
(2003) 12 JH CK 0068
In the Jharkhand High Court
Case No : Writ Petition (C) . No. 3600 of 2003

Vivek Kumar

APPELLANT

Vs

National Institute of Techonology and Others

RESPONDENT

Date of Decision : 05-12-2003

Acts Referred:

Constitution of India, 1950 — Article 226
Jamshedpur Regional Engineering Institute of Technology, s — Regulation 12

Citation : (2004) 52 BLJR 520 : (2004) 1 JCR 319

Hon'ble Judges : S.J. Mukhopadhaya, J

Bench : Single Bench

Advocate : D.N. Pandey, Pratap Sharma and Aftab Ahmad, for the Appellant;
Manish Mishra, for the respondent Nos. 1 and 2, A.K. Mehta and Rajiv Anand for
the respondent No. 3, for the Respondent

Final Decision : Dismissed

Judgement

S.J. Mukhopadhaya, J.—This writ petition has been preferred by the petitioner for a direction on 1st and 2nd respondents to publish his result and issue marksheet of B.Sc. Engineering (2nd year).

2. The petitioner is 2nd year Engineering student of Regional Engineering Institute of Techonology, Jamshedpur, now known as "National Institute of Techonology, Jamshedpur"--"NIT, Jamshedpur" for short. Being affiliated with Ranchi University, the examinations are conducted by the said University. According to the petitioner, he was admitted in the then R.I.T. Jamshedpur (now NIT, Jamshedpur) and allotted Roll No. 262/97. He appeared at the first year annual examination but could not clear some of the papers and, as such, he had to appear in 1999 Supplementary examination. He being not satisfied with the marks, applied for scrutiny, by depositing requisite fee on 14th February, 2000. However, no scrutiny was done and the matter remained pending, although the answer books were received in the University. By way of abandon precaution, he appeared at the next 1st, Year Supplementary Examination, held in March, 2002

but as per his information, the answer books of earlier examination were also received by the University.

3. The petitioner had to move before this Court in W.P.(C) No. 2466 of 2002 for publication of the earlier result, after scrutiny of 1999 Supplementary Examination. When the case was taken up for hearing on 13th September, 2000, counsel for the Ranchi University informed the Court that the examination of 1st year B.Sc. Engineering had already been held in March, 2002 in which the petitioner had appeared and result thereof will be published. In view of such statement, this Court by order dated 13th September, 2002 directed the Ranchi University to publish the result of his 1st Year B.Sc. (Engineering) Examination, held in March, 2002, within two weeks.

4. Further case of the petitioner is that even on the assurance of the University and the order passed by the Court, neither his result was published nor the marksheet was handed over to him. As such, he was constrained to move before this Court in Cont, (C) No. 1021 of 2002. Only thereafter, the Ranchi University handed over the marksheet to the petitioner on 8th May, 2003. He passed 1st Year with 2nd Division.

5. During pendency of the publication of 1st year B.Sc. (Engineering) result, he having completed 2nd year B.Sc. (Engineering) course, was allowed to appear in the 2nd year B.Sc. (Engineering), 1999 Annual Examination with Roll JAM No. 24EL. The marksheet of 1st year B.Sc. (Engineering) Examination was issued in May, 2003 whereinafter, he approached the 3rd respondent for publication of the 2nd year B.Sc. (Engineering) result and handing over the marksheet. The 3rd respondent directed the 1st respondent to issue marksheet to the petitioner, as endorsed in his application dated 7th July, 2003 (Annexure 4), but no action has been taken by the 1st respondent.

6. It is stated that the 2nd respondent issued a notice on 4th July, 2003, whereby, the petitioner has again been asked to take admission in the 2nd year B.Sc. (Engineering) course, though he had completed the studies and appeared at the examination.

7. According to the Controller of Examinations, Ranchi University, the action is required to be taken by the 1st and 2nd respondents. On receipt of the High Court's notice, the Registrar, Ranchi University, vide letter No. R.U./L/142/2003 dated 29th July, 2003 has forwarded a copy of the writ application with a request to 1st and 2nd respondents to do needful, as all steps have to be taken by them. It is stated that the NIT is responsible for publication of result and issuance of marksheet to its students and only degrees are conferred by Ranchi University.

8. The 1st and 2nd respondents (NIT) have opposed the prayer, made in the writ petition. They have tried to explain the examination system as was existing under the erstwhile R.I.T. According to them, the 1st year and 2nd year at RIF each had eight theory papers of 100 marks each with total 800 marks for theory papers. Sessional (Lab) work for each academic year carries 400 marks but it is

not important in the present case. An examinee must pass at least 5 theory papers of the 1st year for promotion to 2nd year. In case an examinee fails in more than 3 theory papers, he will be denied promotion. In case an examinee fails in annual examination, he can appear in the supplementary examination, which is held immediately after the result of the annual examination is declared. The examinee, who had failed, must appear in all papers in the supplementary examination.

