
(2015) 05 RAJ CK 0070

In the Rajasthan High Court

Case No : Civil Writ Petition No. 9037 of 2014

Ram Naresh Jangid

APPELLANT

Vs

The Agriculture University and Others

RESPONDENT

Date of Decision : 08-05-2015

Acts Referred:

Citation : (2015) 05 RAJ CK 0070

Hon'ble Judges : Arun Bhansali, J

Bench : Single Bench

Advocate : Muktesh Maheshwari, for the Appellant; R.D.S.S. Kharlia, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Arun Bhansali, J.—This writ petition is directed against the order dated 28.8.2014 (Annex.-6), whereby the respondent-College has dropped the petitioner from College as he failed to maintain an OGPA of 4.00/10.00 at the end of academic session 2013-2014.

2. The petitioner after passing the Senior Secondary Examination appeared in the entrance test for admission to Agriculture University and was declared successful and granted admission in College of Agriculture, Mandor, Jodhpur. At the end of 1st semester, the petitioner obtained GPA (Grade Point Average) of 7.02. The examination for the 2nd semester were scheduled to commence from 27.5.2014 and the petitioner was issued admission card for the said examination. It is claimed by the petitioner that while the petitioner was at his native place, Gotan before the examinations, on 21.5.2014 he fell ill due to acute abdominal pain and vomiting and was treated at Government Community Health Centre, Gotan till 4.6.2014, but since the petitioner could not recover from the illness, he was referred to Government Hospital, Merta City where it is claimed that he remained under treatment till 24.6.2014; copies of sickness certificates has been annexed as Annexure-3 collectively and a fitness certificate dated 24.6.2014 has been annexed as Annexure-4.

3. It is submitted that on account of illness, the petitioner could not appear in the examinations for the 2nd semester; the petitioner was granted admission in 3rd semester and the fees were deposited and was granted provisional registration slip in this regard. It is claimed that while the petitioner was pursuing his studies for the 3rd semester, vide impugned order dated 28.8.2014, the petitioner was dropped from the College as he failed to maintain the required OGPA. The petitioner approached the Vice Chancellor of Swami Keshwanand Rajasthan Agricultural University, Bikaner ("SKRAU"), who by his communication dated 14/30.10.2014 forwarded the same to the Registrar, Agriculture University, Jodhpur indicating that as the case pertains to the Agriculture University, Jodhpur, keeping in view the circumstances of the student, in case the University wants the student can be given admission for the 2nd semester in the Session 2014-2015.

4. It is inter-alia claimed in the writ petition that relied on Rule 1.4.6 and 1.4.7 are not applicable as the same applies to a undergraduate, who failed to maintain an OGPA of 4.00/10.00 at the end of the first academic year, as in the present case the petitioner did not fail to secure grade point below 04, but it is a case where the petitioner could not appear in the examination on account of his illness.

5. It is claimed that the petitioner could be permitted to appear as ex-student in the subsequent semester examination in terms of Rule 1.5.2 or the case of the petitioner can be considered as semester withdrawal under Rule 1.10. A prayer has been made that the petitioner may be permitted to appear in 3rd semester examination alongwith 2nd semester examination and the order dated 28.8.2014 (Annex.6) be declared illegal.

6. A reply to the writ petition has been filed by the respondents inter-alia contending that the petitioner was seeking to mislead by claiming that he obtained more than 04 OGPA in the 1st semester relying on the GPA obtained by him in the 1st semester; it is submitted that the OGPA can only be calculated after student attending 2nd semester and after obtaining the GPA in each semester, reliance has been placed on Rule 1.4.6 and 1.4.7. It is inter-alia submitted that in the 2nd semester, the petitioner's attendance was short in 06 subjects out of 08 subjects, therefore, he was dropped from the College as he failed to maintain OGPA as per Rules and a letter by the Controller of examination specifically indicating applicability of Rule 1.4.6 and 1.4.7 in the petitioner's case has been placed on record. It is further submitted that the petitioner though failed to maintain his attendance in 06 subjects, but was free to give examination in remaining 02 subjects wherein he did not appear and therefore, he was dropped on account of non-maintenance of OGPA in the first academic year and as per Rule 1.4.7, the petitioner can be given readmission only through fresh entrance examination.

7. The plea raised by the petitioner regarding having fallen ill and the medical certificates for the period 21.5.2014 to 24.6.2014 have been disputed and a

specific allegation has been made that in fact, the petitioner was preparing/ participating in the Rajasthan Pre-Medical Test, 2014 and the respondents have produced a copy of the revised RPMT Examination date-sheet and the petitioner's mark-sheet pertaining to RPMT-2014. Further it is indicated that the provisional admission in the 3rd semester was granted pending result of 2nd semester; the petitioner approaching Vice Chancellor, SKRAU was without any authority. It is further submitted that Rule 1.10 pertaining to withdrawal from the semester was not applicable as the precondition for such withdrawal was OGPA of 5/10 and as the petitioner had obtained OGPA of 3.51, the said rule was not applicable. It was prayed that the petitioner is not entitled to any relief from this Court and the petition deserves to be dismissed.

