

(2013) 09 DEL CK 0102
In the Delhi High Court
Case No : Writ Petition (C) 5501 of 2013

Shakti Garg and Others

APPELLANT

Vs

Delhi University and Others

RESPONDENT

Date of Decision : 03-09-2013

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 19, 21

Citation : (2013) 09 DEL CK 0102

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

Bench : Single Bench

Advocate : Surat Singh and Mr. Sumit Jidani, 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 appeared in B.Sc. 06th Semester Examination held by Delhi University. They, however, could not clear all the papers in which they had appeared. They made a representation to the University seeking re-examination/supplementary examination in the subjects in which they had failed. Their grievance was that if such an examination is not held, their whole one year would be wasted merely because they could not obtain the requisite pass marks in one subject. However, since the University vide notification dated 04.05.2013 had decided to discontinue with supplementary examination from 2013 onwards, the request made by the petitioner was not granted. This is also the case of the petitioners that Principals of a number of colleges have recommended to the University for holding an early re-examination for them, but the University is adamant in sticking to the decision taken by it. The petitioner are, therefore, before this Court seeking the following reliefs:-

(a) Issue a writ of certiorari or any other writ of like nature quashing Delhi University notification dated 04.05.2013 which proposes to discontinue of holding of supplementary examination from 2013 onwards (Annexure P-1) and declaring

as discriminatory and violative of guarantee of fairness under Article 14, 16, 19 & 21 of the Constitution.

(b) Issue a writ of mandamus or any other writ of like nature deciding the representation of the petitioners in a time bound manner as several principles of various colleges of Delhi University themselves have recommended a sympathetic view of the matter.

(c) Issue a writ of mandamus or another writ of like nature to respondent allowing students to be admitted to the higher education provisionally subject to their passing of Physical Chemistry (Theory) examination either in supplementary examination or in annual examination and for this purpose issue a writ of mandamus or any other writ of like nature directing respondent to hold supplementary examination of B.Sc. Sixth semester Physical Chemistry (Theory) within one month and declare the result within 15 days thereafter so that the students' precious one year is saved.

(d) Direct respondents to treat petitioners who have appeared in the sixth semester of Delhi University to be entitled to the same treatment as Delhi University is proposing to give to the Four year course students as per the para 11 of the respondent Delhi University's notification of 18.06.2013 (Annexure P-4) i.e. declaring them eligible for the degree calculating aggregate marks of all the semester and declare them as passed subject to their securing of 40% marks in aggregate.

Shri Mohinder J.S. Rupal, who appears on advance notice, opposes the petition on the ground that a policy decision was taken by the University to discontinue the supplementary examination from 2013 onwards and the said decision was taken even prior to declaration of the results of the main examination in which the petitioners could not clear all the papers in which they had appeared. It further submits that there is no statutory obligation on the University to hold supplementary examinations and in the absence of any statutory rule, mandating the University to hold supplementary examination, no direction for holding such an examination can be given.

2. The petitioners have failed to bring to my notice any statute, rule or ordinance of the University, requiring it to hold supplementary examination for the students who are unable to clear all the papers, in the term examination taken by them. In the absence of any statutory rule or regulation mandating such an examination, it cannot be said that the decision notified by the University vide notification dated 04.05.2013 is illegal or ultra vires the powers of the University. The University being the best judge in academic matters, it is for the University and not for the Court to decide whether a supplementary examination should be held in every term or not. Holding such an examination is only a concession extended by the University to the students who are unable to clear one or more papers in the main examination taken by them and such a concession from the University cannot be claimed as a matter of right. Ordinarily, the Court must

respect the decision of the University in the academic matters and there would be no scope for interference by the Court unless it is shown that a policy decision taken by the University is violative of any statute, rule or regulation or is so arbitrary, irrational or unreasonable that it borders on perversity. No such case, however, has been made out by the petitioners.

For the reasons stated hereinabove, I find no merit in the writ petition and the same is hereby dismissed. There shall be no order as to costs.

Dasti.