

Shudarshan Lal Dwivedi And Ors. vs Dean Of The Faculty Of Science, ... on 29 October, 1952

Equivalent citations: AIR1953ALL194, AIR 1953 ALLAHABAD 194

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Bench: V. Bhargava

JUDGMENT

Malik, C.J.

1. This is an application under Article 226 of the Constitution filed on behalf of thirteen students of the B. Sc. 1st Year class of the Allahabad University, The applicants were admitted to that class in July 1951. At the end of the academic year they sat for the examination in April 1952 and failed. They again sat for the supplementary examination in July 1952 and were declared unsuccessful. There was another supplementary examination later for which they sat and the examiners were not satisfied that they were entitled to get the minimum pass marks and thus they failed again. The applicants were, therefore, not promoted to the 2nd Year and remained in the 1st Year B. Sc. The applicants then moved the university Executive Council but it refused to interfere. It is on these facts that the applicants have come up to this Court and it has been urged on their behalf that there was no power in the University to hold an examination at the end of the 1st Year to determine whether the applicants were fit enough for promotion to the 2nd Year class or detain them if they were found unsuccessful in that examination.

2. Reference has been made to Clause (c) of Section 32, University Act (3 of 1921) and the Ordinances and Regulations thereunder and it has been urged by learned counsel that once a student is admitted to the 1st Year class he has a right to appear for the B. Sc. final examination at the end of two years, provided he has maintained the minimum percentage of attendance required under the regulations and the University authorities have no right to hold any examination within the period of two years to satisfy themselves that the student is fit to be allowed to sit for the final examination.

3. Section 32(c) of the Act on which reliance is placed is as follows:

"32.-- Subject to the provisions of this Act and the Statutes the Ordinances may provide for or any of the following matters, namely:

(a)

(b)

(c) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the University, and shall be eligible for degrees and diplomas;"

Section 34(1)(b) of the Act provides that -

"34. (1) The authorities and the Boards may make regulations consistent with this Act, the Statutes and the Ordinances -

(a)

(b) providing for all matters which by this Act, the Statutes or the Ordinances are to be prescribed by the Regulations:"

The relevant Ordinance pointed out by learned counsel is Ordinance (2) of Chap 36 which is as follows:

"A candidate who has attended a regular course of study in the University for this degree shall be permitted to appear at the examination."

The words "attended a regular course of study" are defined in General Ordinance No. (1) of Chap. 34 as meaning "attendance at such percentage of lectures and other teaching in the subject or subjects for the examination at which a candidate intends to appear, and at such other practical work (such as work in a laboratory) as is required by any Ordinance, Regulation or Rule in force for the time being in the University".

The argument is that the University may prescribe two separate University examinations for the 1st Year & the 2nd Year B. Sc. as it has done for the M. Sc. previous and final, but it has no right to hold an examination, which is known as class examination, and as a result thereof detain a student in the 1st Year and so debar him from appearing in the B. Sc. examination after two years as provided for under Ordinance (2) of Chap. 36 quoted above.

It is admitted that the Regulations providing for holding class examinations are clear and they are as follows:

"1. --There shall be an examination before the Winter Vacation, called the First Examination; there shall be another examination before the Summer Vacation called the Second Examination.

2. The marks obtained at both these examinations shall be added up, and taken into account in determining promotion.

3.

4.

5. In order to pass, a candidate must obtain in the two examinations taken together at least 25 per cent in each subject and 30 per cent of the aggregate of all subjects."

Our attention has also been drawn by learned counsel appearing for the opposite party to Regn. (9) of Chap. 32 which is as follows:

"All students are required to present themselves for the class examinations in the subjects which they have been taking and, if they fail in these examinations, they may be required to repeat their courses of study."

It is urged that these regulations are ultra vires the University.

We are not satisfied that the contention of the learned counsel has any substance. Ordinance (2) of Chap. 36 does not give a student absolute right to sit for the B. Sc. final exam. at the end of two years and it cannot be contended that the University has no right to prescribe a course of study and to hold examinations to see that the student has diligently applied himself to mastering the subjects that he has taken so as to qualify himself for the degree that is going to be conferred on him as a result of the tests held for the purpose. Section 5(2)(a) of the Act gives the University the power to grant and confer degrees and other academic distinctions to and on persons who shall have pursued an approved course of study in the University and shall have passed the examination of the University under conditions laid down in the Statutes or Ordinances. The regulations made under the Statutes and Ordinances cannot be said to be in contravention of the said Statutes and Ordinances and we are not satisfied that the contention of the learned counsel that the University has no right to prescribe class examinations has any substance.

4. It is a great pity that the applicants, instead of diligently applying themselves to their studies and qualifying themselves for promotion to the B. Sc. 2nd Year class, should have thought it fit to move this Court for a writ or order against the University. This Court is most reluctant to entertain such applications especially as it is extremely desirable that the students should be under the full control & guidance of the University and its staff and, unless the act complained of is clearly beyond the jurisdiction or is clearly against the rules of natural justice, this Court will not interfere in such matters which relate to internal working of the University. We would have directed the applicants to pay the costs of the University, but they appear to be misguided young men who have been led away by the advice given to them. In the circumstances we express our reprobation of the act of the applicants but do not make any order as to costs.