

(2012) 02 DEL CK 0097

In the Delhi High Court

Case No : Writ Petition (C) 818 of 2012 and CM 1844 of 2012

Shahroz Raza

APPELLANT

Vs

Jamia Millia Islamia and Others

RESPONDENT

Date of Decision : 10-02-2012

Acts Referred:

Citation : (2012) 02 DEL CK 0097

Hon'ble Judges : Hima Kohli, J

Bench : Single Bench

Advocate : Zafar Sadique with Mr. Masood Alam and Mr. Shams Perwez, for the Appellant; Rohit Gandhi, for the Respondent

Final Decision : Dismissed

Judgement

Hima Kohli, J.—The present petition is filed by the petitioner praying inter alia for directions to the respondents to promote him from 2nd year Bachelor of Dental Surgery (BDS) course to 3rd year BDS course, and further to allow him to attend 3rd year BDS course classes.

2. The admitted facts of the case are that the petitioner is a student of BDS (Dentistry) course admitted in respondent No. 1/University in the academic year 2009-10. Upon successfully completing the 1st year course, the petitioner was promoted to the 2nd year, in the academic session 2010-11. When the annual examinations were held for the 2nd academic session and the results were declared on 06.09.2011, the petitioner discovered that he had failed in three subjects. When the supplementary examinations of the 2nd year BDS course were held from 14.10.2011 to 22.10.2011, the petitioner attempted to clear the three subjects in which he had failed in the annual examinations. As the results of the supplementary examinations were to be declared in November, 2011, the petitioner was permitted by the respondents to attend classes for the 3rd year BDS course, i.e., academic year 2011-12. However, upon declaration of the results of the supplementary examinations of the petitioner on 15.11.2011, it transpired that out of three subjects, the petitioner had cleared two subjects and

had failed in one subject.

3. It is submitted by the counsel for the petitioner that upon declaration of the aforesaid result, the petitioner was debarred from attending classes of 3rd year BDS course w.e.f. 30.11.2011. It is further stated that the petitioner had submitted a representation to respondent No. 3 for permission to continue with the 3rd year BDS classes, but the same has been rejected vide letter dated 30.01.2012 issued by respondent No. 3 informing him that his request for promotion from 2nd year to 3rd year of BDS course is regretted. Counsel for the petitioner states that as the petitioner has been permitted to complete about 50% of the theory and clinical classes for the 3rd year BDS course, he be permitted to continue attending the said classes and be further permitted to attempt clearing the one uncleared subject of the 2nd year BDS course, at the time when the annual examination of the 2nd year BDS course is held in the academic year 2012-13.

4. Upon a pointed query posed to the counsel for the petitioner as to the rules applicable in this regard, he hands over a copy of Ordinance 15-C (Academic) of the Ordinance of the respondent No. 1/University, and particularly draws the attention of the Court to Rule 6, which relates to the BDS course. Sub-rules (a) and (b) of Rule 6(2)(iii) of the aforesaid Ordinance 15-C are as under:-

(iii) (a) A candidate who fails in the annual examination shall be permitted to go to the next higher class and appear in those subjects in the supplementary examination in which he/she failed and complete it successfully before he/she shall be permitted to appear for the next higher examination.

(b) Those students who have failed in 1st year BDS Annual Examination, have to appear in the Supplementary Exams and shall pay only Examination fee for Supplementary Exams. However, on clearing the Supplementary Exams, they shall pay entire fee for 2nd year BDS Course. However, if they fail, they shall pay fee for the 1st Year BDS Course as per JMI rules as they will be attending 1st year classes regularly.

5. The aforesaid rules make it crystal clear that a candidate, who fails in the annual examination shall be permitted to attend the next higher class only upon his successfully completing the examination of the previous year. The plea of the petitioner that even if he has failed in one of the subjects in the supplementary examination for the 2nd year BDS course held in October 2011, he be permitted to attend classes for the 3rd year BDS course, is not tenable. Admittedly, the petitioner has not been able to clear the Second year in the academic year 2010-11, either by passing in all the subjects in the annual examination held for the second academic session or by clearing the remaining subjects in which he had failed in the supplementary examination of the same year held in October 2011. Merely because the respondent/University had granted a concession to the petitioner to continue attending classes of the 3rd year BDS course in the expectation of his clearing the supplementary examinations for the 2nd year, in

itself cannot entitle the petitioner to claim a vested right to continue attending 3rd year BDS course classes, when admittedly he has failed to pass one of the three papers that he had attempted in the supplementary examinations held for the 2nd year, in the month of November 2011. The same is neither the import, nor the intent of Rule 6(2)(iii) of Ordinance 15-C.

6. In view of the provisions of the aforesaid Ordinance, this Court declines the prayer made in the present petition. The petition is dismissed in limine as being devoid of merits alongwith the pending application.