

2022 LiveLaw (Del) 210

IN THE HIGH COURT OF DELHI AT NEW DELHI

CORAM: JUSTICE PRATHIBA M. SINGH

W.P.(C) 3946/2020; 14th March, 2022

ANUPAM & ORS. versus UNIVERSITY OF DELHI THROUGH: ITS REGISTRAR & ORS.

Petitioners Through: Mr. Shivankar Sharma, Advocate.

Respondents Through: Mr. Mohinder JS. Rupal & Ms. Bhawani, Advocates. Mr. Apoorv Kurup, Ms. Nidhi Mittal & Mr. Ojaswa Pathak, Advocates for R-2/UGC.

1. This hearing has been done through hybrid mode.

2. The present petition was filed in July, 2020 by the Petitioners who were final year students pursuing their studies at the University of Delhi (hereinafter 'DU'), in respect of the conduct of the online Open Book Examinations (hereinafter 'OBE') by DU. The Petitioners sought quashing and withdrawal of the notifications dated 14th May, 2020, 30th May, 2020 and 27th June, 2020 in respect of undergraduate and postgraduate students, including students of the School of Open Learning and Non-Collegiate Women Education Board. In the alternative, the following prayer was sought by the Petitioners:

“b. Alternatively issue an appropriate writ, order or direction in the nature of mandamus or any other writ or direction as this Hon'ble Court may deem fit in the interests of justice, thereby directing Respondent No.1 to evaluate the final year students based on the previous years' or semesters' results in the same manner as the Respondent University has planned to promote the first and second year students of the Respondent University.”

3. The matter was listed for the first time before this Court on 6 th July, 2020. On the said date, various grievances against the conduct of the online OBE were placed before this Court. This Court was informed that there are several glitches in the online portal of DU and considering the diversity of the students in DU who are from all over the country, it may not be feasible for all students to give the OBE exams due to lack of internet connectivity and computer facilities. DU had however expressed their preparedness to conduct the examination. Bearing in mind the difficulties being faced by the final year students of DU, this Court had issued the following directions:

“22. The UGC, which is an overarching body for all the universities, ought to in fact take a decision and give its recommendations to all the Universities across the country. UGC is a party in the present petition and it is admittedly considering the issues relating to final year examinations. Thus, there should be no further delay in the UGC's Committee submitting its report and the advisory from the UGC/ Ministry of HRD, being issued to Universities in respect of conduct of final year examinations. Accordingly, it is directed as under:

i) UGC's Committee headed by Prof. Kuhad shall submit its report to the authorities concerned by 7th July, 2020 and the said report shall be placed on record on 7th July, 2020 by 4:00 pm i.e., when the matter is now listed. The UGC and the Ministry of HRD shall take a specific stand as to whether they recommend cancellation of final year examinations. Responsible officials from the Ministry of HRD and UGC shall join the hearing tomorrow i.e., 7th July, 2020 at 4 pm;

ii) Secondly, the DU shall place on record the following data:

- a) *The number of students who are studying in the final year of DU and the number of students who are registered for the final year examinations to be conducted through the online process;*
- b) *A state-wise break-up of the students and from where they have to take the examinations;*
- c) *Preparedness of the website portal for handling of the traffic during examinations, keeping in mind the recent technical glitches faced by students during the mock exams;*
- d) *The schedule of examinations i.e., evaluation of papers, date for announcement of results and date for issuance of transcripts. While preparing and placing on record the schedule before this Court, DU shall bear in mind the deadlines for all the final year students who have to seek employment, deadlines for postgraduate entrance examinations, deadlines for submission of documents to international universities where students may have secured admission etc.”*

4. Thereafter, the matter was heard at length on several consecutive days. On 7 th July, 2020, DU had expressed its complete readiness to go ahead with the online OBE, which was scheduled to commence from 10th July, 2020. However, this Court was informed that a meeting was under-way between representatives of the Ministry of Human Resource Development (hereinafter, “MHRD”), UGC and DU and time was sought to confirm the schedule of the online OBE. On 8 th July, 2020, this Court was informed that the UGC has issued fresh guidelines on 6th July, 2020 and in the meeting held on 7th July, 2020, a decision was taken to postpone DU’s online OBE to after 15th August, 2020. In the said order, various grievances and difficulties expressed by students were also recorded. However, keeping in view the fact that two other writ petitions relating to the conduct of the online OBE were listed before the Id. Division Bench, the matter was placed before the Id. Division Bench.