8. It is important to notice that no rejoinder to the reply filed by the respondents has been filed by the petitioner.

9. Learned counsel for the petitioner submitted that the University was not justified in dropping the petitioner from the University; the petitioner on account of his illness could not appear in the 2nd semester examination and therefore, it was expected from the University to take a sympathetic view of the circumstances, which they have failed to take. It was submitted that from the medical certificates (Annex.-3), it is apparent that the petitioner was not well during the period 21.5.2014 to 24.6.2014, when the examination for the 2nd semester were held, which prevented the petitioner from appearing in the 2nd semester. The provisions of Rule 1.4.6 and 1.4.7 are not applicable in the present case as there is no question of non-maintenance of OGPA as the petitioner had not appeared in the examination. Further it was submitted that the provisions pertaining to ex-student under Rule 1.5.2 and withdrawal from the semester under Rule 1.10 have not at all been applied by the University resulting in grave injustice to the petitioner. It was submitted that though the petitioner is entitled to appear in the examinations for subsequent semester, however atleast the order regarding dropping of the petitioner from the University deserves to be set-aside and the petitioner may be permitted to appear in the 2nd semester examination.

10. Learned counsel for the respondents vehemently opposed the submissions made by the petitioner. It was submitted that the petitioner has not approached this Court with clean hands. The medical certificates (Annex.-3) produced by the petitioner are made up documents and in fact, the petitioner was preparing for his RPMT Examinations, wherein he appeared and failed and thereafter, is now seeking to undo the consequences which occurred on account of his absence from the College.

11. It is submitted that as the petitioner remained absent, as the petitioner was short in attendance in 06 out of 08 subjects, the provisions regarding ex-student are not attracted, further the petitioner having failed to obtain OGPA of 5/10, he was not eligible regarding withdrawal from semester and consequently, the provisions of Rule 1.4.6 and 1.4.7 are the only provisions, which are attracted in

the present case and the respondent-College was justified in passing the order Annexure-6. It was prayed that the writ petition filed by the petitioner deserves to be dismissed.

12. Learned counsel for the respondents relied on judgments of Hon''ble Supreme Court in *Guru Nanak Dev University Vs. Parminder Kr. Bansal and another*, AIR 1993 SC 2412 : (1993) JT 449 Supp : (1993) 4 SCC 401 and *Sec., U.P.S.C. and Another Vs. S. Krishna Chaitanya*, AIR 2011 SC 3101 : (2011) 8 JT 596 : (2011) 8 SCALE 415 : (2011) 9 SCR 842 : (2011) AIRSCW 4682 : (2011) 8 Supreme 148 .

13. Before examining the submissions made by learned counsel for the parties, it would be relevant to notice certain provisions of the Rules pertaining to the undergraduate programme i.e. B.Sc. (Hons.) Agriculture as indicated in the Information booklet published by SKRAU, which admittedly is applicable to the present case:-

"1.3 Definitions

1.3.3 "Course" means a unit of instruction or a segment of a subject matter to be covered in a semester. Each course is assigned a specific number, title and credits.

1.3.4 "Credit hour" also written as "Credits" implies that each credit hour will represent one hour of lecture or two to three hours of laboratory/field practical each week in a semester.

1.3.5 "Grade point" is a numerical number, which denotes students' performance in a course.

1.3.6 "Credit point" is the product of credit hours and grade point obtained by the student in a course.

1.3.7 "SGPA" (Semester Grade Point Average) is the average of the credit points of a semester.

1.3.8 "OGPA" is the overall cumulative grade point average obtained by the student in the courses taken in all the semesters completed by him/her in a degree programme.

1.4 Examination

1.4.6 Those undergraduate students who fail to maintain an OGPA of 4.0/10.00 at the end of the first academic year or 4.5/10.00 at the end of second academic year, as the case may be, shall be dropped from the college by the respective Dean/Principal automatically.

1.4.7 A Student who is dropped at the end of the first academic year may seek re-admission only through fresh entrance examination.

Ex-students:

1.5.2 A candidate may be permitted to appear as ex-student in the subsequent semester examination if he/she has completed attendance requirement and all the formalities of examination but fails to appear in examination in a course(s).

1.10 Withdrawal from Semester:

A student shall be permitted to withdraw from a semester only two times in a degree programme subject to the condition that his/her academic performance is satisfactory i.e. OGPA 5/10. For withdrawal, he/she will be required to submit a written request at least one week prior to the commencement of final examination of the semester which is to be withdrawn."

