
(2004) 08 AHC CK 0243

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 24272 of 2004

Satyunjai Pratap Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 04-08-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 5 AWC 4820 : (2004) 3 UPLBEC 2887

Hon'ble Judges : Arun Tandon, J

Bench : Single Bench

Advocate : Ali Hasan and S.K. Singh, for the Appellant; Neeraj Tiwari and S.C., for the Respondent

Final Decision : Disposed Of

Judgement

Arun Tandon, J.—Heard Sri Ali Hasan Advocate on behalf of the petitioner, Sri Neeraj Tiwari on behalf of U.P. Technical University, Lucknow and Standing Counsel on behalf of respondent No. 1. Nobody is present on behalf of respondents 2 and 3. It is, however, not necessary to issue notice or to call for counter affidavit from the respondents Nos. 2 and 3.

2. The petitioner who is a student of B. Tech 3rd year in Bharat Institute of Technology, Bye-pass Road, Meerut, which is an affiliated College of U.P. Technical University, Lucknow, could not undertake the examination of 6th semester of 3rd year of B. Tech course which commenced from 15.5.2004 as he had failed to achieve the required attendance. The petitioner challenged the decision of respondent No. 2 refusing permission to appear in the said examination on the ground of shortage of attendance, by means of Writ Petition No. 19478 of 2004 which was dismissed by this Court on 19.5.2004. Subsequently vide letter dated 7.5.2004, issued by the Vice Chancellor of the U.P. Technical University, Lucknow to the Directors/Principals of the affiliated College, the University came out with a scheme known as "Special Summer Session, wherein it has been provided that the students who could not undertake

the examinations of 3rd and 4th semester of 2nd year and 5th and 6th semester of 3rd year due to shortage of attendance or for any other reason, may study the special course for 40 days and appear in the examination for the said semesters. The said Special Summer Session would start from 18th May, 2004 and thereafter examination for the said semesters will be held which will commence from 28th August, 2004. In the said scheme of the U.P. Technical University it was provided that the students of 2nd year and 3rd year, namely the students of 3rd and 4th semesters and 5th and 6th semesters who could not undertake the examinations of any of the semesters because of shortage of attendance or for any other reason shall be permitted to undertake the studies in the Special Summer Session commencing from 18th May, 2004 which will continue for 45 days, for the entire syllabus of the 2nd year or 3rd year, as the case may be (for both the semesters of the year).

3. On behalf of the petitioner it is contended that in accordance with the aforesaid scheme the petitioner is also entitled to undertake the studies in the Special Summer Session. However, it is contended that the petitioner has already passed 5th semester of 3rd year and therefore, he be permitted to undertake the studies of 6th semester only and thereafter be permitted to appear in the examination of 6th semester only which is to commence from 28th August, 2004. According to the petitioner the provision of undertaking the studies of appearing in both the semester i.e. 5th and 6th semester in the case of 3rd year student is arbitrary inasmuch as a student who has already passed 5th semester examination cannot be asked to appear in an examination again which he has already passed.

4. On behalf of the University it has been contended that the scheme of Special Summer Session extended to the students vide letter dated 7.5.2004 cannot be altered by this Court. Moreover the Summer Special Session started by the University is only a concession conferred upon the students who could not appear in the regular examination because of shortage of attendance, in such situation it is submitted that the petitioner may undertake studies in the said Special Summer Session as a whole i.e. for 5th and 6th semesters both and thereafter may appear in the examination of both the semesters or he can ignore the concession offered and undertake his studies in accordance with the regular course.

5. On behalf of the petitioner reference has been made to the letter of Vice Chancellor dated 24.5.2004 whereby in respect of the student of final year it has been provided that the students may undertake studies in Special Summer Session for one semester only in which they could not appear in the regular examination.. The petitioner claims parity with the students of the final year, hence this writ petition.

6. The concession which has been granted by the University in respect of the students of final year cannot ipso facto be applied to the students of 3rd year inasmuch as the University is the best Judge of the academic curriculum of its

students and this Court under Article 226 of the Constitution of India cannot direct the University to apply the same principle as in case of final year students to the students of 3rd year. The University has provided a scheme on certain conditions, to its students which cannot be altered with by this Court.

7. However, having regard to the academic career of the petitioner it is provided that the petitioner may make a detailed representation ventilating all his grievances to the Vice Chancellor of the U.P. Technical University by 9th August, 2004 along with a certified copy of this order. If such a representation is made by the petitioner the Vice Chancellor of the U.P. Technical University shall consider and decide the same in the light of his own decision taken in respect of the students of final year, at the earliest possible by a speaking order. It has been stated by Sri Neeraj Tiwari, appearing on behalf of the University that if such a representation is made by the petitioner the same will be considered and decided within one week.

8. With the aforesaid directions the writ petition is disposed of.

9. A copy of this order be supplied to the learned Counsel for the petitioner by tomorrow, on payment of necessary charges.