

**(2013) 12 DEL CK 0246**

**In the Delhi High Court**

**Case No :** Writ Petition (C) No. 7888 of 2013 and CM No. 16738 of 2013

Pushpal Kumar Mishra

APPELLANT

Vs

Vice Chancellor, Jamia Millia Islamia University and Another

RESPONDENT

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**Date of Decision :** 16-12-2013

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2014) 2 AD 30

**Hon'ble Judges :** V.K. Jain, J

**Bench :** Single Bench

**Advocate :** Binay Kumar, for the Appellant; Jaya Goyal, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

V.K. Jain, J.—The petitioner before this Court was caught using unfair means in the examination of the paper DPT-307. He was debarred from appearing in any examination of the University for a period of three (3) years vide order dated 27.9.2012. Being aggrieved from the said order, the petitioner filed WP (C) No. 3783/2013 inter alia claiming that he had not been given an opportunity of hearing before the said order came to be passed. Vide order dated 30.5.2013, the said writ petition was disposed of with a direction to the respondent to grant a personal hearing to the petitioner to enable him to explain his stand. A fresh order was to be passed thereafter by the University. In compliance of the order passed by this Court on 30.5.2013, the Examination Committee of the University gave hearing to the petitioner on 25.7.2013. After hearing the petitioner, the Committee passed the following order:

The relevant records were perused by the Committee. It was noted that earlier also in the academic year 2011-12 he was apprehended for using unfair means in the examination of paper DPT-302. At that time his whole examination had to be cancelled. Again he was found in possession of an incriminating document during the examination of paper DPT-307 on 28.06.2012. Keeping in view the entirety of his deplorable conduct, and the fact that he is a habitual offender in

committing unfair means in the examination, the Committee sustained its earlier decision of debarring him from appearance in any examination of the University for three years.

2. Admittedly the relevant Rule in this regard reads as under:

31.5 Any candidate detected using unfair means in an examination hall shall be reported to the Controller of Examination or through him by an Invigilator or any officials of examination or through him by Invigilator or by him any official of the University as the case may be. The Controller of Examination shall place the aforesaid matter before the Examination Committee for consideration, which may if satisfied with the facts alleged as true but also not disclosed any premeditation disqualify the candidate from passing the examination and debar him/her from appearing any university examination for a period not exceeding three years.

It would, thus, be seen that the University was competent to debar the petitioner from appearing in any University examination for a period not exceeding three (3) years and the maximum penalty has been imposed upon the petitioner.

3. It is not in dispute that earlier also the petitioner was punished by the University when he was found using unfair means in the academic year 2011-2012 in the paper DPT-302 and his whole examination had to be cancelled. Admittedly, he accepted the said decision and did not challenge it before any forum. Despite the punishment given earlier to him, the petitioner again indulged into use of unfair means in the examination.

4. Ordinarily it is for the disciplinary authority to decide the quantum of punishment to be imposed upon a delinquent student, considering the nature of the misconduct committed by him and the Court will not be entitled to interfere with such a decision, unless it is shown to be wholly arbitrary, irrational or so disproportionate to the misconduct as would shock the conscience of an ordinary person acting upon the material available to him. Considering the repeat misconduct of the petitioner, the University, in my view, was justified in imposing the maximum prescribed penalty upon the petitioner. The penalty imposed by the University, considering the repetition of misconduct by him, cannot be said to be arbitrary, irrational or so disproportionate to the misconduct, as would shock the conscience of the Court. The Court, therefore, will not be entitled to interfere with the penalty, in exercise of its writ jurisdiction under Article 226 of the Constitution. No ground made out for interfering with the order dated 1.10.2013 passed by the respondent-University.

The writ petition is dismissed. No orders as to costs.