Similar process is followed in case of promotion to 3rd year i.e. the examinee must pass in 5 papers out of 8 in the 2nd year with the proviso that a candidate for promotion to 3rd year must have passed all the papers of 1st year examination. The petitioner appeared at series of examinations or not appeared in number of them has been shown, as mentioned hereunder :

Sl. No. Examination Result Date of Publication

1. 1998 (Annual) 1st year, held in Dec., 98 Failed in 7 papers. Hence Failed.
26.6.1999

2. 1998 (Suppl) 1st year, held in June, 1999 Failed in 4 papers. Hence failed.
5.11.1999

3. 1999 (A) 1st year, held in July, 1999 Did not appear

4. 1999 (S) 1st year year, held in Nov., 1999 Failed in 4 papers, Hence failed.
3.2.2000 (Rem-Applied for scrutiny of Chemistry paper on 14.2.2000)

5. 2000 (A) 1st year, held in April, 2000 Did not appear

6. 2000 (S) 1st year, held in July, 2000 Did not appear

7. 2001 (A) 1st year, held in July, 2001 Did not appear

8. 2001 (S) 1st year, held in March, 2002 Did not appear

9. Further case of the respondents is that, as per the Rule of erstwhile R.I.T., in case of a student failing 1st year Examination for more than three times, he is to be given a certificate of "Not Fit For Techonology Education" (NFTE) and to be asked to leave the Institute. Hence the petitioner should have been asked to leave R.I.T. after his failure to appear at the 1st year Annual Examination, held in July, 1999 by the authority of the erstwhile RUT.

10. Counsel for the 1st and 2nd respondents pointed out at Serial Nos. 1, 2, 3, 4, 5, 6 and 7 of the chart aforesaid and submitted that the petitioner having failed or having failed to appear at the 1st year examination for more than three times i.e. in 1998 Annual, 1998 Supplementary, 1999 Annual, 1999 Supplementary, 2000 Annual, 2000 Supplementary and 2001 Annual Examinations, should have been asked to leave R.I.T. as per the regulation.

11. To appreciate the issue, it is desirable to quote the relevant Regulations of R.I.T., Jamshedpur, namely, Regulation 12 :

"Failure in three subjects or less :

12(i) If at any examination, a candidate passes sessional work but fails in not more than three subjects he may be promoted to the next higher class. Such candidate shall be required to appear and pass in the written paper of the subject(s) in which he has failed, in the next examination along with the subjects of the next higher class. If he fails in more than three subjects he may appear as non-collegiate candidate in the subsequent examination, but shall have to appear in all the subjects, if he fails in sessional work he has to take readmission.

(ii) If a candidate promoted as in (i) above, passed in all the papers (or failed in 3 papers or less) and also passes in sessional work of the higher examination, but does not pass the lower examination, his result of the higher examination shall be withheld, till he is declared to have passed the lower examination. However, he has the option of appearing in all the papers of the higher class in (i) above."

12. Counsel for the petitioner explained the matter and submitted that a candidate can not appear in the 1st year B.Sc. Engineering Examination of the subsequent year till his result is published. If the result is published and the candidate is declared "fail", only in such case a candidate can repeat and appear in the next (1st year) examination of such subject in which he has failed.

13. In the case of the petitioner, for the first time he failed when he appeared in the 1st year Annual Examination, held in December, 1998 (1988 Annual Examination). He having failed, took 2nd chance and appeared in 1st year, 1998 Supplementary Examination, held in July, 1999. The 1st year 1999 Annual Examination having been conducted simultaneously in July, 1999, the question of appearance of the petitioner in the 1st year, 1999 Annual Examination does not arise. The 3rd chance the petitioner took when he appeared in the 1st year 1999 Supplementary Examination, held in November, 1999. He was shown "fail" but he applied for scrutiny of Chemistry Paper. The respondents failed to scrutinize the Chemistry paper inspite of the fact that his answer book was forwarded to the R.I.T. The petitioner awaited for the scrutiny and could not appear in the 1st year 2000 Annual Examination, held in April, 2000 nor he could appear in the 1st year, 2000 Supplementary Examination, held in July, 2000 or 1st year 2001 Annual Examination, held in July, 2001. Ultimately, he having been allowed to appear at the 1st year examination, he appeared in the 1st year 2001 Supplementary Examination, held in March, 2002 and passed the examination with 2nd Division, the result of which was published by the respondents only after the direction of the Court on 19th April, 2003. From the aforesaid fact, it will be evident that the petitioner only failed thrice in the 1st year and not more than that. Therefore, he can not be declared as "NFTE" and he was rightly allowed by the R.I.T. to pursue his studies.

14. Under Regulation 12, if a person fails in three subjects or less can be provisionally allowed to be promoted to the next higher class (2nd year

Engineering hereunder). Such candidate is required to appear and pass in the written paper(s) of the subject(s) in which he has failed, in the next examination along with the subjects of the next higher class. The petitioner having failed in 7 papers in the 1st year Engineer 1998 Annual Examination, held in 1998 and again having failed in 4 papers in 1st year Engineer 1998 Supplementary Examination, held in July, 1999, he was not entitled for provisional promotion to the next higher class i.e. 2nd year Engineering course. He became eligible for promotion to the 2nd year only on completion of 1st year papers, which he completed in April, 2003.

15. In this background, if the respondents have asked the petitioner to take admission in the 2nd year B.Sc. Engineering Examination vide their notice dated 4th July, 2003, he now being eligible for such admission, it can not be held to be illegal.

16. For the reasons aforesaid, as the petitioner was not eligible for provisional promotion to 2nd year B.Sc. Engineering course in the year, 1999, even if he was allowed to appear in the 2nd year Engineer 1999 Annual Examination, his result can not be published nor he can be provided with the marksheet, as prayed for in the present case. His appearance in the 2nd year Engineering 1999 Annual Examination to be treated as cancelled.

17. For the reasons aforesaid and there being no merit, no relief can be granted to the petitioner. The writ petition is, accordingly, dismissed.