

(2012) 12 DEL CK 0252
In the Delhi High Court
Case No : LPA No. 819 of 2012

Saurabh Tripathi	Vs	APPELLANT
University of Delhi and Another		RESPONDENT

Date of Decision : 18-12-2012

Acts Referred:

Citation : (2012) 12 DEL CK 0252

Hon'ble Judges : D. Murugesan, C.J.;Rajiv Sahai Endlaw, J

Bench : Division Bench

Advocate : Abhay Mani Tripathi, for the Appellant; Maninder Acharya and Mr. Varun Gupta, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—This intra-court appeal impugns the interim order dated 11.12.2012 of the learned Single Judge in W.P.(C) No. 7700/2012 preferred by the appellant. The said writ petition has been filed by the appellant impugning the Notification dated 10.10.2012 of the respondent University doing away with the practice earlier prevalent, of grant of "Special Chance" beyond the "span period" for various courses, i.e. the maximum period in which a course offered by the respondent University is to be completed. As per the earlier practice, the Standing Committee (Students) of the Academic Council of the respondent University and the Vice Chancellor used to, entertain applications of the students who had been unable to complete their courses even within the span period, for taking the examination beyond the said period, and on being satisfied with the explanation given, grant a chance to appear in the examination beyond the span period. Besides the appellant, several other students also had filed writ petitions impugning the said Notification dated 10.10.2012 and the same learned Single Judge who has passed the order dated 11.12.2012 impugned in this appeal, had vide interim orders in those writ petitions permitted the students to still apply for the said "Special Chance" and directed the Standing Committee (Students) of the Academic Council and the Vice Chancellor of the University to, if satisfied

grant such "Special Chance" to the students for appearing in the examination. The reason which prevailed with the learned Single Judge for granting the said interim relief was that the said Notification dated 10.10.2012 doing away with the past prevalent practice had taken the students by surprise. However, the learned Single Judge had clarified that no special equities will flow in favour of the students from being so allowed under the interim arrangement to take examination and the learned Single Judge had further directed the result of the examination to be kept in a sealed cover.

2. We may mention that the University had preferred LPA No. 787/2012 against such interim orders granted by the learned Single Judge. The said LPA was dismissed by us on 03.12.2012 observing that it was not as if the learned Single Judge had directed the students to take the examination; the decision, whether in the facts pleaded by each of such students, "Special Chance" deserved to be granted had been left to the authorities of the University who also had the discretion to refuse the same.

3. The appellant herein sought the interim relief pleading that the respondent University had been rejecting applications for "Special Chance" moved by the other students in pursuance to the order aforesaid of the learned Single Judge and thus seeking the interim relief of a direction to allow the appellant to appear in the examination, even beyond the span period.

4. The learned Single Judge vide the impugned order directed the appellant to also approach the University in accordance with the interim directions in the other similar petitions and further directed the University to consider the request sympathetically keeping in view the facts pleaded by the appellant. The respondent University was also directed to inform the outcome of the request to the appellant by 18.12.2012 i.e. today.

5. The counsel for the respondent University appears on advance notice and states that she as of now has no instructions as to the outcome on the request of the appellant.

6. The counsel for the appellant has on the contrary sought an interim direction from us, permitting the appellant to appear in the examination.

7. We do not see any reason to interfere with the interim relief granted by the learned Single Judge in all such petitions and which interim order as aforesaid has been upheld by us in appeal.

8. We may mention that the Notification dated 10.10.2012 impugning which the writ petition from which this appeal arises has been filed, only did away with the practice earlier prevalent of "Special Chance" beyond the span period being granted in deserving cases. Even prior to the said Notification dated 10.10.2012, no student, beyond the span period could take the examination as a matter of right. The decision whether a Special Chance ought to be given or not was vested in the Standing Committee (Students) of the Academic Council and the Vice

Chancellor of the respondent University. The interim order of the learned Single Judge places the appellant in the same position as he would have been had the Notification dated 10.10.2012 been not issued. What the appellant now wants is a right better than he had prior to the Notification dated 10.10.2012. Prior to the said Notification, the appellant, as aforesaid, had a right only to apply for a "Special Chance" and decision whereon vested in the highest authorities of the respondent University being the Standing Committee (Students) of the Academic Council of the respondent University and the Vice Chancellor of the respondent University. If the said authorities of the respondent University do not find the appellant deserving of a "Special Chance", without even their decision being before us, no case for the Court granting "Special Chance" to the appellant arises. The interim relief claimed is clearly beyond the scope of the writ petition also. There is thus no merit in this appeal which is dismissed.

No costs.