

Prateek Sharma And Anr vs Union Of India & Anr on 5 August, 2020

Author: Hima Kohli

Bench: Hima Kohli, Subramonium Prasad

\$~5,6 & 7

* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 3199/2020, C.M. Nos. 11708/2020, 15049/2020
PRATEEK SHARMA AND ANR Petitioners
Through: Mr. Kapil Sibal, Sr. Advocate with
Mr. Nizam Pasha with
petitioners No.1 and 2 in person.

versus
UNION OF INDIA & ANR. Respondents
Through: Mr. Chetan Sharma, ASG with
Mr. Ripudaman Bhardwaj, CGSC,
Mr. Kushagra and Mr. Sahaj, Advocates
for R-1 and R-2.
Mr. Apoorv Kurup and
Ms. Nidhi Mittal, Advocates for UGC.
Mr. Sachin Datta, Senior Advocate with
Mr. Mohinder J.S. Rupal and Mr. Hardik Rupal,
Advocates for University of Delhi

AND
W.P.(C) 3411/2020, C.M. No. 12111/2020 (Stay)
NATIONAL FEDERATION OF THE BLIND Petitioner
Through: Mr. S.K. Rungta, Sr. Advocate
in person.
versus
UNION OF INDIA & ANR. Respondents
Through: Mr. Vivek Goyal, CGSC for
R-1 and R-4.
Mr. Sachin Datta, Senior Advocate with
Mr. Mohinder J.S. Rupal and Mr. Hardik Rupal,
Advocates for University of Delhi
Mr. Apoorv Kurup and
Ms. Nidhi Mittal, Advocates for UGC.

AND

WP(C) No. 3199/2020 & connected matters Page 1 of 8
W.P.(C) 4029/2020, C.M. Nos.14445/2020 and 15048/2020
KABIR SCHDEVA Petitioner
Through: Mr. Manik Dogra, Mr. Dhruv Pande and

Mr. Randeep Sachdeva, Advocates

versus

UNIVERSITY OF DELHI AND ORS.

..... Respondents

Through: Mr. Sachin Datta, Senior Advocate with
Mr. Mohinder J.S. Rupal and Mr. Hardik Rupal,
Advocates for R-1/University of Delhi
Ms. Suparna Srivastava, CGSC with
Mr. Tushar Mathur, Advocate for R-2/UOI
Mr. Apoorv Kurup and Ms. Nidhi Mittal,,
Advocates for UGC.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% 05.08.2020 HEARD THROUGH VIDEO CONFERENCING

1. Pursuant to the previous order dated 30.7.2020, an affidavit has been filed by the Registrar (Acting), University of Delhi, placing on record a tabulated statement of the first phase and second phase of the Mock tests conducted from 27.7.2020 to 29.7.2020 and from 01.8.2020 to 04.8.2020, respectively. On the last date, though it was submitted on behalf of the University that the data relating to the first phase of the Mock test will not give a correct picture and the second phase will throw a better light on the extent of participation, we may note that the data relating to the second phase of the Mock test is more abysmal than that of the first phase. We had reproduced the tabulated data of the first phase of the Mock test in the order dated 30.7.2020. The data relating to the second phase of the Mock test is extracted herein below:-

2nd Phase (As per data available till 06:45pm on 04.08.2020) Mock Test DU
(UG+NCWEB+PG) SOL Ph II (up to 06:45pm) 01-Aug 02-Aug 03-Aug 04- 01-Aug
02-Aug 03-Aug 04-Aug Total Aug Total Registered 75353 111461 1,86,814 Total
Logged In 19530 8212 10004 6920 7800 9333 5081 8713 75593 Students Total
Paper's 18248 4083 8316 2709 3408 6809 2328 5275 51176 Attempted Total Paper
9021 2085 3711 1306 1533 3001 1036 2000 23693 Submitted Total Upload 61471
12522 25764 8047 8542 16181 5580 10849 148956 Recorded PwD Student PwD
Attempted PwD Submitted PwD Total Upload 545 75 239 124 30 147 4 45 1209 PwD
PwD (VH/VIS) Student PwD (VH/VIS) Attempted PwD (VH/VIS) Submitted PwD
(VH/VIS) PwD

2. A comparison of the data relating to the first phase of the Mock test vis-a-vis the second phase reveals that as against 1,83,376 students who had registered to participate in the OBE examination in the first phase, 1,86,814 students had registered themselves in the second phase. The total number of the students who had logged in during the first phase were 93,185 whereas, only 75,593 had logged in, in the second phase. The total number of papers attempted by the students in the first phase were 60,181 whereas, in the second phase, the total number of papers attempted were 51,176. The total number of papers submitted in the first phase were 33,162 whereas, in the second phase

the total number of papers submitted were 23,693. Even for the PWD category students and VH students, the data of the second phase of the Mock test is no better than that of the first phase, if not worse. This is a clear indication that the final year students are not thoroughly prepared to participate in the OBE on-line mode of examination that the University of Delhi has proposed to conduct.

3. In an earlier hearing, Mr. Dutta, learned Sr. Advocate appearing for the University of Delhi had informed this Court that in the light of the order dated 17.6.2020 passed in WP(C) 3199/2020, such of the final year students in the PWD category, who for any reason are not in a position to participate in the OBE on-line examination, would have the option of taking the examination physically whenever it is conducted in the month of September. However, for the general category students, the rule is that if a student proceeds to download a question paper and attempts it through the on-line OBE mode, then he/she will not get an opportunity to sit for that paper when the examination is conducted physically.

