the said joint meeting was convened in March 2014, meaning thereby there

is a clear hiatus from June 2011 to March 2014 and June 2014, or at least from August 2012 to March 2014 and June 2014.

29. In this context, it is necessary to recall that according to the circular dated 22.6.2011, the decision to extend trial/opportunity until March 2015 was taken by the Academic Council in its meeting convened on 11.6.2011. Until then, the decision to grant trial/opportunity till 2013 was already in force.

30. The said aspect is not disputed even by the respondent university.

31. By virtue of the Academic Council's decision (i.e. Resolution No. 10 passed in meeting dated 11.6.2011) of which reference is made in Circular No. 127 dated 22.6.2011, the trials/opportunities which were offered and approved and LLM students until April 2013 were extended to April 2015. Similar resolution, i.e. a resolution to the same effect was passed by the Executive Council on 18.8.2012 as well.

32. In this background, even if the submissions by the respondent university are taken into account and accepted for the purpose of testing rival submissions, then also it would emerge that a different decision or suggestion came to be made for the first time during the Joint Meeting of Board of Studies in Law which was convened on 27.3.2014 (or probably on 19.7.2012), however the said decision dated 19.7.2012 has no relevance because the Academic Council and Executive Council had passed contrary resolution on 18.8.2012).

33. There is nothing on record to establish that any contrary decision or any decision recalling/cancelling or modifying the resolution dated 18.8.2012 was passed by the Academic Council and/or Executive Council before 1.6.2014.

34. It is pertinent that the said opinion/suggestion or the decision by the Joint Meeting of Studies in Law which is said to have been taken in the meeting on 27.3.2014 can be recognised and can be taken into account for any effective purpose, more particularly when there is previous decision by Academic Council (like in present case previous decisions dated 22.6.2011 and 18.8.2012 by Academic Council and Executive Council are at variance qua the resolution by Joint Meeting of Board of Studies) only if it is approved and conducted by Academic Council and by Executive Council.

35. Until then, the said suggestion or resolution by Joint Meeting of Board of Studies in Law taken during its meeting on 27.3.2014 cannot and will not cut across or dilute or nullify the effect of Academic Council dated 11.6.2011 and 18.8.2012.

36. Thus, the said decisions dated 11.6.2011 and 18.8.2012 will continue to operate until the decision by Joint Meeting of Studies in Law taken during meeting on 27.3.2014 gets approved and adopted by Academic Council and Executive Council.

37. Even if it is assumed, only for the limited purpose of testing the respondent

university's contention, that the suggestion/opinion or decision of Joint Meeting of Studies in Law (i.e. the suggestion expressed in resolution dated 27.3.2014) has independent force of law and is enforceable and university is bound to act according to that, then also the fact would remain that till 27.3.2014 the resolutions/decisions dated 11.6.2011 and 18.8.2012 taken by the Academic Council and Executive Council were in force and that, therefore, until 1.6.2014 or at least until 27.3.2014 the respondents were supposed to act in accordance with the decision contained in the circulars/resolutions dated 22.6.2011 and 18.8.2012.

38. The decision/resolution of Joint Meeting of Board of Studies in Law taken on 27.3.2014 came to be approved and adopted by the Academic Council and Executive Council only on 1.6.2014.

39. Thus, the said opinion and resolution dated 27.3.2014 got the force of law on 1.6.2014.

40. Until then, the decision and resolution dated 11.6.2011 and 18.8.2012 were in force and the university was obliged to act accordingly. Consequently, the examinations, which were to be conducted after (and in addition to) the examinations conducted in March/April 2013 ought to have been conducted until 1.6.2014 or at least 27.3.2014, i.e. the date when Academic Council and Executive Council passed different resolution cancelling/superseding the resolution dated 11.6.2011 (as reflected in the circular dated 22.6.2011) and 18.8.2012.

41. It is also relevant that after 11.6.2011 and 18.8.2012 the Academic Council and the Executive Council for the first time took different decision, i.e. a decision different from the decision reflected in circular dated 22.6.2011 (as per resolution dated 11.6.2011) and the resolution dated 18.8.2012.

42. Therefore also, until 1.6.2014 or at least until 27.3.2014, the respondent university ought to have acted as per the resolutions dated 11.6.2011 and 18.8.2012.

