
(1998) 01 DEL CK 0015
In the Delhi High Court
Case No : LPA No. 60 of 1997

Shankar Sharan

APPELLANT

Vs

Jawahar Lal Nehru University

RESPONDENT

Date of Decision : 21-01-1998

Acts Referred:

Citation : AIR 1998 Delhi 172 : (1998) 44 DRJ 286

Hon'ble Judges : Dalveer Bhandari, J;Arun Kumar, J

Bench : Division Bench

Advocate : Mr. Raju Ramachandran, Ms. Anuradha Dutta and Ms. Manjula Gupta, for the Appellant; Mr. S.C Dhanda and Mr. Ajit Singh, for the Respondent

Judgement

Dalveer Bhandari, J.—The appellant applied for the All India Entrance Test conducted by the respondent Jawaharlal Nehru University for the M.Phil Programme in Soviet Studies. He was selected and enrolled as a regular student at the Centre for Soviet and East European Studies in the School of International Studies. The appellant successfully completed the M.Phil Course and thereafter, he joined the Ph.D. programme at the same Centre. The appellant chose Soviet Party Organization as his subject for the research and submitted his Ph.D. thesis titled "Democratic Centralism: A Study of Theory and Practice of the Soviet Party Organization", to the Dean, School of International Studies for evaluation on 20th July, 1993. In this appeal the appellant mentioned that he was the only research scholar of the Centre in his batch to submit his Ph.D. thesis within the stipulated time.

2. It is incorporated in the appeal that the appellant waited for evaluation of his thesis for one full year but there was no news about his thesis forthcoming and in the meantime degrees were being awarded to other scholars, who had submitted their respective thesis much after the appellant. It is submitted that the appellant made repeated enquiries and for the first time in November, 1994, he was given, a part of the Examiner's report by his Supervisor and he was informed that one of the Examiners asked had asked for revision of the thesis.

One of the examiners of the appellant Prof. K.K. Dasgupta suggested that revision of thesis should be done in such a manner that the revised part should be included in the thesis as an addendum. Prof. Dasgupta had mentioned that according to the rules of the respondent Jawaharlal Nehru University, the appellant is required to resubmit three copies of the revised thesis incorporating the changes suggested by the Examiners. According to the said rules the changes incorporated in the thesis cannot be sent directly to the Examiner by the candidate under any circumstances. These changes have to be discussed with the Guide /Supervisor and thereafter with his approval, those changes have to be included in the thesis.

3. Prof. Dasgupta in his letter of 10.4.1995 also suggested that the appellant should forget his differences with his Supervisor Prof. R.R. Sharma and sit with him and finalise the revised version of the thesis and resubmit the same.

4. In the petition, it is alleged that the appellant did not receive any official communication regarding the outcome of his thesis either from the Dean or from the Chairman of the concerned Centre. It is submitted that the appellant had incorporated certain changes as an addendum. It is also mentioned that the other Examiner had already given a positive report and thus the fact remains that both the Examiners had clearly examined the thesis and recommended viva voce examination in their separate report. No date has been fixed till date, though the respondents, herein were duty bound to do so as per the provisions of the ordinance relating to the award of Ph.D degree. It is alleged that the appellant prepared addenda as per the Examiners' directions and gave it to the Supervisor on 4.1.1995 and the same was accepted by the Supervisor in view of the fact that the changes in the form of addenda were done on the directions of the Examiners.

5. The appellant's Supervisor Prof. Sharma in his letter of 1.2.1995 indicated that once a revision is proposed by the Examiner, a certain procedure has to be followed for resubmitting the thesis. It is also mentioned that the delay had occasioned because the appellant did not leave his new address with the Centre. It is submitted that the appellant requested Prof. Sharma that he be permitted to resubmit the revised thesis attaching the addenda. Prof. Sharma gave his consent to do so and accordingly, the appellant prepared three copies of the revised thesis for resubmitting. At that point of time, the appellant received a letter dated 23.3.1995 from Prof. Sharma, in which he advised the appellant to seek the opinion of Prof. Dasgupta before actually resubmitting the revised thesis. It is also alleged in the petition that one of the examiners recommended for viva voce and so far as the report of the second examiner is concerned, it contains:

(i) his opinion and suggestions (academic assessment of the thesis) in paragraphs (a) to (f) which has been accepted by the petitioner by incorporating the same as an addendum;

(ii) his recommendation in the penultimate paragraph, "that viva voce examination he held as early as possible after the revision is complete and there is no need to send the copy of the revised thesis back to me but could be presented at the time of viva voce examination itself.

(iii) his certificate in the last para that the thesis constitutes a contribution to the knowledge characterised by reinterpretation of known facts (as required under clause 14 of the Ordinance)

6. It is submitted by the appellant that addenda were completely on the lines of the examiner's opinion and suggestions. It is also alleged that there is no dispute regarding the merit of the revision contained in addendum, and Therefore, academic assessment was not at all in dispute or in issue. It is submitted by the appellant that the viva voce examination was not fixed even after the appellant carried out revision in the form of addendum, as suggested by the examiners.

