
(2010) 08 DEL CK 0032

In the Delhi High Court

Case No : Writ Petition (C) No. 2775 of 2010 and CM No. 5535 of 2010

Neetu Sharma

APPELLANT

Vs

Delhi University and Another

RESPONDENT

Date of Decision : 02-08-2010

Acts Referred:

Citation : (2010) 08 DEL CK 0032

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Neeraj Kumar Singh, for the Appellant; Manisha and Amit Bansal, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The petitioner, a Non-Collegiate student of Laxmi Bai College, Ashok Vihar, Delhi (which has not been impleaded as a respondent), has preferred this petition impugning the action of the respondent University of not allowing the petitioner to appear in the examination for promotion from Second to the Third year, for the reason of the petitioner not meeting the requisite attendance criteria. This Court vide ad-interim order dated 26th April, 2010 directed the respondent University to issue the admit card to the petitioner so as to enable her to appear in the examination. It was however made clear that for the reason of being so allowed to take the exams, no special equities will flow in favour of the petitioner. The counsel for the petitioner informs that pursuant to the said directions the petitioner has appeared only in three out of the six papers in the said exam, in as much as the examination of three papers had already been held prior to the order aforesaid.

2. The petitioner has 29% instead of the requisite 66% attendance. The case of the petitioner is that she was participating in a dramatic activity on behalf of the College and owing where to had to miss her classes. The counsel for the petitioner contends that the petitioner was throughout assured by her teachers that since she was participating in the activity on behalf of the College, she need

not to worry about attendance and would be given the requisite attendance. The counsel for the petitioner contends that the said averment in the petition has not been controverted by the University. Though the counsel for the respondent University contends that the aforesaid averment in the petition has been controverted in the counter affidavit but in any case the averment was directed against the College and whom the petitioner has chosen not to implead as a party. The attendance is marked by the respective Colleges and only on the basis of the attendance record forwarded by the Colleges to the University, the University issues the admit card for the examination. The grievance if any of the petitioner of the attendance being not marked is with respect to the College which has not been sued.

3. I have enquired from the counsel for the petitioner whether the petitioner was the only student from the College participating in the drama aforesaid and if there were other participants also, whether they have also been denied the attendance. The counsel for the petitioner states that there were seven or eight students who were participating in the said drama and all of whom have not faced any problem of attendance and it is only the petitioner who has not been marked as present while her colleagues in the said dramatic activity were given the requisite attendance. The same would again be a grievance against the College which has not been sued.

4. The respondent University has even otherwise in its counter affidavit stated that as per the policy of the respondent University, for the participation in extracurricular activities, the teacher in charge is entitled to give only 6% credit in the attendance. The shortfall as aforesaid of the petitioner is much beyond thereto.

5. The respondent University its counter affidavit has also stated and the counsel for the petitioner does not controvert that the petitioner in the first year also was short of attendance, having only 46% attendance but was still permitted to take the exams on the basis of her undertaking to the University that she will attend more classes in the following year and will be detained if fails to fulfill the requirement of cumulative attendance of at least 67%. The petitioner in the said undertaking had also promised to attend 100% classes and be regular and improve her performance in the following year. The factum of having furnished the said undertaking has been concealed by the petitioner in the petition; rather during the arguments it was sought to be contended that the Non-Collegiate students were not told of the newly introduced Rule w.e.f. Academic Year 2008-09 qua minimum attendance of Non-Collegiate students also. However the said argument is falsified from the undertaking of the petitioner which is not disputed. The petitioner is not entitled to any discretionary relief for practicing such concealment and falsely contending that she was not informed of the requirement for minimum attendance.

6. The counsel for the respondent University also draws attention to *Kangana Modi and Others Vs. National Institute of Fashion Technology and Another*, and

which in turn relies upon the Division Bench judgment of this Court in W.P. (C) No. 9143/2007 titled Kiran Kumari v. Delhi University laying down that in matters relating to academics and standards of education, the Court would show deference to the opinion of the academicians unless a case of patent perversity is made out. The counsel for the petitioner contends that there can be no criteria for attendance in the Non-Collegiate course. The said question has neither been raised in the petition nor falls for consideration, the petitioner having given the undertaking aforesaid. No case of perversity is made out in the present petition.

7. Self study is not sufficient. Even though, distance learning has come to be widely accepted as a universal mode of acquiring knowledge, skills and qualifications, yet traditional forms of knowledge dissemination holds great relevance where instructional interface is mandatory. The requirement of minimum attendance is not a mere formality but a term of eligibility to sit for the examination.

8. The Division Bench of this Court in Ashutosh Bharti and Others Vs. The Ritnand Balved Education Foundation (Regd) and Others and in Arvind Gupta Vs. University of Delhi and Another, and in Preeti Srivastava Vs. Central Board of Secondary Education and Another, and Single Judge of this Court in Yogesh Bhatia Vs. University of Delhi and Another, and in Neera Dadhwal Vs. Deepak Paintal and Others have emphasized the importance of attendance and that Rules with regard thereto cannot be given a go bye on sympathetic grounds.

9. There is no merit in the petition, the same is dismissed.