

(2013) 12 DEL CK 0263

In the Delhi High Court

Case No : WP (C) No. 7645 of 2013 and CM No. 16304 of 2013

Rishan Dhamija

APPELLANT

Vs

University of Delhi and Another

RESPONDENT

Date of Decision : 05-12-2013

Acts Referred:

Citation : (2013) 12 DEL CK 0263

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

Bench : Single Bench

Advocate : Rajesh Yadav and Ms. Ruchika, for the Appellant; Mohinder J.S. Rupal, for DU, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Jain, J.—The petitioner before this Court is a student of LLB Course in Faculty of Law, University of Delhi, for the academic year 2013-2014. According to the petitioner, he fell ill from 20.8.2013 to 2.9.2013 and being confined to bed, could not attend the classes. This is also the case of the petitioner that during the period August-2013 to November-2013, he was actively involved and participated in a number of moot court competitions and as a result, he could not attend enough number of classes. The Attendance Rule of Faculty of Law, as contained in the Admission Brochure, reads as under:

All the students of L.L.B. shall have to put in minimum attendance of 66% of the lectures in each of the subjects as also at the moot courts and practical training course.

Provided that in exceptional cases for reasons to be recorded and communicated to the Bar Council of India, the Dean, Faculty of Law/Professor-in-Charge of the Law Centre concerned may condone attendance short of those required by this Rule, if the student had attended 66% of the lectures in the aggregate for the semester examination.

The Professor-in-Charge of the Law Centre shall have power to strike off the

name of the student who is grossly irregular in attendance inspite of warning or, when the absence of student is for such a long period that he cannot put in requisite percentage of attendance.

2. It would thus be seen that if we go by the Attendance Rules as incorporated in the Admission Brochure, every student has to attend at least 66% of the lectures in each of the subjects. He has also to attend at least 66% of the moot courts and practical training course. In exceptional circumstances, the Dean-Faculty of Law/In-charge of the concerned centre, may condone the shortage of attendance provided the student has attended 66% of the lectures in the aggregate, meaning thereby that even if attendance in a particular subject is less than 66%, the student can be allowed to appear in the examination in case his aggregate attendance in all the subjects taken together is not less than 66%.

However, Mr. Rupal, who represents University of Delhi states that as per the Rules of the University, moot courts are not a part of the curriculum for the students of law and, therefore, it is not obligatory for them to attend at least 66% of the moot courts. Mr. Rupal also submits that there is nothing like practical training course and the practical training course is only a part of the moot court. Be that as it may, the fact remains that even if a student attends 100% of the moot court competitions, the attendance in such competition cannot be taken into consideration while computing his attendance in the classroom. In other words, every student must necessarily attend at least 66% of the classroom lectures irrespective of the moot court competitions attended by him/her. The Rules do not provide for cross adjustment of the attendance by, adjusting the attendance above 66% in the moot court, for the purpose of attendance in the classroom lectures.

3. Admittedly, the petitioner before this Court did not attend 66% of the classroom lectures in aggregate. He attended 95 classroom lectures out of total of 180. The Law Faculty has given benefit of 10 attendance to each student who had participated in the moot court competition irrespective of whether he actually spoken in the said competitions or he only watched it. The learned counsel for the petitioner is right in pointing out that the Rules do not permit the Faculty of Law-University of Delhi to grant any such concession to the students and Mr. Rupal also fairly concedes the rule position in this regard. It is, therefore, expected that in future Faculty of Law will take note of the rule position and strictly comply with the Rules while computing attendance of the students in Faculty of Law.

4. In WP (C) No. 9143/2007 titled Kiran Kumari & Ors. Vs. University of Delhi & Ors., this Court inter alia observed and held as under:

14.....In matters relating to academics and standards of education, the Court would show deference to the opinion of the academicians unless a case of patent perversity is made out by the petitioners. The present is not, however, one such case where the requirement of the rule can be said to be so perverse or irrational

as to call for the intervention of this Court. As a matter of fact, the minimum percentage of lectures having been fixed at 66%, still gives to the students freedom to miss or abstain from 34% of the such lectures. That is a fairly large percentage of lectures which a student may miss for a variety of reasons including sickness or such other reasons beyond his control. No student can however claim that apart from 34% lectures which he is entitled to miss even without a cause, the shortage to make up 66% should be condoned if he shows good cause for the same.

In LPA No. 539/2010 titled Sukriti Upadhyay Vs. University of Delhi decided on 4.10.2010, the petitioner before this Court was a student of the first semester in the LLB Course of the University of Delhi and her attendance was 50 per cent. She claimed that she could not attend classes since she was suffering from backache and infection as a result of which she had to go to her hometown in Rajasthan from 1.8.2009 to 1.9.2009. She was allowed to take the first semester examination and thereafter further examinations pursuant to the interim orders passed by this Court. It was also claimed by her that though she had attended all the lectures in two subjects, she was awarded only 50 per cent and 60 per cent attendance for the reason that the attendance was marked on chit papers and not in the attendance register and in the said commotion to get the attendance marked at the end of the lecture many students were not able to get their attendance marked. She also claimed that under Ordinance VII of the University it had the power of relaxing the attendance requirement. A learned Single Judge of this Court held that the petitioner was not entitled to relaxation in the shortfall of attendance and, therefore, was not entitled to declaration of the result for the first or the second semester in which she had appeared. Rejecting the appeal filed by the petitioner, the Division Bench inter alia held as under:

13.....A student prosecuting study in law, in order to become efficient in the stream of law, must completely devote to the learning and training. One should bear in mind that learning is an ornament to continuous education and education fundamentally is how one engages himself in acquiring further knowledge every day. If a law student does not attend lectures or obtain the requisite percentage of attendance, he cannot think of taking a leap to another year of study. Mercy does not come to his aid as law requires a student to digest his experience and gradually discover his own ignorance and put a progressive step thereafter.

In LPA No. 662/2010 titled University of Delhi & Anr. Vs. Vandana Kandari & Anr. Decided on 10.1.2011, a learned Single Judge of this Court granted relaxation in the matter of attendance to the petitioner before this Court on the ground that she was on maternity leave and, therefore, could not attend the requisite classes. Allowing the appeal filed by the University of Delhi against the order of the learned Single Judge, the Division Bench held that maternity leave could not have been put in a different compartment for the purpose of relaxation of attendance. Though in the peculiar facts & circumstances of the case before it, the Division Bench, recorded the concession given by the University to the

respondent before it on the ground that her result had already been declared, it was directed that the benefit of the concession cannot be cited as a precedent in future cases.

It would be seen from the above-referred decisions that it is Rule 3 of the 1975 Rules which applies in the matter of attendance as far as the students of the Faculty of Law, University of Delhi are concerned and the University has no power to relax the requirement laid down in the said Rule, on any ground whatsoever, except to the extent that if the student has attended 60 per cent of the lectures in aggregate, but is short of attendance in one or more subjects, the Dean, Faculty of Law/Professor-in-Charge of the concerned Law Centre can condone such a shortage. However, since the petitioner before this Court, admittedly did not have 66 per cent attendance in aggregate, in all the lectures for the first semester the above-referred relaxation cannot be considered in his case.

It was also submitted by the learned counsel for the petitioner that there are a number of students who, but for the concession of 10 lectures giving by the Faculty of Law, would not have been able to appear in the examination. Even Mr. Rupal admits that there are as many as 10 such students. However, those students have not been impleaded as parties to the present writ petition and, therefore, no view adverse to them can be taken in the writ petition.

For the reasons stated hereinabove, the writ petition is dismissed. All pending CMs also stand disposed of.

There shall be no orders as to costs.

Dasti.