4. In view of the difficulties that the students in the general category are also likely to face while sitting for the on-line OBE, we are of the opinion that the option given to the PWD students as recorded above, should also be extended to the general category students. Learned Senior Advocate appearing for the University has readily agreed to the said suggestion. Accordingly, it is directed that all final year students who are not in a position to participate in the OBE examination, will have the option to sit physically for the exams later on, notwithstanding the fact that he/she had downloaded the question paper, but could not manage to upload or e-mail the answer sheet for any reason whatsoever. However, we do agree with Mr. Datta, Senior Advocate that if the answer sheet has been e-mailed or uploaded by a student in respect of any subject, then for that particular subject, the student will not be permitted to sit for the physical examination to be conducted soon. He/she can only better his/her result by taking the supplementary examinations, as and when they are conducted by the University.

5. On taking note of the data of the first and second phase of the Mock tests, we have next enquired from learned Sr. Advocate as to whether the only the manner of submitting the answer sheets in the OBE on-line mode would be by uploading the answer sheets on the website of the University of Delhi, to which the answer given is that the students would have two options, one is to upload the answer sheets and the other is to scan the answer sheets and e-mail them to the University, within the prescribed timeline.

6. Mr. Sibal and Mr. Rungta, learned Sr. Advocates have both stated that most of the students are not even aware about the two options mentioned above and it would only be appropriate, if the University is directed to e-mail the Notice/Circular issued in that regard to all the students for their information. Mr. Dutta, learned Sr. Advocate states on instructions that the said information has already been e-mailed to all the PWD students and the University has no objection to sending an e-mail relating to this information to all the students, who have registered with the University as their e-mail IDs are readily available. University of Delhi is directed to do the needful by tomorrow evening since the OBE online examinations are scheduled to commence on 10.8.2020.

7. Another aspect that this court has highlighted is that if the norms of social distancing are to be maintained and students ought not to visit the University and gather there in crowds for applying for and/or receiving their certificates after clearing the examinations, would the University be willing to e-mail the certificates to them with the digital signatures of the nominated officer affixed thereon. Mr. Dutta, learned Sr. Advocate states that this aspect can be examined and worked out and the University will ensure that the final year student can apply electronically for a certificate and their certificates are digitally signed and mailed to them within a reasonable time. The timeline for issuing the said certificates shall be indicated by the University of Delhi on the next date of hearing.

8. At this stage, Mr. Rungta, learned Sr. Advocate states that the aspect of supplying assistive devices and the prescribed course material/text books for the VH students has not been resolved so far. He states that most of the VH students may not even be in a position to participate in the OBE on-line mode of the examination and they would prefer to wait for the University of Delhi to conduct the final year examinations physically, as they do not have the required facilities. In such circumstances, the aspect of providing scribes to the PWD and VH category of students does not need to detain this court any further. At the same time, it is made clear that such of the PWD/VH students who have made a request for scribes at the CSC Centres, shall be provided one by the University. The aforesaid direction is being issued in the light of the statement made by the CSC Academy and the Ministry of IT on the last date of hearing that they are not responsible for providing scribes to such students at the CSC Centres and it is for the University of Delhi to make adequate arrangements. University of Delhi shall ensure that no PWD/VH students is deprived of a scribe at the CSC Centres if they have opted for going there to participate in the on-line OBE mode of examination and have intimated the University of their decision in advance. It is for the University to provide scribes to the PWD/VH students directly or with the assistance of the Ministry/CSC Centres, as may be feasible.

9. Mr. Rungta, learned Sr. Advocate has very gracefully taken on himself the responsibility of providing assistive devices to those VH students who need one, subject to the same being returned to him to at the end of the examinations. He however states that at least some of the prescribed case material/text books that form a part of the syllabi for different subjects of the final year students be furnished to the VH students by the University in this extraordinary situation, where most of them have had to leave the University campus and go back to their native places and do not have any support system in place there. He hastens to clarify that those VH students will not be in a position to participate in the OBE on-line mode of examination which shall commence on 10.8.2020 and they will be doing so only when the examinations are conducted physically by the University.

10. That being the position, last opportunity of one week is granted to the VH students who wish to sit for the examination physically, to send an e-mail to the Dean (Examinations) to provide them the prescribed reading material/text books of various subjects in an accessible form. Upon receiving such a request, the University through its colleges/institutions and any other Agency shall make available at least two prescribed text books/reading material in accessible form in respect of each paper to the concerned students within three weeks from the date of receiving such a request.

11. It has also been stated on behalf of the University of Delhi that those students who shall participate in the online OBE examination and wish to secure admission in a PG course offered by the University, will be granted provisional admission subject to their clearing the entrance examination prescribed for the said course. The University is bound down to the said statement.

12. As it is stated on behalf of the University of Delhi that more time would be needed to revert back with the exact date by which the results of the final year students who propose to sit in the online OBE examination will be declared, they are granted 10 days to file an affidavit clarifying the aforesaid position. It shall also be stated as to how many students had actually logged in to participate in the online OBE examination and the assessment of the number of students who will take the examination physically at a later date, to be indicated by the University.

13. List on 17.08.2020.

HIMA KOHLI, J SUBRAMONIUM PRASAD, J AUGUST 05, 2020/ap/a