

(1997) 12 DEL CK 0044

In the Delhi High Court

Case No : CW No. 4318/97, 4471/97, 4868/97 and 5106/97

Naseem Ahmed and Others

APPELLANT

Vs

Jamia Millia Islamia and Others

RESPONDENT

Date of Decision : 19-12-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 12 DEL CK 0044

Hon'ble Judges : Cyriac Joseph, J

Bench : Single Bench

Advocate : Mr. Ravi Gupta, for the Appellant; Mr. A K Sikri and Mr. B B Sahni, for the Respondent

Judgement

Cyriac Joseph, J.—A common question arises for consideration in these four writ petitions. Hence they are being disposed of by a common judgment.

2. The petitioners in these writ petitions are students of B.Sc.Engg.course in the Jamia Millia Islamia, a Central University established under the provisions of the Jamia Millia Islamia Act, 1988. B.Sc. Engg. course is a four years course and as per the provisions in the Ordinance of the University no person shall be admitted for the examination in B.Sc. Engg. after the lapse of seven years after admission to first year of the course. The petitioners could not complete the course and pass the examination within the stipulated period of seven years.

3. In the case of petitioners in CW 4868/97 one paper/subject remained to be cleared when the stipulated period of seven years expired. However, the controller of examinations granted them special permission to appear in the annual examination of 1997 and to clear the paper/subject concerned. But before they could appear in the examination the said special permission was withdrawn and consequently they could not appear in the annual examination of 1997.

4. In the case of the petitioner in CW 4318/97 four papers/subjects remained to be cleared even after the expiry of the stipulated period of seven years. However

he was given admit card to appear in the annual examination of 1997 to clear the said four papers/subjects. Accordingly, he appeared in the examination of three papers on 4.8.1997, 22.7.1997 and 30.7.1997 but when he went to appear in the examination of the 4th paper on 16.8.97 he was not allowed to appear in the examination. He was given an order dated 6th August, 1997 of the Controller of Examinations stating that his application for relaxation in the time limit and for declaration of his withheld result had been turned down by the Academic Council and hence the admit card which had been issued to him by mistake stood cancelled.

5. The petitioner in CW 4471/97 also could not complete the course and pass the examination within the stipulated period of seven years which expired in 1995-96. However on the petitioner's application for extension of the period by one year he was allowed to attend the classes of final year during 1996-97 and was allowed to appear in the annual examination in 1997 by the Academic Council of the University. Accordingly, he was given admit card for the examination and he appeared in the examination. But the result of the examination has been withheld in his case. By communication dated 16th September, 1997 he was informed by the Controller of Examinations that the permission granted to him beyond the prescribed limit by the Academic Council had been withdrawn and consequently he was not eligible to take the annual examination 1997.

6. In the case of the petitioner in CW 5106/97 the stipulated period of seven years expired in 1996 and two papers/subjects remained to be cleared by him. Though the petitioner requested the authorities of the university to grant him special permission to appear in the annual examination of 1997 and to clear the remaining two papers, the said request was not granted and consequently the petitioner could not appear in the annual examination of 1997.

7. Aggrieved by the abovementioned action of the respondent university in refusing to grant special permission to appear in the examination after the stipulated period of seven years and in cancelling the admit card already issued for appearing the examinations and in withholding the result of the examination already held, the petitioners have filed these writ petitions. Those who have appeared in the examinations pray for direction to the respondent to declare the result of those examinations. Those who were prevented from appearing in the annual examination 1997, pray for a direction to the respondents to permit them to appear in the compartmental examinations which are now scheduled to commence on 24.12.1997.

8. Admittedly the B.Sc. Engg. course is a four years course and as per Regulation 1(10) of the Ordinance of the University the time limit for passing the examination in B.Sc. Engg. course is seven years. It is specifically provided in the Ordinance that no person shall be admitted for the B.Sc. Engg. examination after the lapse of seven years after admission to first year of the course. There is no dispute on this point. According to the respondents there is no provision in the