7. The appellant has alleged mala fides against respondent No. 4 in the following manner:

(i) Thesis was submitted by the petitioner on 20.7.1993 and till November/December, 1994, the petitioner was not informed about the development in this respect.

(ii) Respondent No. 4 allegedly wrote a letter at the hostel address, knowing fully well that the petitioner had already vacated the hostel" after 30 days of submission of the thesis. Thereafter he put up a notice on the notice board instead of writing a letter at the permanent address which is available with the Centre.

(iii) Report was handed over to the petitioner in the month of November December ,1994 and thereafter, the petitioner carried out the changes as suggested by the examiner, in the manner indicated by the examiner and presented the addendum to respondent No. 4 when respondent No. 4 objected to the manner in which revision was made. Respondent No. 4 did not prior to this objected to the recommendation of the second examiner regarding the manner prescribed by him for the revision of the thesis. Nor did the respondent No. 4 suggest to the petitioner that the manner of revision suggested by the examiner was wrong or contrary to Rules. The objection has been taken only to harass the petitioner and after influencing the examiner.

(iv) Respondent No, 4 influenced the examiner not to accept the addendum prepared by the petitioner even though the same was suggested by the examiner himself and the examiner had no objection on the merit of the addendum, which is clear from the letter of the examiner,, dated 10.4.1995.

(v) The petitioner applied for the post of Assistant Professor in the Centre but he was not short listed by respondent No. 4 being the Centre Chairman and the petitioner is short listed for the interview for the same post by another Centre

Chairman and to this effect the petitioner filed a C.M.P. being No. 3968 of 1996 in the writ petition which remained unrealized through notice was issued in the said C.M.P.

(vi) That the petitioner made a representation to the Vice Chancellor which is lying unattended in the office.

8. It is submitted that when the viva voce examination was not fixed up by the respondent University, the appellant did not have any other alternative, but to approach this Court by filing this petition. The petitioner's writ petition was decided by the learned Single Judge with some observations. The learned Single Judge directed that the appropriate body of the University will, Therefore, now consider the appointment of a new Supervisor in place of Prof. Sharma (who has now been appointed as the Vice Chancellor of the Jammu and Kashmir University) and the grievance of the petitioner in this background would not survive, and with these observation the Writ Petition has been disposed of by the learned Single Judge.

9. The appellant aggrieved by the order of the learned Single Judge filed this Letters Patent Appeal. This Court issued a show cause notice on 18th March, 1997 in this appeal. It is mentioned in the order of this Court dated 1.8.1997 that despite service, respondents 1 to 3 have not filed their reply. Two weeks' further time by way of last opportunity was granted to respondents 1 to 3 to file their reply. Despite the last opportunity a reply was not filed and the disposal of the appeal was getting delayed. The Court heard the learned Counsel for the parties at length and proceeded to decide the appeal in the strength of the counter affidavit of the University filed before the learned Single Judge.

10. The main grievance of the appellant is that the learned Single Judge ought to have directed the respondent to hold viva voce examination of the appellant. It has been further argued on behalf of the appellant that the learned Single Judge was in error in directing the change of Supervisor and observing that the appellant's grievance does not survive and no further directions are required.

11. The appellant has also made grievance that the learned Single Judge had failed to appreciate that the concerned examiner (respondent No. 4) suggested certain changes in the thesis in the form of Addenda and strongly recommended for viva voce examination.

12. The appellant in the appeal has mentioned that respondent No. 5 while recommending for viva voce examination further directed that there was no need of sending the addenda to him. The same shall be considered "at the time of viva voce examination. The appellant also submitted that now it is no longer a matter of academic assessment but only of an administrative action. It is submitted that the respondents have flouted the rules. The appellant also mentioned that despite the service of notice and opportunity, the respondents did not come forward to deny the allegations including the allegations of mala fides against respondent No. 4. The appellant has submitted that he never

challenged the report of the examiner and in fact in pursuance to the directions given by the examiner, he prepared an addendum and now his only grievance is that despite all this, the respondents have failed to fix up the date of viva voce examination.

13. The appellant had also mentioned that the award of the degree to the appellant was held up not because of any shortcoming but because the date for viva voce has not been fixed. The appellant made grievance that the report of the thesis came after 16 long months of its submission whereas in the normal course it is done within six weeks. The appellant also submitted that in the instant case it was all the more necessary to give official information to the appellant because revision in this thesis was suggested by one of the examiners.