14. Admittedly, the petitioner was granted admission in the B.Sc. (Hons.) Agriculture 04 years degree course and in the 1st semester during the session 2013-2014, the petitioner obtained GPA 7.02, which as noticed under the provisions is the average of the Credit Point of a semester. Whereafter, the petitioner was scheduled to appear in the 2nd semester examinations due to commence from 27.5.2014, when it is claimed that the petitioner was taken ill and in support thereof, the petitioner has produced two medical certificates (Annex.-3) pertaining to the period 21.5.2014 to 4.6.2014 and 5.6.2014 to 24.6.2014 alongwith Annexure-4, a fitness certificate dated 24.6.2014.

15. A bare look at the medical certificates produced by the petitioner reveals that while the certificate for the period 21.5.2014 to 4.6.2014 has been issued on 21.5.2014 by the Medical Officer, Community Health Centre, Gotan; the Medical Certificate for the period 5.6.2014 to 24.6.2014 has been issued on 5.6.2014 by the Medical Officer, Community Health Centre, Merta city. The Medical Certificate dated 5.6.2014 bears Sr. No. 64866.

16. Interestingly, the fitness certificate (Annex.-4), which has been issued by the same Medical Officer, Community Health Centre, Merta City, who had issued a medical certificate dated 5.6.2014, bears the outward number as 64866 dated 5.6.2014, which is identical to the serial number of the medical certificate issued on 5.6.2014. The very fact that the fitness certificate and medical certificate for the period 5.6.2014 to 24.6.2014 have been issued by the Medical Officer bears the same outward number and date i.e. 64866/5.6.2014, necessarily means that the entire story sought to be projected by the petitioner regarding his illness is on face of it, is false.

17. The medical certificates for the first time were produced by the petitioner alongwith his representation made to the Vice Chancellor, SKRAU, Bikaner on 13.9.2014 and prior to that there is no indication in the writ petition that at any point of time the so-called medical certificates were produced before the University indicating the illness of the petitioner and/or his inability to appear in the examination. The above aspect of obtaining forged/concocted medical certificates assumes significance in view of the specific reply alongwith documents produced by the respondents inter-alia indicating that the petitioner, in-fact, was preparing for his RPMT-2014, in which he appeared alongwith the

fact that the petitioner has failed to file any rejoinder to the reply filed by the respondents.

18. From the above state of affairs, it is apparent that the entire story sought to be made up by the petitioner regarding his illness is on face of it false and baseless.

19. There is no denying of the fact that the petitioner was short in attendance in 06 out of 08 subjects and therefore, even as per the provisions pertaining to ex-student under Rule 1.52 (supra), the petitioner would have been entitled only to appear in two papers had he been in-fact ill and could not appear in the examination as the rule requires the student to have completed the attendance requirement and all the formalities of examination before he could be permitted to appear as ex-student in the subsequent semester.

20. The plea raised by learned counsel for the petitioner that as the petitioner did not appear in the 2nd semester, there is no question of his not obtaining the OGPA of 04 out of 10 at the end of first academic year is also baseless, inasmuch as, the OGPA has been described as the overall cumulative grade point average obtained by the student in the courses taken in all the semesters completed by him in a degree programme and are obtained based on the formula as indicated here-in-before under Rule 1.3.8. The petitioner having failed to appear in the 2nd semester examination, it cannot be said that his OGPA for the academic year could not be ascertained only because he chose not to appear in the examination.

21. The Controller of examination vide Annex.-R/1 has indicated the OGPA of the petitioner at 3.51 and in that view of the matter, the provisions of Rule 1.4.6 would be squarely attracted in the matter wherein as the petitioner has failed to maintain as OGPA of 04 out of 10, he has to be dropped from the College by the respective Dean/Principal automatically and the consequence whereof is provided in Rule 1.4.7 wherein the student, who is dropped at the end of first academic year is required to seek readmission only through fresh entrance examination.

22. In that view of the matter, the order Annex.-6 passed by the respondents cannot be faulted.

23. So far as the forwarding of representation by the Registrar of SKRAU to the respondent - Agriculture University, Jodhpur vide Annex.-8 is concerned, besides the fact that the same is not binding on the respondent- University, the very fact that while making recommendation Annex.-8 the facts that the medical certificates produced by the petitioner were doubtful/false and that the petitioner was short in attendance during the 2nd semester in 06 out of 08 subjects was apparently not taken into consideration, the said recommendation, which is contrary to Rule 1.4.6 even otherwise is of no consequence.

24. The very fact that Rule 1.4.6 provides for automatic dropping of a student on failing to maintain an OGPA of 04 out of 10 at the end of first academic year, the prayer made by learned counsel for the petitioner that the petitioner may now be

permitted to appear in the 2nd semester examination after setting aside the order to drop him, cannot be accepted essentially in order to maintain the discipline of the University and on account of the fact that the petitioner has indulged in making false claim regarding his illness, which is apparent from the documents Annexures-3 and 4.

25. In view of the above discussion, there is no substance in the writ petition, the same is, therefore, dismissed.

26. No costs.