
(2017) 12 DEL CK 0425

In the Delhi High Court

Case No : Letter Patent Appeal No. 788 Of 2017

Sahil Singh Ravish

APPELLANT

Vs

University Of Delhi & Ors

RESPONDENT

Date of Decision : 19-12-2017

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2017) 12 DEL CK 0425

Hon'ble Judges : S. Ravindra Bhat, J

Bench : Single Bench

Advocate : Amit Bansal, T. Singhdev, Puja Sarkar, Tarun Verma, Preet Pal Singh, Priyam Mehta

Final Decision : Dismissed

Judgement

S. Ravindra Bhat, J

CM No.45392/2017 (exemption)

Exemption is allowed subject to all just exceptions.

LPA 788/2017 & CM No.45391/2017 (stay)

1. The Appellant is aggrieved by an order of the learned Single Judge rejecting his petition. The Respondent/University had by an order withheld the

result, contending that the Appellant/Petitioner did not have the requisite minimum attendance of 70% of the lectures in each of the courses as

stipulated in Attendance Rule 8(a) framed under this Ordinance.

2. The Appellant had been initially issued with the Admit Card for the examination for the second semester which he appeared in. The results were later withheld.

3. The Appellant contends that the findings of the learned Single Judge that are

premised upon the judgment in Sukriti Upadhyay vs. University of

Delhi, 2010 (8) AD (Del) 385, are erroneous. It is pointed out that an earlier decision in S.N. Singh vs. Union of India & Ors.: 2003 IV AD (Del) 37,8

clearly rules that despite shortage of attendance in a given subject or subjects, it is open to the concerned students to appear in the paper for which

there is no shortage of attendance. The Appellant, who is a self-represented litigant, has also relied upon a learned Single Judge's ruling in

Vandana Khandari vs. University of Delhi, [WP(C) 8302/2009 decided on 30.04.2010].

4. The University points out that Sukriti Upadhyay (supra) is a later judgment which took note of the previous ruling in S.N. Singh (supra). It is also

pointed out that the structure of phraseology of the Rules which existed at the time Sukriti Upadhyay (supra) was decided, are different from the

existing Rules which were substituted sometime in 2008. It is further pointed out that when S.N. Singh (supra) was decided, the real position was

entirely different. It is highlighted that the Appellant and a large number of other students had coerced the then Dean at the relevant point of time to

issue the admit cards and, as a result, the Appellant was allowed to appear. When approval was sought from the Pro-Vice-Chancellor, ex-post facto,

the same was denied.

5. The Appellant, however, points out in reply that the question of duress, etc. does not arise and relies upon the judgment of the Supreme Court in Sri

Krishna vs. The Kurukshetra University, 1976 AIR 376.

6. The Rules as existing and applicable for the law course in Delhi University, at the time when Sukriti Upadhyay (supra) was decided, read as

follows:-

“(8)(a) The students shall be required to put in minimum attendance of 66% of the lectures on 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 of the Faculty of

Law/Professor-in-Charge of the Law Centre 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 examinations.

Provided further that no person shall be deemed to have satisfied the required conditions in respect of his instructions unless, in addition to

the requirement regarding attendance and other conditions, he has appeared and satisfied by his performance the Professor-in-Charge of

the Law Centre in such test, written and/or oral, as may be held by him in his discretion. The Professor-in-Charge shall have, and shall be

deemed always to have had, the power to detain a student in the same class in which he has been studying, or not to send him up for the

University Examination, in case he did not appear at the tests aforesaid or his performance was not satisfactory.

The Professor-in-Charge of the Law Centre shall have power to strike off the name of a student who is grossly irregular in attendance

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

(b) In the case of students studying for the LL.M. Part I Examination, no student shall be deemed to have pursued a regular course of study

unless:-

(i) he has attended not less than two-thirds of the total number of lectures delivered during the academic year in which he has been admitted

as a regular student, and

(ii) he has submitted not less than seven essays of the requisite standard as prescribed by the Dean during the academic year.

(c) In the case of student studying for the LL.M. Part II Examination, no student shall be deemed to have pursued a regular course of study

unless he has attended at least ten of the seminars conducted for the LL.M. Part II classes, five of which must have been attended before he

appears at the examination in the written papers.

Note : (i) The term "Lectures" referred to in (b) above will include lectures and discussion classes.

(ii) In determining the exact number of the minimum requisite attendance, i.e., two-thirds of lectures, tutorials, seminars, moots, etc., fraction

shall be ignored.

