

(2009) 01 GAU CK 0057

In the Gauhati High Court

Case No : Writ Petition (C) No's. 5507 and 5508 of 2008

Sri Mohini Mohan Doley and Another

APPELLANT

Vs

Gauhati University and Others

RESPONDENT

Date of Decision : 21-01-2009

Acts Referred:

Citation : (2009) 1 GLD 292

Hon'ble Judges : P.K. Musahary, J

Bench : Single Bench

Advocate : J.C. Borah, N.J. Dutta and K. Baruah, for the Appellant; S. Chakravorty, SC, Gauhati University, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Musahary, J.—Heard Mr. J.C. Borah, learned Counsel for the Petitioners and also heard Mr. S. Chakravorty, learned Counsel for the Respondent Nos. 1, 2, 3 and 4.

2. Facts in these two writ petitions are identical involving similar issues and as such these two Petitioners have been taken up for hearing together. The Petitioners appeared in the LL. B. Preliminary examination under University Law College, Gauhati University, Jalukbari held in December, 2001. They appeared in the first due chance but they were declared unsuccessful. The Petitioners made second attempt on the preliminary examination along with first attempt in the LL. B. intermediate examination held in the year 2002 but they were declared unsuccessful in both the two examinations. Thereafter the Petitioners again made the 3rd attempt on the preliminary examination alongwith second attempt in the LL. B. intermediate examination held in the year 2003 in which they were declared to have passed all the papers of the preliminary examination but with back in two papers of intermediate examination. The Petitioners, therefore, again appeared for the final year examination along with 3rd attempt on LL. B. intermediate examination held in the year 2005. The Petitioner Sri Mohini Mohan Doley, Petitioner in W.P. (C) No. 5507/08 was declared successful in LL. B.

intermediate examination but declared unsuccessful in the final examination while the Petitioner Mrs. Gitanjali Hazarika, Petitioner in W.P.(c) No. 5508/08 was declared passed in LL.B intermediate examination in the year 2002 itself. The Petitioners were declared successful in the LL. B. intermediate examination but declared unsuccessful in the final examination.

3. Both the Petitioners then made second attempt in the final LL. B. examination held in the year 2006 in which they have been declared failed. The Petitioner made their 3rd attempt on LL. B. final examination held in the month of March, 2007 but they again could not come out successful. Not being disheartened by their repeated unsuccessful attempts the Petitioners again made their last attempt i.e. 4th chance by appearing in the LL.B examination held in December, 2007. Unfortunately again they become unsuccessful.

4. The Petitioners made representation before the University authority for giving them one more additional chance for appearing in the final LL.B examination to be held in January 30, 2009. The representation submitted by them were turned down vide letter No. Ex/LLB/2/08/25, 560 dated 6.11.2008 (Annexure-"C" to WP (c) No. 5507/2008) and No. EX/LLB/2/08/25, 447 dated 5/11/08 (Annexure-"C" to WP(c) No. 5508/08) on the ground that as per LL.B regulation his/her last chance for the LL.B examination has already expired in the last examination held in December, 2007.

5. Mr. Borah, learned Counsel for the Petitioners submits that the University authority vide its Notification dated 27.9.2007 (Annexure-"A" to the writ petition) provided one special chance (4th) each to the candidates of any two of the three LL.B. examinations (i.e. Preliminary, intermediate or final in which this is required) under the New Regulation and Syllabus for L.L. B Course, w.e.f. 2000. The Petitioners, according to Mr. Borah, learned Counsel, availed only one chance each during the entire period of L.L. B. Course in six years term and as such the Petitioners are entitled to avail at least one additional chance and they should be allowed to appear in the final L.L. B. examination to be held from 30.1.2009. According to Mr. Borah the special/additional chance is not confined to a particular year only. It should be interpreted to provide benefit of additional chances for intermediate and final in any two of the three LL.B examinations.

6. Per contra, Mr. Chakravorty learned Standing Counsel for the University authorities, submits that under the provision of Rule 15 of the aforesaid regulation a candidate is required to clear his/her LL.B degree within 5 years from the date of his/her first due examination in LL.B Preliminary and a student shall be allowed to appear in not more than 3 chances in each part of LL.B examination. The provision of the aforesaid Rule 15 has been modified by issuing the notification dated 27.9.2007 providing one special chance (4th) to the candidates of any two of the three LLB examinations. The effect of this modification is that the candidates are given a period of six years for completing the LL.B. Course from the first due LL.B. Preliminary examination. The notification dated 27.9.2007, according to Mr. Chakravorty, learned standing

counsel for the University can not be interpreted to provide additional chances beyond the expiry of 6 years after availing 4th chance. According to him a candidate must obtain the LL.B. Degree within 6 years by availing as many as 4 chances in any of the two of the three examinations in which it is so required.

7. I have given by anxious consideration to the submissions made by the learned Counsel for the parties. The undisputed fact is that the Petitioners have already availed 4 chances in LL.B. Final Examination and also crossed total limit of six years by the end of December, 2007. Although the notification of 27.9.2007 provides for one special chance in addition to three chances under the regulation, it is not contemplated that a candidate would be allowed to avail the additional/special chances after expiry of six years. The University authority, in my considered view, issued the aforesaid Notification after making a conscious consideration to put a limit on availing the chances within the specified period of six years. If the argument of the learned Counsel for the Petitioners that the candidates can avail additional chances, which they claim to have not availed, is accepted, it would mean that the candidates like the Petitioners would be allowed to make their attempts even after the expiry of 6 years period of the LL.B. Course. This, in my considered view, can not be accepted inasmuch as the students/candidates are given enough chances to pass the LL.B. final examination in this period of 6 years as provided under the aforesaid Notification. It is not possible for any authority to frame certain Rules/Regulations to accommodate or suit the interest of all. A particular Notification has been issued in consonance with the Rule/Regulation and the authorities have acted upon such Notification/Regulation for which it can not be treated as unfair or arbitrary. In this case the Petitioners have not challenged the aforesaid Notification dated 27.9.2007 rather they want to avail chances by interpreting the same to suit their own interest which can not be considered and allowed.

8. I find no merit in these cases to interfere with the impugned orders dated 5.11.2008 and 6.11.2008 (both Annexure-"C" to the writ petitions) as passed by the Respondent No. 4, controller of Examination, Gauhati University. These petitions are therefore, liable to be dismissed and the same are accordingly dismissed. No order as to costs.

9. Before parting with the. record of this case I express a deep concern for the Petitioners who are not in a position to appear in the LLB Final Examination as they have exhausted their chances under the aforesaid Regulation and Notification and thereby failing to achieve their cherished aims. It is indeed a hard case, and therefore, I may simply hope and desire that the Respondent University authority may reconsider Petitioners' cases with their own wisdom, if any approach is made by the Petitioners.