

(2010) 09 DEL CK 0309

In the Delhi High Court

Case No : Writ Petition (C) No. 5656 of 2010

Surbhi Gupta

APPELLANT

Vs

GGSSIP University and Others

RESPONDENT

Date of Decision : 14-09-2010

Acts Referred:

Citation : (2010) 09 DEL CK 0309

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Sitab Ali Chaudhary and R.K. Saini, for the Appellant; O.P. Saxena, for the Respondent

Final Decision : Allowed

Judgement

Rajiv Sahai Endlaw, J.—The petitioner, a student of second semester of BA LLB (Hons.) course of the respondent University and having been found by the University to be short of attendance, along with another student filed W.P. No. 3163/2010 for being permitted to take the second semester end term examination commencing from 10th May, 2010 and also seeking a mandamus commanding the University to upon her so clearing the examination promote her to the third semester and allow her to attend the classes thereof. This Court vide order dated 11th May, 2010 in the said writ petition directed the respondent University to issue the necessary admit card to the petitioner to appear in the second semester end-term examination, subject to the final decision of the petition and on condition that the same shall not create any equities in favour of the petitioner. The petitioner being dissatisfied with the conduct of the earlier writ petition by her co-petitioner, on 19th August, 2010 was permitted to withdraw from W.P.(C) No. 3163/2010 and to institute the present petition.

2. The respondent University had refused to issue admit card to the petitioner for the examination aforesaid for the reason of the petitioner failing to meet the prescribed attendance criteria. It is the case of the respondent University that as per its Rules and Regulations, the petitioner was required to have 75%

attendance but had only 51.5% attendance.

3. The petitioner claims that as per the Rules and Regulations of the respondent University, she is entitled to the attendance for the days when she actually participated in any extra-curricular activity and also to attendance of two days for travel for each participation. She states that she had participated in a debate competition at Kirori Mal College held between 10th to 13th February, 2010 and in another debate competition held at Pilani, Haryana between 10th to 15th March, 2010. She further claims to have suffered from ill health in the month of March, 2010 and having been advised 5-6 days of rest and owing where to also she could not attend the classes. Her case is that if the benefit on the aforesaid counts be given to her, she would fulfill the attendance criteria.

4. The respondent University in its counter affidavit has stated that the petitioner attended 148 out of 287 lectures held leading to the percentage of classes attended being 51.5%; it is admitted that the petitioner has participated in extra-curricular activities but it is stated that the maximum benefit thereof i.e. 30 attendance can be given to the petitioner and which benefit also if given takes the attendance of the petitioner to 62% only which also would fall short of the requirement of 75%. It is further pleaded that the Vice-chancellor has the discretion to waive attendance in appropriate cases only up to 5% and the petitioner having short fall in attendance of much more has been rightly detained.

5. The counsel for the petitioner has contended that if the credit of 30 attendance is given to the petitioner as averred in the counter affidavit of the respondent University it takes the attendance of the petitioner to 178 out of 287 leaving her short of about 22 classes only from the required benchmark of 200 classes. It is contended that on the basis of 05 classes in a day, the said deficiency also would be fulfilled if her medical leave for 5-6 days is included.

6. On the basis of the total lectures held being 287, the petitioner to meet the 75% attendance was required to attend 215 classes. The petitioner in fact attended 148 classes and with the credit of 30 classes given by the respondent University, would have attended 178 classes. Even if maximum 06 days of medical leave were to be given to the petitioner i.e. benefit of 30 classes, the same would still take the number of lectures attended by the petitioner to 208 leaving the petitioner short of the requisite mark of 215. However, the petitioner appears to be relying on the 5% discretion of the Vice-Chancellor which equates to about 14 lectures.

7. The counsel for the respondent University has argued that the petitioner did not submit any medical certificate or take any leave on account of illness. I have inquired from the counsel for the respondent University as to whether the Rules of the respondent University for attendance make any provision for obtaining medical leave or for having the same sanctioned from the University. The counsel states that there is no provision for the same. It is further stated that since the minimum required attendance is 75% only, the absence, if any on account of

medical reasons has to be adjusted against the balance 25% and there is no special rule for credit of leave on account of health/medical problems being given.

8. I do not find any basis for the contention aforesaid of the respondent University. Nothing has been shown that no credit on account of medical/health reasons is to be given. There are no rules in respect to the same.

9. Though I have recently in W.P.(C) No. 3129/2010 titled Choudhary Ali Zia Kabir v. GGSIP University decided on 18th August, 2010 held that Rules qua attendance have to be strictly complied with and have also held that the students have no right to challenge the attendance record or to demand a hearing in this regard, but the aspect of absence on account of medical/health reasons was not discussed therein. However, since the petitioner, to be able to make requisite mark in the present case would also require the exercise of discretion qua 5% attendance vested in the Vice-Chancellor, it is deemed expedient to dispose of this writ petition by directing the Vice-Chancellor or other concerned authority of the respondent University to consider the matter of whether the petitioner is entitled to any credit for medical/health reasons and whether the petitioner is entitled to waiver of 5% attendance and to take the decision thereon. Considering that the third semester classes have already begun, the University authorities are requested to take said decision within one week from today. However if the decision is in favour of the petitioner, the result of the petitioner of the examination taken by her under the interim order of this Court would be declared and if the petitioner has cleared the same she would be promoted to the 3rd term and allowed to attend the classes thereof. Needless to state that if the petitioner remains aggrieved by the decision of the Vice-Chancellor, she would have her remedies in law.

With the aforesaid directions the petition is disposed of. No order as to costs.