

(2009) 09 GAU CK 0015
In the Gauhati High Court
Case No : Writ Petition (C) No. 4513 of 2008

Nijara Devi Baruah

APPELLANT

Vs

Gauhati University and Others

RESPONDENT

Date of Decision : 08-09-2009

Acts Referred:

Gauhati University Regulations — Regulation 14

Citation : (2009) 5 GLT 231

Hon'ble Judges : Hrishikesh Roy, J

Bench : Single Bench

Advocate : K.K. Mahanta and Mitali Kotaki, for the Appellant; L.P. Sharma, for the Respondent

Final Decision : Dismissed

Judgement

Hrishikesh Roy, J.—Heard Mr. K.K. Mahanta, learned Senior Counsel appearing for the Petitioner. Also heard Mr. L.P. Sharma, learned standing counsel for the Gauhati University.

2. The Petitioner took admission in the LL.B. Course of the Gauhati High Court in the year 2000 and was scheduled to appear in the LL.B. Preliminary Examination in the year 2001. Accordingly under the provisions of Regulation 15, the Petitioner was required to clear her LL.B. Degree within 6 years from the due date of her Preliminary Examination. Therefore the Petitioner was required to complete her LL.B. Course by the year 2007.

3. The relevant provisions of the Gauhati University's new Regulation 14 and Regulation 15 may be extracted hereinbelow for ready reference:

Regulation 14: A candidate who fails to pass or fails to appear in the first due examination shall have to pass in that examination within the period of holding the next 3 consecutive examinations.

Regulation 15: A candidate shall be required to clear his/her LL.B. degree within

6 years from the date of his/her first due examination in LL.B. Preliminary, provided that a student shall be allowed to appear in not more than three chances in each part the LL.B. Examinations.

4. By Regulation 14 as noted above, a candidate who fails to pass or fails to appear in the first due examination is required to pass in the said examination within a period of holding of the next 3 consecutive examinations.

Similarly under Regulation 15, a candidate is required to clear the LL.B. Degree within 6 years from the date of first due Preliminary LL.B. Examination. It is provided further under Regulation 15 that maximum 3 chances are available to each student to clear each part of the LL.B. Examination.

5. The LL.B. students are however granted a special chance (4th chance) by the Gauhati University Notification dated 27.9.07, to clear any 2 of the 3 LL.B. Examinations (i.e. Preliminary, Intermediate or Final) and because of the notification 29.9.07 a student can avail of a special 4th chance, to clear 2 of the 3 LL.B. Examinations, beyond the 3 chances permissible under Regulation 15.

6. The following chart would indicate how the Petitioner progressed during the LL.B. Course in the Gauhati University.

From the above chart, it can be seen that the Petitioner did not appear in the LL.B. Final Examination scheduled in the year 2003, 2004 and 2007. She appeared in the Final Examination held in the year 2005 & 2006 but failed to clear some of the Final year's subjects.

7. As the University authorities did not permit her to avail of one more chance for the LL.B. Final Examination scheduled in the year 2008, the Petitioner approached this Court seeking direction to enable her to appear in the LL.B. Final Examination in the year 2008. This Court by interim order dated 23.10.08 as an ad interim measure, permitted the Petitioner to sit in the Final LL.B. Examination scheduled for 2008 (eventually held w.e.f. 23.1.09) but ordered that the declaration of result of the said examination shall be subject to further orders of the Court in the instant case.

8. Mr. Mahanta appearing for the Petitioner submits that it is because of unavoidable medical condition, the Petitioner could not avail of the chances to sit in the Final LL.B. Examination scheduled in the year 2003, 2004 & 2007 and since the Petitioner could not appear in those examinations for reasons beyond her control, the ratio of the decision of this Court in W.P. (C) 6019/07 (Sanowar Hussain v. Gauhati University and Ors.) be applied for a declaration that the Petitioner was entitled to avail of additional chance in the year 2008 to clear the LL.B. Final Examination.

Interpreting the provisions of Regulation 14, the learned Single Judge of this Court has held that the expression "a candidate who fails to appear" occurring in Regulation 14, means a candidate who voluntarily fails to appear and not a candidate "who could not appear for reasons beyond his control". However the

learned Court had held that the outer limit for passing the LL.B. Examination is 6 years from the date of the first due Preliminary Examination.

9. Opposing the contention of the Petitioner, Mr. L.R. Sharma, learned Counsel for the Gauhati University refers to the provisions of Regulation 15. He submits that an LL.B. student has to clear the LL.B. Course within maximum period of 6 years from the due date of her First Preliminary Examination. Since the Petitioner in the instant case was scheduled to sit in the First Preliminary Examination in the year 2001, whatever number of chances the Petitioner was entitled to avail to clear the LL.B. Examination, the same could be availed only within the year 2007 and there cannot be any justification to permit the Petitioner to avail of additional chances, after expiry of the stipulated 6 years period provided in Regulation 15.

10. I have considered the submissions made by the learned Counsels appearing in the instant case. The ratio of *Sanowar Hussain (supra)* may enable the Petitioner to avail of additional chances to clear the LL.B. Examination, if it can be shown that her failure to appear in the Final Examinations scheduled in the year 2003, 2004 and 2007 were for reasons beyond the control of the candidate. But even if the Petitioner failed to sit in the Final Examinations of those years for reasons beyond her control, even then the outer limit imposed by Regulation 15 would come into play and further chance that the Petitioner contends to be available beyond the year 2007, in my view cannot be granted, because of the 6 years outer limit imposed by the Regulation 15.

11. In the above circumstances, although the writ Petitioner by an interim order has been permitted to sit in the LL.B. Examination, since I have held that the Petitioner was not legally entitled to sit for any LL.B. Examination beyond the year 2007 because maximum 6 years time, that is available, her sitting in the examination in the year 2007 is not found to be authorized by law.

12. Accordingly no legal merit is found in this writ petition and the same is dismissed.