

(1993) 12 GUJ CK 0007
In the Gujarat High Court
Case No : Special Civil Application No. 9214/93

Umesh Laxmanbhai Patel	Vs	APPELLANT
Vice-Chancellor, Sardar Patel University and Another		RESPONDENT

Date of Decision : 20-12-1993

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1994 Guj 141

Hon'ble Judges : C.V. Rane, J

Bench : Single Bench

Advocate : J.S. Yadav, on behalf of Y.N. Oza, for the Appellant; S.N. Shelat, for the Respondent

Final Decision : Dismissed

Judgement

C.V. Jani, J.—In this petition under Article 226 of the Constitution of India, the petitioner who is "student of M.B.A. Course in Sardar Patel University of Anand, has prayed for an appropriate writ to direct the respondents, namely the Vice-Chancellor of the University and the Director of Post Graduate Institute of Business Management of the University, to treat him as having passed the First Year M.B.A. Examination in the year 1992-93, and also to permit him to prosecute his further studies on the footing that he has passed the said examination.

2. As per the averments made in the petition he passed his B. A. Examination from M. S. University of Baroda in the year 1991 and thereafter he secured admission in M.B.A. Course of Sardar Patel University in July 1992. The M.B.A. Course consists of two years and four semesters of six months each. According to the petitioner he cleared the first semester, but at the end of the second semester he was shown to have "failed", as a result of which he is required to undergo these studies in semester I again like a fresh student. This action on the part of the respondents is being challenged in this petition.

3. It is not disputed that before July 1992 students of M.B.A. had to secure minimum 45% of marks for being successful. However, the system of awarding marks was replaced with the new system of awarding grades on the basis of the continuous over all performance of the students, and not on the basis of the marks to be assigned in particular subjects. There are 13 grades indicated in the Regulations Annexure-A ranging from A+ to F. Every such grade is valued by different grade points. For example, grade A + is given 4.3 grade points. Grade "C" given 2.0 grade point and Grade "F" is given 0.0 grade point.

4. It is the petitioner's grievance that he was given 1.99 grade points in the result declared in the first week of August 1993, and as he could not secure 2.0 grade point at the end of the academic year he was declared to have failed in the examination. After the declaration of the result in August 1993, the petitioner has already started attending the First semester again.

5. Mr. J. S. Yadav, learned Advocate appearing on behalf of Mr. Y. N. Oza for the petitioner submits that:

(i) The system of evaluation of the student performance in M.B.A. by giving marks was substituted by new system of evaluation by giving grades introduced without sufficient notice to the students who were seeking admission;

(ii) There are no regulations or norms for assigning certain grade points and so the evaluation by Professors of different subjects was likely to be arbitrary;

(iii) Even the different Professors had adopted different methods inasmuch as some gave marks and then converted the total marks into grades, while others directly gave grade points;

(iv) the deficit of .01 point in the grade point of the over all performance was quite negligible and the grade point 1.99 should have been rounded upto 2, in order that the student may not lose his previous year;

(v) There is no provision of re-checking or re-assessment by the examiners and, therefore, the students are left high and dry even if they have to face injustice.

6. The main thrust of Mr. Yadav's submissions was that this court should interfere with the result declared by the respondent University because there is a negligible deficit of .01 grade marks in the petitioner's performance.

7. The aforesaid submissions of Mr. Yadav do not indicate any apparent error of law on jurisdiction on the part of the respondent University which would attract interference by this court. In fact, the Supreme Court has repeatedly laid down that the High Court should not interfere with the decision of an academic institution if it is taken in a bona fide manner and the High Court should not introduce its own notions in academic matters. In Krishna Priya Ganguly and Others Vs. University of Lucknow and Others, the Supreme Court was concerned with the question of admission to the post graduate degree or diploma course in medical faculty of the University of Lucknow. As per the relevant Rules framed by

the Medical Council of India, the candidates must have done one year Houseman-ship preferably in the same subject or at least six months in the same department and the remaining six months in an allied department, over and above, having put in meritorious performance in the M.B.B.S. Examination in Internship. Deprecating the interference on the part of the High Court the Supreme Court ruled that the sub-rule prescribing houseman-ship in the same subject was not inconsistent with the existing Ordinance and there is no jurisdiction on the part of the High Court to interfere with the internal working the academic institution concerned with imparting, higher education in the field of post graduate course in medicine. The Supreme Court also held that the High Court could not relax the rules or re-write them and the conditions regarding putting in two years" work in the department concerned could not have been dispensed with.

8. Now in the present case the regulations which are produced at Annexure-A are not under challenge. The new regulations were brought into force after consultation with various bodies. Respondent No. 2 has pointed out in his affidavit-in-reply that after having deliberated over the maintenance of the academic standard and the regulations relating thereto, the post graduate Board of Studies recommended the regulations for regulating the results of the examination. The said recommendations were considered by the Academic Council at its meeting held on 22nd April 1992. The Syadicate of the University accepted those recommendations by resolution dated 2nd May, 1992 and the said regulations were brought into force from 14th May, 1992. Thus the petitioner who secured admission thereafter was bound by the regulations which introduced the system of awarding grades. In fact, all Professional Management Institutes offering M.B.A. Programme have adopted the system of "grades". The relevant portion of the regulation governing the petitioner is as follows:

"7.(b) At the end of each semester, the performance of students will be evaluated in terms of letter grades and reports which have the following equivalent grade points and connotations:

(i)

Letter Grades

Grade Points

A +

4.3

A

4.0

A-

3.7

B+

3.3

B

3.0

B-

2.7

C+

2.3

C

2.0

C-

1.7

D+

1.3

D

1.0

D-

0.7

F

0.0

(ii)

Reports

Connotations

I

Incomplete

Def.

