

Arjun Anand vs University Of Delhi & Ors on 2 January, 2023

Author: Sanjeev Narula

Bench: Sanjeev Narula

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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 1/2023
ARJUN ANAND

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Through: Dr. M.K. Gahlaut, Mr. O.P. Jata
Varun Jain and Mr. Akash Anand,
Advocates.

versus

UNIVERSITY OF DELHI & ORS.

Through: Mr. Mohinder J.S. Rupa

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA
ORDER

% 02.01.2023 CM APPL. 1/2023 (under Sec. 151 of the Code of Civil Procedure, 1908 ["CPC"] for exemption from filing the certified copies of the annexures, eligible copies of the annexures & dim annexures)

1. Exemption is granted, subject to all just exceptions.
2. Petitioner shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

CM APPL. 2/2023 (under Sec. 151 of CPC for interim relief)

4. Petitioner, a third-year student of LL.B. at Campus Law Centre, University of Delhi, has been detained from appearing in V-semester examinations by virtue of Detention List dated 30th December, 2022 and Revised Detention List dated 31st December, 2022 [hereinafter "detention lists"]. Aggrieved by the same, Petitioner has invoked Article 226 of the Constitution of India, 1950 seeking mandamus to Respondents to direct deletion of his name from the detention lists and grant permission to appear in the V-semester examinations commencing from 03rd January, 2023 to 14th January, 2023.

5. Petitioner's case is that he fractured his hand on 04th November, 2022, in an accident while playing football. He was advised complete bed rest from 16th November, 2022 to 16th December, 2022 and as result he could not meet the minimum attendance criteria for appearing in the V-semester examinations. The above facts were brought to the notice of the concerned authorities of

the University with supporting medical documents on 19th December, 2022, however, the same were disregarded and his name was included in the detention lists. The fallout is that for reasons beyond his control, due to an unexpected injury, Petitioner has been barred from appearing in the upcoming V-semester examinations.

6. Mr. M.K. Gahlaut, counsel for Petitioner submits that no reasons have been provided for the detention and the lists are entirely non-speaking on this aspect. Petitioner has genuine reasons to explain the shortage, which have been overlooked. He was advised complete bed rest from 16th November, 2022 to 16th December, 2022, and as a consequence, he was unable to attend the classes during the said period to meet the minimum attendance criteria. To buttress this contention, he places reliance on a medical certificate dated 30th December, 2022 issued by one - Dr. Gautam Dhir on the letterhead of BLK-MAX Super Speciality Hospital as well as other medical documents. He also relies upon judgments of this Court in *Adarsh Raj Singh v. Bar Council of India and Ors.* and connected matters,¹ and *Aanya Kameshwar and Ors. v. Guru Gobind Singh Indraprastha University and Ors.*² Furthermore, Mr. Gahlaut contends that Respondents have not conducted minimum number of classes, as required by Bar Council of India, and therefore, it is the University that is at fault for the shortage of attendance and there is no good ground to detain the Petitioner from appearing in the forthcoming examinations. The decision in *Aanya Kameshwar (supra)* is relied on to argue that reasons for detention should have been communicated to Petitioner as well as his parents to enable them to make a proper representation and correct discrepancies, if any, in the attendance records.

7. Per contra, Mr. Mohinder J.S. Rupal, counsel for Respondents argues that Petitioner ought to have secured minimum 70% attendance, as per extant rules and his attendance is only 46.94% and therefore, he has been rightly detained. Reliance is placed upon decisions of the Division Bench of this Court in *Kiran Kumari and Ors. v. University of Delhi and Ors.*,³ and *Guru Gobind Singh Indraprastha University v. Naincy Sagar and Anr.* and connected matter.⁴

8. The Court has considered the aforementioned contentions. At the outset, it is considered apposite to extract the medical certificate relied upon by Mr. Gahlaut to contend that Petitioner was advised complete bed rest from 16 th Judgment dated 06th July, 2018 in W.P.(C) 5062/2018.

Judgment dated 01st June, 2018 in W.P.(C) 5285/2018.

Judgment dated 16th May, 2008 in W.P.(C) 9142/2007.

Judgment dated 19th November, 2019 in LPA 713/2019 and 717/2019, respectively.

