

Samarth Nayar & Ors vs Controller Of Examinations Gurur ... on 21 October, 2020

Author: Jayant Nath

Bench: Jayant Nath

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 8307/2020
SAMARTH NAYAR & ORS. Petitioner
Through Mr.Anas Tanwir, Adv.
versus
CONTROLLER OF EXAMINATIONS GURUR GOBIND SINGH
INDRAPRASTHA UNIVERSITY & ORS. Respondent
Through Ms.Anita Sahani, Adv. for R-1
Mr.Shivang Dubey, Adv. for R-2
Mr. Annirudh Sharma, Adv. for R-3

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH
ORDER

% 21.10.2020 This hearing is conducted through Video Conferencing. CM No.26922/2020 Exemption allowed, subject to all just exceptions. Application stands disposed of.

W.P.(C) 8307/2020 & CM No.26921/2020

1. This writ petition is filed by the petitioners seeking an appropriate writ directing respondent No.1 to withdraw the Notification dated 30.09.2020 and to also clarify that the same is not applicable to law students. It is also pleaded that respondent No.1 be directed to hold examination through Online Mode in compliance of Guidelines of respondent No.2/Bar Council of India.

2. Essentially the petitioners are students of BA LLB/BBA.LLB programme in the respondent No.1 University. On 30.09.2020 respondent W.P.(C)8307/2020 Page 1 No.1 issued a notice regarding conduct of examination. The intermediate exams for BA LLB/BBA LLB were supposed to be written in May/June 2020 are to now commence from 27.10.2020. The petitioners rely upon a clarification issued by the Bar Council of India dated 5.10.2020 to plead that in the present COVID situation and considering the present Lockdown norms since schools and colleges have not been opened it would be illegal and arbitrary to conduct physical exams.

3. I have heard learned counsel for the parties. Learned counsel for respondent No.1 has pointed out that the exams are presently sought to be conducted from 2.11.2020 for the Second, Sixth and Eighth Semesters. The students have already been promoted to the next Semester without the exams. It is stated that if these exams are repeatedly postponed the effect would be that the students

in question will have to give exams for two three semesters in one go which may create difficulties for the students and for the respondent No.1/University.

4. Learned counsel for respondent No.2 has taken me through the Circular dated 5.10.2020 which specifically prescribes that no physical exams are to be held presently and would be held only after the colleges physically open within one month after the normalcy returns to function.

5. I may look at the circular in question. Relevant portion reads as follows:-

"Thus, it is evident and crystal clear from the BCI Circular/Press release that examination for all students except final year students only is to be conducted within one month of physical reopening of colleges when normalcy resumes and when the pandemic situation no longer exists.

Furthermore, the rules of Legal Education 2008 do not permit any W.P.(C)8307/2020 Page 2 examination to be held by online mode and the exception for conducting by either online mode is only for Final year LL.B students. In the said resolution/circulars, the Universities have been given an alternative option to adopt any other appropriate method which they feel is adequate to satisfy the requirements of regular examination including allowing Final year LL.B students to write a project report/research paper for each paper of final year or by resorting to adopt a full proof method to double the internal marks of the semester exams already held for such year, which was a recourse to be adopted only under the extraordinary unprecedented emergent situation which has arisen due to the pandemic of covid 19 which necessitates social and physical distancing and resorting to various other precautions to keep the Corona virus at bay.

Thus this step was only taken only in order to prevent loss of an academic session and year for Final Year LL.B due to which their future in obtaining the degrees and thereafter starting their careers by entering the profession of advocacy or otherwise would have been grossly and indefinitely delayed putting further burden on the already over burdened and stressed students due to Covid-19.

On the other hand, issuing directions for promoting all students except final year students to the next year/semester ensured saving of their academic session and it was ensured that the classes for the next academic session would begin. However, for them a Clause was added that exams should be held within one month of re-opening of Colleges, which refers to physical re-opening of Colleges, and thus it refers to exams to be held only after normalcy resumes and after the pandemic is averted. The Circular/Press Release refers to adherence of norms of social distancing and sanitization of examination halls too. A further clause was added for all such similarly placed students, that in case, they were unable to clear any of the papers of the previous years, their promotion would not be affected but that they would have to clear all such papers which they have been unable to give before getting their degree.

This decision was taken based on the circumstances and ground realities."

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6. Hence, as per the communication of Bar Council of India the exams are to be held within one month of re-opening of the colleges in the physical mode. To that extent the steps being taken by respondent No.1 University are contrary to the circular of respondent No.2.

7. However, there is merit in the plea of learned counsel for respondent No.1 that if the exams are postponed then the students on physical re- opening of the colleges may have to give exam for two-three semesters at one go which may apart from creating logistic problems for respondent No.1 will also be burdensome for the students.

8. Learned counsel for the petitioner, however, submits that they have no objection and are willing to take all the exams of two three Semester in one go once the Colleges reopen.

9. At this stage, learned counsel for respondent No.1 clarifies that the students who have approached the court by filing of the present petition would be free to not give the physical exam which are being held from 2.11.2020. Students who do not wish to take the said exams may not give the exam on 2.11.2020 without any penal consequences. Such students would be allowed to give subsequent Re-appear exams which will be held once the colleges start functioning properly.

10. Keeping in view the above stand of respondent No.1 and in view of the clarification that no penal consequences will follow on the petitioners, choice is left to the petitioners. If they wish to give the exam commencing on 2.11.2020 they are free to do so. If for some reason they do not feel appropriate to give the said exam they will be free to appear in the Re- appear exam which will be held subsequently.

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11. Petition stands disposed of. All pending applications, if any, also stand disposed of.

JAYANT NATH, J

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