

(2018) 07 RAJ CK 0114

In the Rajasthan High Court

Case No : Civil Writs No. 12499, 13733, 13082, 12509, 12653, 13430 of 2018

Rajendra Singh @APPELLANT@Hash Rajasthan University Of Health Sciences.

Date of Decision : 04-07-2018

Acts Referred:

Citation : (2018) 07 RAJ CK 0114

Hon'ble Judges :INDERJEET SINGH, J

Bench : Single Bench

Advocate : R. B. Sharma, Bhaskar Dagar Gandhi

Final Decision : Allowed

Judgement

1. The petitioner was admitted to the B.Sc. (Nursing) Four year Course conducted by the Rajasthan University of Health Sciences in the academic session 2009-10.

2. Counsel for the petitioner submits that Ordinance 299-V-10 provides that the maximum period to complete the course successfully should not

exceed to 8 years. However, in the year 2010 no examination was conducted by the respondent University, therefore, the petitioner is entitled for one

more chance. Counsel further submits that the respondent University is counting 8 years from the sessions 2009-10 and not allowing the petitioner to

write B.Sc. Nursing Final examination June/July 2018.

3. Counsel for the respondent relied upon Ordinance 299-V-10 and submits that the petitioner has to complete the course within 8 years and since 8

years have already passed the petitioner is not entitled for any further chance to write the examination.

4. At this stage, counsel for the petitioner relied upon a judgment passed by a Coordinate Bench of this court in the matter of Jitendra Gothwal Vs.

Rajasthan University of Health Sciences, S. B. Civil Writ Petition No. 2629/2017 decided on 22.02.2017, wherein a similar controversy has been

decided as under:â?? The petitioners were admitted to the B.Sc. (Nursing) Four Year Course conducted by the Rajasthan University of Health

Sciences in the academic session 2008-09. They have passed all papers in B.Sc. Nursing Part-I, II and III but have one or more due/back papers in

the B.Sc. Nursing Part-IV. The B.Sc. Nursing Part-IV Examination is commencing 23.02.2017 which petitioner sought to be admitted for passing of

their due/back papers in B.Sc. Nursing Part-IV. The respondent-University however denied the petitioners permission to be admitted the said

examination with reference to the Ordinance 299-V-10 of the University of Rajasthan adopted by it. The said ordinance reads as under:-

Ordinance.299-V-10:- â??Maximum number of attempts permitted for each paper will be three including the first attempts. Maximum period to

complete the course successfully should not exceed eight yearsâ??.

The case of the respondent-University is that the petitioners were first admitted in the Four Year B.Sc. Nursing Course in the Academic Year 2008-

09 and completed study cannot continue in the said course after Academic Year 2015-16. They are thus not now entitled to be admitted and to write

the B.Sc. Nursing Part-IV Examination for their back papers in the Academic Year 2016-17 for which examination are commencing 23.02.2017.

Mr. Brijesh Bhardwaj and Mr. Rajendra Sharma appearing for the petitioner admitted that no doubt, Ordinance 299-V-10 provides a maximum of

eight years for passing the Four Year B.Sc. Nursing Course. It has however submitted that the respondent-University first took the B.Sc. Nursing

Part-I Examination in respect of Academic Year 2008-09 in the year 2010 not as it ought to have in 2009.

Consequently one of eight years to pass the Four Year B.Sc Nursing Course was lost and only six years were thereupon available to the petitioners

for passing the remainder of the Four Year B.Sc. Course. This was to their prejudice. That prejudice is now showing in the denial to write the back

papers of B.Sc. (Nursing) Part-IV in the Academic Year 201617.

Mr. M.A. Khan counsel for the respondentUniversity admitted that there were indeed a delay in the holding the B.Sc. Nursing Part-I Examination in

respect of students admitted in the Academic Year 2008-09, for the reasons that

the respondent University was newly constituted and suffered paucity of staff which lead to the delay in holding the examinations. The examination for B.Sc. (Nursing) Part-I in the Academic Session 2008-09 were also delayed for the reasons that the course was started late.

Heard. Considered.

Ordinances 299-V-1 to 15 relate to the B.Sc. Nursing Four Year Course. They are to be wholistically read. None of the Ordinance can be read in

isolation. Ordinance 299-V-4 provides that "there shall be annual examinations and a second examination for the remanded candidates within a

period of 4 to 6 months after the declaration of result". Hence examination in B.Sc. (Nursing) have to be held each year. Admittedly, the B.Sc.

Nursing Part-I examination was not held in the Year 2009 when it ought to have been held. It was instead held after one year delay in 2010. In this

context, Ordinance 299-V-10 which provides that maximum eight year period from admission to complete the B.Sc. Four Year Course successfully

would have to be correspondingly construed. The petitioners having lost one year while writing the B.Sc. Nursing Part-I Examination for reasons

attributable to the Rajasthan University of Health Sciences. They have to be correspondingly compensated for in equity. On that equitable construction

of Ordinance 299-V-10 the petitioners in the special facts of the case would be entitled to be admitted to and write the B.Sc. (Nursing) Part III

Examination commencing 23.02.2017 to clear their back papers.

In the circumstances, I am of the considered view that in the peculiar facts of the case it would just and appropriate to direct that the petitioner is

allowed one last opportunity to be admitted to and write the B.Sc. Nursing Part IV in respect of their due papers. However in the event they fail to

pass the due papers in issue they shall not be entitled to write any further examination for the purpose.

Resultantly, the petition is allowed. The petitioner be allowed to participate in the B.Sc. Nursing Part-IV Examination commencing 23.02.2017 in

respect of back papers due and their result thereof be declared.

The writ petitions stand accordingly allowed.

A copy of this order be placed in SBCWP No.2692/2017.

5. The judgment relied upon by the learned counsel for the petitioner has not

been disputed by the counsel for the respondent.

6. In that view of the matter, I deem it just and proper to direct the respondents that the petitioner be allowed one last opportunity to write the B.Sc

Nursing Part-IV exam (commencing from 07.07.2018) in respect of due papers and result thereafter be declared. Since the petitioner was not at fault,

therefore, he may be treated as normal student and no late fee or penalty be charged from him with regard to respective subjects.

7. The writ petition stands allowed in the above terms.