Deferred

S.

Satisfactory

U.

Unsatisfactory

(c) A student is required to maintain an average grade point of 2.0 at the end of each academic year. In addition, he/she should fulfil the following conditions.

(i) Should not obtain more than one "F" in an academic year.

(ii) During the academic year, he/she should not have obtained more than 4 "D"s (D +, D, or D -) without "F" in any course, or 2 "D"s (D +, D, or D -) with "F" in any course.

If a student does not get an average grade point of 2.0 or fails to meet any requirements given under (c) (i) and (ii), he/she will not be prompted to the next year/declared eligible for conferment of the Degree. He/she will have to repeat the courses in which he/ she has obtained C-, or lower grades to attain a minimum of 2.0 grade point average as well as fulfil the requirements given under (c) (i) and (ii). All the rules applicable to a regular student shall also be applicable to a student who has been allowed to repeat such courses."

9. It is also provided in Regulation 8 that "the students will be subject to a continuous evaluation throughout the duration of the programme Hence there shall be no provision in the programme with regard to gracing and/or condonation in any form"

10. Regulation 7(c) clearly provides that a student is required to maintain an average grade point 2.0 at the end of each academic year. In addition to this, he has to fulfil the other conditions also with which we are not presently concerned. If a student does not get average grade point of 2.0 he would not be promoted to the next year and he would have to repeat the course in which he has obtained "C-" or lower grade to attain a minimum of 2.0 grade point average. Admittedly the petitioner has not maintained average grade of 2.0 at the end of the first academic year.

Therefore, as per the regulations he has to repeat the same course again. These regulations are not the subject matter of any challenge in this petition. There is no allegation about mala fides. If there is no provision of gracing or condonation even the University cannot help the student whose performance false short of the requirement by an insignificant deficit grade point. This court would, therefore, be not justified in exercising its jurisdiction under Article 226 of the Constitution of India.

11. So far as the factual allegations and averments are concerned, the affidavit-in-reply filed by Shri D. M. Shah, Hon. Director of Post-Graduate Institute of business Management, respondent No. 2, shows that there is no merit in any of those allegations. It is pointed out that the students who have joined the M.B.A. course were briefed about the new system of evaluation and grading on the very first day of their joining the programme during the specially organised orientation function on 9th July 1992, and the copy of the regulations was also placed on the Notice Board of the Institute. It is also pointed out that the

petitioner as per the statements of grades Annexure-B, had obtained 1.7 grade points in 2 subjects of first semester and three subjects of the second semester. In one subject he was given 2.7 grade points and in two other subjects he was given 2.3 grade points; which in other subjects he was given 2.0 grade point. The total gradepoint came to 27.80 and the cumulative grade point average in 14 subjects came to 1.985 which was obviously less than 2.0. Thus in each individual subject the grade point secured by a student was rounded up and there was no question of rounding up at the subsequent stage, while calculating the cumulative gradepoint average. It is also pointed out that the student is given ample opportunity to interact with the concerned teacher and obtain feed back as well as to seek clarification regarding any aspect of the answers written by him and the student is evaluated throughout the period of studies, and not just at the end of the semester or the year. It is also pointed out that the Institute calls a meeting of all the faculty members before the final results are declared and the members of the faculty were clearly of the opinion that there existed various deficiencies in the performance of the students which was not found to be satisfactory. It is obvious that the examiner is an expert in the subject evaluates the performance of the students in the background of his own long experience and expertise in the subject and no internal authority, much less the court, would be justified in performing the legislative function of prescribing norms or evaluation of the students' performance in the highly professional course like M.B.A.

12. It was vaguely contended by Mr. Yadav that if the petitioner gets 1.985 grade point he cannot be placed in grade "C-" because grade "C-" carries 1.7 points. This contention has no substance inasmuch as the student is required to maintain an average grade point of 2.0 as per the regulation.

13. Mr. Yadav pressed in service "the judgment of the Supreme Court in Harbans Kumari and Others Vs. State of Uttar Pradesh, , regarding the interpretation of the word "average". The said word occurred in Section 39(1)(e) of the U.P. Zamindari Abolition and Land Reforms Act, 1950, which made the provision for computation of average annual income from forests on the basis of income of the preceding years and appraisal of the annual yield. The Supreme Court said that the High Court was correct in computing the income by adding up two figures relating to the factors mentioned above and arriving at a mean on that basis. According to Mr. Yadav the word "average" occurring in Regulation 7(c) would also imply addition of all the marks in the different subjects and arriving at a mean. Apart from the question whether such a mean would come to 2.0, it is obvious that the "average" grade point is specified and valued at "2.0" in the regulation itself and there is no question of calculating the mean. Moreover, the concept of calculating the average income in cases of forests and agricultural lands cannot be imported in the academic field, quite de hors the regulations of the University.

14. In spite of sympathy for the plight of the petitioner, this Court wilt not be

justified in interfering with the decision taken by an academic institution which is not shown to have committed breach of any of its regulations. The grievance of the petitioner is, therefore, not justiciable. The respondents may, if they so wish, take into consideration the plight of the students like the petitioner and introduce remedial measures in the regulations.

15. The petition, therefore, fails, and is dismissed. Rule is discharged with no order as to costs in the circumstances of the case.