

(2022) 11 DEL CK 0030

In the Delhi High Court

Case No : Letter Patent Appeal No. 20 Of 2021, Civil Miscellaneous Application
No. 1274 Of 2021

Nishant Khatri

APPELLANT

Vs

Jawaharlal Nehru University

RESPONDENT

Date of Decision : 01-11-2022

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2022) 11 DEL CK 0030

Hon'ble Judges : Satish Chandra Sharma, CJ;Subramonium Prasad, J

Bench : Division Bench

Advocate : Monika Arora, Yash Tyagi, Shivam Raghuvanshi, Apoorv Kurup, Nidhi Mittal, Ojaswa Pathak, Sanjay Khanna, Pragya Bhushan, Karandeep Singh, Tarandeep Singh

Final Decision : Dismissed

Judgement

Subramonium Prasad, J

1. Aggrieved by the Order dated 16.12.2020 passed by the learned Single Judge in W.P.(C) 10469/2020, the Appellant has filed the instant appeal.

2. The facts of the case reveal that the Appellant intended to pursue M.Phil/Ph.D (International Law) from Centre for International Studies, Jawaharlal Nehru University (JNU). It is stated that Appellant took entrance examination for M.Phil/Ph.D (International Law) and he was called for viva voce of both the courses.

3. The Appellant herein submits that as per the JNU Admission Policy and Procedure, 2020-21 and the UGC (Minimum Standards and Procedure for Award of M.Phil/Ph.D Degrees) Regulations, 2016, the entrance test for M.Phil/Ph.D should consist of 50 per cent questions from research methodology and 50 per cent subject specific questions. He states that in the M.Phil/Ph.D examination conducted by the Respondent, only 3 per cent questions were asked from the research methodology syllabus.

4. Material on record indicates that the Appellant herein had filed W.P.(C) 7442/2020. The case put up in the said writ petition was that the e-prospectus for the entrance examination of M.Phil and Ph.D for International Studies is in violation of the Admission Policy and the UGC Regulations. It was the grievance of the Appellant that the Respondent did not declare/notify any syllabus for 50 per cent portion of the research methodology for any of the examination. The learned Single Judge vide Order dated 03.10.2020 in W.P.(C) 7442/2020 rejected the said contention holding as under:-

" 6. Learned counsel for respondent No.1 has drawn my attention to an email that was written by petitioner No.1-Mr.Nishant Khatri on 24.04.2020 which was replied to immediately on 06.05.2020 by Prof.V.G. Hegde, Chairperson of the Centre for International Legal Studies where it has been clarified that research methodology component is intrinsic and integrated in the syllabus.

7. I cannot help noticing the delay and laches in filing of this writ petition. Admittedly, the e-prospectus was issued on 02.03.2020 which contained the notified syllabus. It is the own case of the petitioners that they have been trying to get clarifications since March 2020 and have been writing e-mails. Now, at the last minute just before the exam which to be held on 05.10.2020, the present writ petition has been filed. An explanation is sought to be given by the petitioners for the delay stating that they received their admit cards sometimes on or around 21.09.2020 and hence, now they have approached this court. In my opinion, there is no reason to have waited for the last minute and to file this writ petition just two days before the exam when the petitioners knew about the syllabus since March 2020. The writ petition is clearly hit by delay and laches.

8. That apart, I may also have a look at the syllabus that has been clearly spelt out in the prospectus/admission policy. The syllabus has been spelt out as follows:-

"5.

Centre for International Legal Studies (CILS)

Int. Legal Studies ILGP (105) ILGH (830)

The entrance examination will contain multiple choice questions covering subject-specific knowledge. The syllabus will include the following themes:

1) The history, nature and subjects of international law, Statehood and International Legal Personality, individuals, indigenous communities corporations; national liberation movements etc.

2) The sources of International Law;

custom, treaties; 'Hard Law' and 'Soft Law' debate, etc.

3) Functions and processes of International Law; public, order, global justice; human rights; trade and sustainable development; global public goods and

common heritage of mankind; Antarctica, Outer Space; Atmosphere and areas beyond national jurisdiction.

4) Institutions of International Law; the United Nations system; World Trade Organisation; functional /sectoral international organizations; regional organizations.

5) Responsibility of Enforcement in International Law; peaceful settlement of disputes; world court and other international tribunals.