5. In view of the statement made by Id. Counsel for Petitioners that the prayer of the Petitioners herein, is that no manner of examination be conducted to assess final year students and instead, they be simply evaluated on the basis of their past performance and the OBE mode of examination be not adopted to assess them, this matter was detached from the batch of petitions. The same was recorded in the order dated 14th July, 2020 passed by the Id. Division Bench, and the matter was placed before this Court.

6. This matter has been heard from time to time. During the course of the hearings, various orders were passed by the Id. Division Bench as also this Court in order to end the uncertainty for lakhs of students who were appearing in the OBE and to ensure fair opportunity, keeping in view the technical difficulties faced by students. Attempts were made by the Court to closely monitor the timelines in the interests of the students so as to ensure that the entire process gets concluded at the earliest. Vide order dated 7th August 2020, elaborate directions were issued for streamlining the conduct of the OBE which were set to commence on 10th August, 2020. A Grievance Redressal Committee was also constituted to ensure timely assistance to the students appearing for the OBE.

7. During the Covid-19 pandemic, the exams for Semester 2020 and 2021 have been conducted by DU, and the results thereof have also been declared. Vide order dated 5th February, 2021, on the aspect of data privacy, DU was directed to file an affidavit as to whether it has a privacy policy, in respect of the entire data related to the personal information of students which has been collected, and kept with the University developed Enterprise Resource Planning (hereinafter, “ERP”) software. The said affidavit was to also set out the details relating to the

ERP model which is being used by DU. Thus, the only outstanding issue is in respect of the preservation of the data collected by DU.

8. Pursuant to the order dated 5th February, 2021, an affidavit dated 9th August, 2021 of Dr. Vikas Gupta, Registrar has been placed on record. The said affidavit in respect of data and privacy issues states as under:

“4. Without prejudice to the above it is respectfully submitted that regarding the safeguard of privacy and security, the entire data related to the personal information of students has been well protected and kept with University developed ERP. The University of Delhi has also a privacy policy in respect of the data received.

*5. The true and correct privacy policy of the University of Delhi as regards the information and data received from students is annexed hereto and marked as **Annexure R-1/1** and for Delhi University Website at **R-1/2**. Furthermore, the backup is stored in University developed ERP System, which is not public facing and only accessed by designated officials of Examination Unit, Admission Unit and other administrative units of the University.”*

9. As per the above affidavit, DU has made certain assurances before this Court, which are accepted. In view of the fact that the DU has assured this Court that the data relating to the personal information of students is well protected with an ERP software which has been developed by DU, and the access to the same is restricted to the designated officers of the Examination Unit, the Admissions Unit and other Administrative Unit of DU, this Court is satisfied that the steps taken are sufficient for the purposes of maintaining the safety and integrity of the data collected by DU.

10. Mr. Sharma, Id. Counsel for DU, points out that the ERP software which has been installed, is in respect of the prospective applicants for undergraduate and postgraduate programs of DU. It is made clear that the same shall also be made applicable to all the data which has been collected while conducting the OBE for all students during the previous two academic sessions as well. Appropriate steps be taken by DU to ensure the security and privacy of the said data.

11. The present order shall be sent by the Registrar (Writs) to the following persons:

- i. Prof. Yogesh Singh - Vice Chancellor, Delhi University [email- vc@du.ac.in]
- ii. Dr. Vikas Gupta – Registrar, Delhi University [email-registrar@du.ac.in]
- iii. Prof. D.S. Rawat- Dean, Examinations, Delhi University [email-dean_exam@du.ac.in]
- iv. Dr. Sanjeev Singh– Jt. Director, Delhi Univ. Computer Centre [email- director@ducc.du.in]

12. The University officials shall ensure adherence to the directions of this this Court, and shall issue necessary administrative directions to all concerned along with a copy of this order for compliance of the directions set out above.

13. This Court records the valuable assistance rendered by the Id. Counsels for the Petitioners, as also, by Id. Counsel for the Delhi University, especially during the pandemic, when a large number of students were facing difficulties.

14. With these observations, the present petition is disposed of. All pending applications are also disposed of.