14. The respondent University has not filed any reply in this appeal before this Court, but the Registrar of the University had filed an affidavit on behalf of the University in reply to the writ petition before the learned Single Judge dealing with all the allegations of the appellant. It is incorporated in the affidavit that according to the University ordinance, the reports received from the examiners were forwarded to the Dean, School of the International Studies for consideration by the Committee for Advanced Studies and Research of the School of International Studies, (the body competent to advise further course of action in terms of the relevant provision of the ordinance). The reports of the examiners were considered by the (Committee for Advanced Studies and Research in its meeting held on 14.7.1994 and the Committee resolved to send the report to the appellant through the Chairperson/Supervisor for revision of his thesis as suggested by one of the examiners and resubmit the revised thesis within one year. Immediately on receipt of the report of the examiner, the Chairman of the Centre for Soviet Studies who was also the Supervisor of the appellant wrote a letter to him at his hostel address. The appellant however, had left the hostel and did not leave his address with the Centre. The Centre, Therefore, put up a notice on the notice board to this effect.

15. The appellant contacted the Chairman of the Centre in the third week of August, 1994. A copy of the report received from Prof. Dasgupta, who had asked the appellant to revise the thesis and he also suggested the manner in which the revision had to be carried out.

In the evaluation report, the examiner mentioned:

"A perusal of the thesis has made me feel that the author of the thesis has not, in many cases, followed the correct research method. As a result, the contentions sometime preceded the facts, or sometimes even the contentions have not been followed by substantive evidence or arguments....."

16. The ordinance pertaining to award of degree clearly stipulates that viva voce examination cannot be held if the technique and the methodology pursued by the candidate is unsound or unsatisfactory. The examiner also suggested that revision of the thesis to be carried out on the basis of a more thorough perusal of

resolutions, proceedings and reports of the international organization founded by Karl Marx and others in nineteenth century.

17. In the counter affidavit it is so mentioned that the appellant did not carry out the revision as suggested and in accordance with the ordinance of the University and instead, the appellant met the Supervisor in January, 1995, and handed over to him five to six typed pages claiming to be revision of thesis carried out by him in the form of an addenda to the original thesis which he desired to be attached to the thesis at the end of the final chapter of the thesis. It is also mentioned in the counter affidavit that the addenda prepared as the revision to the original thesis was also placed before Prof. Guha, Dean of the School and Chairman of the Committee for Advanced Studies and Research, who was of the view that the addenda was perfunctory and Therefore, did not fulfill requirement of revision as suggested by the examiner in his report. It is also mentioned in the counter affidavit that Prof. Dasgupta also happened to visit the School in March, 1995 and was shown the addenda. After going through the same he was of the view that the revision in the form of addenda was perfunctory and the student be advised to resubmit the thesis after revision in the light of suggestion advanced by him in his report. The appellant insisted on resubmitting the thesis only with the addenda prepared by him instead of revising the same.

18. It may be relevant to mention that Prof. Dasgupta in his informal letter dated 10.4.95 to the appellant politely stated that the addendum prepared by him was inadequate and suggested that the appellant should take about three months to do everything regarding the revision and perhaps another month to resubmit his thesis. In the counter affidavit, it is incorporated that the award of thesis is purely academic assessment of the student and the award of Ph.D. degree confers a very high academic distinction on a research scholar. Therefore, every care is taken and it is conferred on deserving and meritorious students only. In the counter affidavit, Clause (14) of the Academic Ordinance pertaining to the award of Ph.D. degree has been incorporated. The same reads as under:

"each examiner after examining the thesis submitted by the candidate for the award of the Ph.D. degree shall submit a report to the Dean of the School concerned containing a clear recommendation whether in his/her opinion:

- (a) The viva voce examination of the candidate should be held; or
- (b) the thesis should be referred back to the candidate for revision; or
- (c) it should be rejected.

The examiner shall not recommend that the viva voce examination be held unless he/she certifies that the thesis constitutes a contribution to knowledge characterised either by the discovery of new facts or by reinterpretation of known facts" or development of new techniques and that the methodology pursued by the candidate is sound and its literary presentation satisfactory."

19. In the counter affidavit ,it is incorporated that it is in the appellant's own interest to revise the thesis on the lines suggested by the examiner and viva voce examination can only be held if both the examiners recommend that the viva voce examination be held and recommendation of the examiners are accepted by the Committee for Advanced Studies and Research.

20. We have heard the learned Counsel appearing for the parties at length and perused the pleadings and documents. It was also argued by the Counsel appearing for the respondent University that the Courts should be slow in interfering in academic matters. Admittedly the appellant had submitted his thesis on 20th July, 1993, and yet the final decision in the matter of award of Ph.D degree has not been taken till date. The appellant has blamed the University for the delay and the University has detailed the circumstances which led to the delay. We do not deem it necessary to adjudicate on the aspect of delay, but the fact retains that considerable delay has taken place. In view of this inordinate delay in taking decision in this matter while approving the directions given by the learned Single Judge we direct the respondent University to appoint a new Supervisor in place of Prof. R.R. Sharma (who has now been appointed the Vice Chancellor of Jammu & Kashmir University) within one month. We also direct the appellant to submit the revised thesis on the guidelines and suggestions provided by the new Supervisor as early as possible, and within six weeks of the submission of the thesis to the satisfaction of the examiners, the viva voce examination shall be fixed by the University.

21. This appeal is accordingly disposed of with the aforesaid directions. In the facts and circumstances of this case, the parties are directed to bear their own costs.