Clause 9 deals with how certain relaxations can be granted to students in case of short attendance. The said clause is reproduced

hereinbelow:-

â??(9) (a) Subject to the provisions of sub-clauses (b) and (c)

(i) In the case of a student who is selected as a member of the N.C.C. to participate in the annual N.C.C. Camps or is deputed to undertake

Civil Defence Work and allied duties or in the case of a student who is enrolled in the National Service Scheme and is deputed to various

public assignments by or with the approval of the Head of the institution concerned or a student who is selected to participate in sports or

other activities organized by the Inter-University Board or in national or international fixtures in games and sports approved by the Vice-

Chancellor or a student who is required to represent the University at the Inter-University Youth Festival, or a student who is required to

participate in periodical training in the Territorial Army or a student who is deputed by the College to take part in Inter-College sports or

fixtures, debates, seminars, symposia or social work projects or a student who is required to represent the College concerned in debates and

other extra-curricular activities held in other Universities or such other activities approved by the Vice-Chancellor for this purpose, in

calculating the total number of lectures etc. delivered in the College, or in the University, as the case may be, for his course of study in each

academic year, the number of lectures etc., in each subject delivered, during the period of absence for that purpose shall not be taken into

account.

(ii) The Principal of a College may consider, on the basis of the Medical Certificates produced, exceptionally hard cases of students who

had fallen seriously ill or had met with an accident during the year disabling them from attending classes for a certain period, with a view to

determining whether the lectures etc. delivered during the said period, or a part thereof, could be excluded for purposes of calculation of

attendance of the year and decide each case on its own merits.

(b) A College shall notify on the notice board the final attendance position of each of its students within three days of the dispersal of the

classes in the last session of the academic year. Not later than five days, thereafter, a student may, by an application to the Principal of the

college, claim benefit of exclusion of lectures under sub-clause (a) above on grounds to be specified and accompanied by the relevant

documents. All such applications submitted within time shall be considered and disposed of by the Principal of the College at least 3 days

prior to the commencement of the examination, in which the student is intending to appear.

(c) the benefit of exclusion of lectures contemplated in categories (i) or (ii) of sub-clause (a) above, either separately or jointly, shall in no case exceed 1/3 of the total number of lectures delivered.

(d) in the case of a married woman student who is granted maternity leave, in calculating the total number of lectures delivered in the

College or in the University, as the case may be, for her course of study in each academic year, the number of lectures in each subject

delivered during the period of her maternity leave shall not be taken into account:

Provided that Post-graduate Degree students under the Faculty of Medical Sciences who apply for maternity leave either in I year or in II

year, may be allowed the maternity leave for a period not exceeding 3 months in an academic year but such students will be required to

complete the duration of the course as regular students as required in the Ordinance and the students will be permitted to submit the thesis

or to take the written examination, as the case may be, in January instead of August that year.â??

7. It is evident from the above that the structure of the Rules have changed altogether. The distinction between the attendance norms (which are

premised upon the Bar Council stipulation and requirements) and the promotion Rules have to be kept in mind. The University is entitled to stipulate

what are the minimum standards required for promotion of students. The first Rule â?? which prevails over all others, is that a student, who is detained

in examination for shortage of attendance, would not be promoted to the succeeding term. As far as attendance Rules are concerned, the overall

effect of Rule 8 is that the concerned students have to attend 70% of the lectures in â??each of the coursesâ?? as well as others such as moot course,

tutorial, etc. The first proviso carves out an exception that in a given one subject if a student has shortage of attendance, which does not fall below

65%, he or she may be allowed an exercise of discretion by the University to appear in the examination provided, however, that she or he has at least

70% of the attendance in the other subjects; in the facts of the present case,

clearly, the Petitioner/Appellant did not. Whatever be the situation, he could not have been issued with the Admit Card as he was and his now choosing to challenge the cancellation is, undoubtedly, a matter which had to be gone into and was. As to whether Admit Card was issued under duress or not, in the opinion of the Court, is irrelevant because, in no circumstance, should such an admit card have been, in fact, issued. The proposition canvassed by the appellant based upon the judgment in Shri Krishan (supra), in the Court's opinion, cannot have any application having regard to the mandatory nature of Rule 8. To permit another interpretation would not only mean undermining the norm but would also be prejudicial to those who comply with the Rules, which, at least, under Article 226 of the Constitution, cannot be countenanced. For these reasons, no relief can be granted.

8. In these circumstances, the withholding of the results cannot be declared illegal. But, at the same time, the fee collected by the University would have to be returned to the Appellant.

9. The appeal is dismissed in the above terms.