6) War and peace in International law; the UN Charter, International Humanitarian Law; International Criminal Law; International military tribunals; International Criminal Court.

9. The issues raised by the petitioners were clarified by Mr. V.G. Hegde, Chairperson of the Institute on 06.05.2020 stating as follows:-

"This is with reference to query raised with regard to the M.Phil/Ph.D CILS/SIS syllabus as incorporated in the E-Prospectus 2020-21 for the entrance examination. The query related to the 50% for research methodology and remaining 50% to be subject specific. It further noted that the CILS syllabus did not specifically refer to the research methodology component as per JNU Admission Policy.

Pursuant to the above, this is to point out that the research methodology component is intrinsic and integrated into the syllabus. It may kindly be noted that the first two sections of the syllabus deal with the modes of international legal research such as sources, theories (global justice, human rights and others) history, institutions, case method research and related areas. This is specific to international law research and accordingly questions will include, as per the JNU Admission Policy 50% on research methods."

10. Hence, it has been clearly clarified to the petitioners that research methodology component is intrinsic and integrated into the syllabus. In my opinion, the aforesaid e-mail sent long back in May 2020 has clarified the position. The contention of the petitioners has no merit. There is no reason to interfere in the decision taken by the concerned experts. There are no grounds made out to give any directions to respondent No. 1 in this regard. There is no merit in the petition and the same is dismissed. Pending applications, also stand dismissed.

5. A perusal of the abovementioned paragraphs shows that the learned Single Judge found that the syllabus has been clearly spelt out in the prospectus/admission policy and that the research methodology component is intrinsic and integrated into the syllabus. The learned Single Judge opined that the experts have prepared the syllabus and the court while exercising its jurisdiction under Article 226 of the Constitution of India should not interfere with that.

6. After having failed in obtaining the admission, the Appellant has filed W.P.(C)

10469/2020 stating that the question paper is not in accordance with the policy. The learned Single Judge by the impugned order dismissed the writ petition stating that the Appellant cannot keep challenging the said exam repeatedly by filing multiple writ petitions claiming new grounds.

7. The Appellant, who appears in person, submits that the question paper is not in terms of the policy.

8. Clause 5.4 of the admission policy reads as under:-

"5.4 HEIs as mentioned in Clause 1.2 shall admit candidates by a two stage process through:

5.4.1 An Entrance Test shall be qualifying with qualifying marks as 50%. The syllabus of the Entrance Test shall consist of 50% of research methodology and 50% shall be subject specific. The Entrance Test shall be conducted at the Centre(s) notified in advance (change of Centres, if any, also to be notified well in advance) at the level of the individual HEI as mentioned in clause 1.2; and

5.4.2 An interview/viva voce to be organized by the HEI as mentioned in clause 1.2 when the candidates are required to discuss their research interest/area through a presentation before a duly constituted Department Research Committee."

9. A perusal of Clause 5.4 shows that the qualifying marks in the entrance examination would be 50 per cent and the syllabus of the entrance test shall consist of 50 per cent of research methodology and 50 per cent questions from the specific subject. The policy does not state that 50 per cent of the questions should be asked from research methodology and 50 per cent of the questions must be subject specific. The contention of the Appellant is, therefore, completely misplaced. It is for the examiner to set up the question paper and the courts while exercising their jurisdiction under Article 226 of the Constitution of India should not interfere with the question paper which has been again set up by the experts.

10. The observation of the learned Single Judge that the Appellant is trying to challenge the examination by taking unsustainable pleas having failed to challenge the admission process stating that the syllabus for the research methodology has not been brought out. The challenge to the examination by contending that the question paper must have 50 per cent questions from research methodology and 50 per cent questions from subject specific is not borne out from the Admission Policy and Procedure, 2020-21. It is for the examiner to prepare the question paper. The question papers are prepared by the teachers, who are experts in the requisite field, and Courts must refrain from interfering with the question paper prepared by experts while exercising jurisdiction under Article 226 of the Constitution of India.

11. Even though, the Appellant had filed frivolous writ petition and has now filed the instant appeal with a substantial delay and in view of the fact that the

Appellant is appearing in person, this Court is not inclined to impose costs.

12. The LPA is dismissed along with the pending applications, if any.