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17.05.2024
Ct. No. 11
rrc

FMA 556 of 2024
with
IA No. CAN 1 of 2024
(Arnab Sau Vs. The State of
West Bengal & Ors.)

Mr. Subrata Mukhopadhyay
Ms. Basabi Roy Choudhury
.... For the Appellant

Mr. Nilotpal Chatterjee
Mr. Satyaki Banerjee
.... For the Calcutta University

Mrs. Debjani Sahu
.... For the respondent nos. 7 & 8

Affidavit-of-service filed by the appellant be kept on record.

The present appeal has been preferred to impugn a part of the order dated 7th February, 2024 passed in WPA No. 28605 of 2023. The operative part of the order impugned in the appeal is as follows:

“...the University to publish the 6th Semester result incorporating the marks as provided by the college within a period of one month from the date of communication of the order.

In so far as the fourth semester examination is concerned, the petitioner shall be allowed to take the said examination as a supplementary examination as per the relevant rules of the University.”

The appellant is aggrieved by the latter part of the order whereby he was directed to re-appear in the 4th semester examination.

Averting to the facts of the case, it would be noticed that the petitioner had been pursuing BA.LLB course in Shyambazar Law College (in short, the college) since 2017. The duration of the course was of 5 years having two semesters in each year. At the end of each semester, the student was required to appear in end semester examination.

The appellant appeared in all the 10 semesters. Due to onset of Covid-19 pandemic, the college authority decided to take fourth semester examinations through *online* mode. Further to such decision, the question papers of all subjects of fourth semester were posted in the classroom portal on 27th November, 2020 with an instruction upon the examinees to submit the answer scripts of all questions by 12 noon on or before 30th November, 2020.

The petitioner uploaded the answer scripts of all other examinations within the time specified but he uploaded the answer scripts of the 4th Semester examination on 3rd December, 2023.

When the result published, the petitioner found that no marks were awarded to him against 4th semester examination and his result of 6th semester was shown as 'not found'.

The petitioner approached the college authority on repeated occasions with a prayer for resolution of the issue. Eventually, by a letter dated 30.05. 2023, the Teacher-in-Charge of the college directed the petitioner to re-appear in 4th and 6th semester examinations.

Seeking intervention of this Court in the issue, the petitioner instituted the writ petition.

Mr. Mukherjee, learned advocate representing the petitioner seeks to contend that due to covid-19 pandemic, normal life of almost all citizens of the State was disrupted. The petitioner's mother suffered from covid-related disease for quite long time and ultimately, she succumbed to her diseases. Due to such reasons, there occurred a delay of only three days in uploading the answer scripts of 4th semester examination in the portal. The college authority also caused delay in forwarding the marks of 6th semester examination to the University. The University had condoned the delay caused by the college authority but refused to accept and evaluate the petitioner's answer scripts of 4th semester examination.

These issue were raised in WPA 28605 of 2023 but the learned single Bench glossed over those issue and no finding was returned on the same and directed the petitioner to re-appear in 4th semester examination. According to Mr. Mukherjee, such infirmity warrants interference of the order impugned.

Mr. Chatterjee, learned advocate appearing for the University contends that due to onset of covid-19 pandemic, the college authority was asked to set up the questions, evaluate the answer scripts and forward the marks secured by the students to the University. In his usual fairness, he submits that there was delayed submission of the marks of 6th semester examination from the end of college authority but the petitioner himself caused delay in uploading the answer scripts of 4th semester examination within the time specified by the college authority. He further submits that there had been no latches on the part of the University.

Answering our query, Mrs. Sahu, learned advocate appearing for the respondent nos. 7 & 8 submits that answer scripts of 4th semester examination of the petitioner have been evaluated and the petitioner has secured pass marks in all subjects and even results have also been communicated to the University. Let the documents, as produced by Ms. Sahu, be taken on record.

Having regard to factual situation and considering the future prospect of the student concerned, we are inclined to exercise our equitable discretion to condone the three days' delay, as caused by the petitioner in uploading the answer scripts of 4th semester examination. Accordingly, the order impugned is modified to the extent that the college is directed to communicate the result of the 4th semester examination of the petitioner again to the University within 2 (two) weeks from date. The University shall issue a mark-sheet of 4th semester examination and the final mark-sheet of the petitioner within 4 (four) weeks from the date of receipt of such communication from the college concerned.

With the above observations and discussions, the appeal and the connected application are disposed of.

It is made clear that this order shall not be treated as a precedent.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)