43. However, another equally pertinent aspect directly connected with the aforesaid facts is that the petitioner did not take any step or action at the material point of time, i.e. during entire interregnum and in any case before 1.6.2014.

44. It is pertinent that the petitioner filed the petition on or around 19.6.2014 and it appears to have been taken on file on or around 26.6.2014 and was circulated for the first time for fresh admission hearing on 18.7.2014. Thus, until 19.6.2014, the petitioner did not take any action or steps against the respondent university's inaction of not conducting examinations after April 2013. Though, subsequent examination/trial would have been due in April/May 2014, the petitioner did not take any action at that point of time.

45. Now, in present petition which is filed after 1.6.2011, the clock cannot be set

back.

46. More so when the petition is filed after the date of the resolutions dated 1.6.2014. The petitioner woke up from his slumber on or after 19.6.2014 and in the interregnum, i.e. from April 2013 to June 2014 (i.e. when the petitioner filed present petition), the petitioner slept over his own right or claim and did not take any action to enforce the resolution of June 2011 or August 2012. Therefore, now the Court cannot set the clock back. For such delay and inaction he has to thank himself.

47. By that time, the Academic Council and Executive Council had already passed the resolution dated 1.6.2014 and approved the resolution dated 27.3.2014 by the Joint Board of Studies in law.

48. On conjoint reading of the resolution dated 27.3.2014 by Joint Board of Studies in Law with the said two resolutions dated 1.6.2014 separately passed by the Academic Council and Executive Council (approving the resolution of Joint Board of Studies in Law), it emerges that the previous decision/resolution dated 11.6.2011 as well as the earlier circular dated 22.6.2011 and the resolution dated 18.8.2012 lost their efficacy and they would not survive and would stand cancelled.

49. Since, (a) on the date when the petitioner filed the petition; and (b) as on the date when the petition was circulated for hearing (i.e. 19.6.2014), the resolution dated 27.3.2014 by Joint Board of Studies in law was already passed; and since after April 2013 until 19.6.2014, the petitioner himself did not take any action and since on 1.6.2014 the highest decision-making body of the respondent university (i.e. Academic Council and Executive Council) had passed the resolutions dated 1.6.2014 which superseded the earlier resolutions, now any effective relief cannot be granted to the petitioner.

50. As such, the decision as to whether additional trial/opportunity should be granted or not, and such other topics or steps, are purely and wholly within the realm and discretion of the respondents university and the experts in the field of academics. After the Academic Council and Executive Council approved the suggestion/opinion and resolution dated 27.3.2014 by the Joint Board of Studies in Law, this Court cannot sit in appeal over the decision/resolution dated 1.6.2014 by the Academic Council and Executive Council and/or cannot interfere with the said resolution/decision dated 1.6.2014 by the Academic Council and Executive Council. If the respondent university and its decision-making body and the experts decide that any additional trial/opportunity to the students of old course is not required to be given or some limited number of trials should be granted to the students of old course, then the Court cannot substitute Court's view or opinion for that of the university and the experts, unless the decision is infected and tainted by mala fides or any statutory provision is violated or the decision-making process is materially vitiated or if the university acts in breach or contrary to the decision of Academic Council and Executive Council.

51. In this context, it is relevant to mention that in present case, the petitioner has neither established nor even alleged mala fides or breach of any statutory provision.

52. In respect of the alleged inaction from April 2013 to 1.6.2014 or in respect of the resolution dated 27.3.2014 by Joint Board of Studies in Law or in respect of the resolution dated 1.6.2014 by Academic Council and Executive Council, the petitioner has failed to establish any mala fide. Even otherwise, the Court does not see any mala fide in the said resolution dated 27.3.2014 and/or resolution dated 1.6.2014. The said resolutions are not "particular student specific" but have been taken in respect of entire course and having regard to the fact that the old course is discontinued since April 2011, and that therefore also it is not possible to attribute any mala fide in the decision of the Academic Council and Executive Council or the respondent university.

For the aforesaid reasons, the petitioner is not entitled for any relief. The petition fails and is accordingly rejected. Notice is discharged. Ad-interim relief, if any, stands vacated forthwith.