Jamia Millia Islamia Act, 1988 or in the Statutes and the Ordinances of the University conferring power on any body/authority of the University to grant relaxation in respect of the abovementioned time limit prescribed by the Ordinance of the University. None of the learned counsel appearing for the petitioners could point out any such provision in the Act or the Statutes or the Ordinances. Therefore, it has to be held that under the relevant provisions of the Jamia Millia Islamia Act and the Statutes and Ordinances of the University the petitioners were bound to complete the B.Sc. Engg. course and to pass the examinations within the stipulated period of seven years and that they have no right to appear in the examination after the expiry of the period of seven years. There is also no provision in the Act or the Statute or the Ordinance enabling or authorising any authority/body of the university to grant relaxation and to allow the petitioners to appear in the examination after the expiry of the stipulated period of seven years. Hence the action of the respondent in refusing permission to the petitioners to appear in the annual examination 1997 on the ground that the stipulated period of seven years had already expired in their case cannot be held to be wrong or illegal. The cancellation of the permission given without authority or competence and the withdrawal of the admit cards wrongly issued and the withholding of the results of the examination in which the petitioners were not entitled to appear also cannot be said to be illegal in as much as the respondent university was only correcting a mistake occurred due to the unauthorised action of some authorities of the university. In exercise of the discretionary jurisdiction under Article 226 of the Constitution this court cannot prevent the respondent university from strictly adhering to the rules or from correcting a mistake occurred due to the unauthorised actions of some authorities of the university. In the prevailing circumstances of the respondent university the determination and zeal of the new Vice Chancellor to strictly enforce the rules and regulations and to restore discipline, order and normalcy in the campus deserve appreciation and support. In paragraph 1(A) and (B) of the counter affidavit filed by the Vice Chancellor in CW 4868/97, he has explained the unenviable situation in the university and the efforts being made for improving the situation. In my view this court should refrain from any interference which would prejudice the efforts of the Vice Chancellor and the other authorities of the University "to bring and restore the glory of the institution". The academic record of the petitioners as revealed in the writ petitions and the counter affidavits and also their dismal performance in the past do not in any way help to persuade this court to exercise its discretionary jurisdiction in favour of the petitioners.

9. Notwithstanding the position explained above I felt that the university could show some indulgence in the case of the petitioners in view of the following circumstances:

(a) It has been a practice in the respondent university to grant extension of time in special cases to complete the course beyond the period stipulated in the Ordinance despite the absence of power to grant such relaxation. In the light of

the above practice in the past students like the petitioners did not anticipate a sudden or abrupt deviation from the said practice. A notice or warning would have been desirable.

(b) Keeping with the past practice the Academic Council and the Controller of Examinations considered the request made by many students and granted them special permission to appear in the annual examination 1997. Except in the case of the petitioner in CW 5106/97 admit card for appearing in the annual examination 1997 was issued to all the petitioners. The petitioner in CW 4471/97 was allowed to appear in all the papers and only the results are to be announced. The petitioner in CW 4318/97 was allowed to appear in three out of four papers and the admit card was cancelled before he appeared in the remaining one paper. The admit cards issued to the petitioners in CW 4868/97 were with- drawn before they could actually appear in the examinations. In other words, a benefit already given to the petitioners though unauthorisedly by the Academic Council or the Controller of Examinations has been taken away.

(c) Now that the authorities of the university as well as the students have realised that there is no provision in the Act or the Statutes or the Ordinances to permit the students to appear in the examination after the expiry of the stipulated period, indulgence can be shown in the case of the petitioners for this year alone without sending any wrong signals for the future.

Hence I requested the learned counsel for the respondents to consider whether some indulgence can be shown by the University in the case of these petitioners in view of the abovementioned circumstances. After consulting the respondents learned counsel for the respondents submitted that in the case of the examinations already held results can be allowed and in other cases the petitioners can be permitted to appear in the compartmental examinations commencing on 24.12.1997. He also submitted that it may be made clear that this is a one time concession and that it will not entitle the petitioners to claim further extension of time.

9. I appreciate the fair stand taken by the respondents and their counsel. This will extend relief and ensure justice to the petitioners without in any way prejudicing the determination and efforts of the respondents to enforce the rules and regulations strictly hereafter.

10. Accordingly in the light of the submissions made by the learned counsel. for the respondents, these writ petitions are allowed and the following directions are issued.

(i) In cases where the petitioners have already appeared in the annual examination 1997 their results may be declared on or before 22nd December, 1997 and if any of them has failed in the said examination he may be permitted to appear in the compartmental examinations commencing on 24.12.1997 and the results of such examinations also may be duly declared.

(ii) In cases where the petitioners were prevented from appearing in the annual examination 1997 they may be allowed to appear in the compartmental examinations commencing on 24.12.1997 and their results may be duly declared.

(iii) The concessions made by the respondents in the case of these petitioners will not constitute a precedent.

(iv) The petitioners will not be entitled to claim any further extension of time to complete the course and to pass the examination on the basis of the indulgence shown by the respondents in these cases.

The writ petitions are disposed of in the above terms. No order as to costs.