November, 2022 to 16th December, 2022: -

9. The above document has been issued on 30th December, 2022 for the period from 16th November, 2022 to 16th December, 2022. However, whether there was indeed such medical advice given is not discernible from the medical prescriptions of the same doctor (Dr. Dhir) dated 15th November, 2022 and 07th December, 2022. Mr. Gahlaut is also unable to point out any document

advising "bed rest" except for the above ex-post facto certificate. Be that as it may, Mr. Rupal, on instructions, has informed the Court that Petitioner's attendance is only 46.94%, as against minimum requirement of 70%. Mr. Rupal has also confirmed that even if Petitioner is given benefit of the aforementioned period (i.e., 16th November, 2022 to 16th December, 2022), on account of medical exigency, he would get benefit of 40 lectures and his attendance would consequently rise up to 59%, which would still be falling short of minimum requirement of 70%. In this regard, Mr. Rupal has shared following data regarding Petitioner's attendance. The same is culled out below: -

PAPER ID & PAPER NAME	MONTH	CLASSES ATTENDED	TOTAL
LB 501 Moot Court Exercise and Internship	September	7 out of 18	21 out of 18
	October	0 out of 12	
	November	10 out of 18	
	December	4 out of 10	
LB 502 Drafting Pleading and Conveyance	September	0 out of 12	10 out of 12
	October	4 out of 10	
	November	5 out of 11	
	December	1 out of 8	
LB 503 Industrial Law	September	8 out of 11	24 out of 19
	October	16 out of 19	
	November	0 out of 16	
	December	0 out of 13	
LB 5031 Information Technology Law	September	0 out of 10	33 out of 14
	October	9 out of 14	
	November	12 out of 17	
	December	12 out of 20	
LB 5036 Business Regulations	September	7 out of 9	35 out of 13
	October	9 out of 13	
	November	11 out of 12	
	December	8 out of 9	
TOTAL			123 out of 262

10. Petitioner has therefore, attended only 123 out of 262 lectures. The medical ground urged by Petitioner is thus of no avail. The judgments relied upon by the Petitioner are also not applicable to facts of the present case.

The student is expected to attend all classes. However, as held in *Naincy Sagar* (supra), the minimum attendance requirement of 70% gives a student some leeway to skip or abstain from attending 30% of the lectures for variety of reasons ranging from sickness, a tragedy in the family, unforeseen circumstances or other reasons beyond the control of the student. The attendance of Petitioner is only 46.94%, which is well below the 70% minimum attendance requirement, a pre-requisite for appearing in the examinations. In the instant case, even if one were to exclude the period from 16th November, 2022 to 16th December, 2022, the period when the Petitioner was allegedly unable to attend classes on account of a fracture of his hand, his attendance would still fall short of the 70% minimum attendance requirement. The father of the Petitioner, who is present during the hearing, has expressed his dismay and urges the Court to take a lenient view considering the fact that the decision of the University would prolong Petitioner's course and result in wastage of

six precious months. The Court, however, remains unconvinced as the Petitioner has attended classes sporadically throughout the semester, and the minimum attendance criteria is a requirement which cannot be glossed over. As held in Naincy Sagar (supra) attendance of a minimum percentage of classes prescribed in professional courses such as LL.B. is non-negotiable. Importance of attending lectures for imbibing the syllabus/curriculum in a given semester, the most efficient way of learning, must be underscored. Further, Mr. Gaulaut has submitted that minimum number of classes, as required by Bar Council of India, have not been held by the University. This remains a lone submission sans any reference in the plaint and unsubstantiated by any document shown to the Court. University shall deal with the same in the counter affidavit.

11. For the foregoing reasons, the Court is not inclined to grant any interim order and accordingly the application is dismissed.

W.P.(C) 1/2023

12. Issue notice. Mr. Rupal, counsel for the Respondent No. 1 accepts notice. Issue notice to remaining Respondents, upon filing of process, by all permissible modes, returnable on the next date of hearing.

13. Let counter affidavit be filed within four weeks from today. Rejoinder, if any, be filed within two weeks thereafter.

14. List before the Roster Bench on 17th February, 2023.

SANJEEV NARULA, J (VACATION JUDGE) JANUARY 2, 2023 nk