

WWW.LIVELAW.IN

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 5584 of 2021

=====
KRISHABH KAPOOR

Versus

SARDAR VALLABHBHAI NATIONAL INSTITUTE OF TECHNOLOGY
SURAT

=====
Appearance:

MR RONITH JOY(9560) for the Petitioner(s) No. 1

MS MEGHA JANI(1028) for the Respondent(s) No. 1,2
=====

CORAM: HONOURABLE MR. JUSTICE N.V.ANJARIA

Date : 23/04/2021

ORAL ORDER

Heard learned advocate Mr.Ronith Joy for the petitioner and learned advocate Ms.Megha Jani for the respondents.

2. The petitioner - student pursuing the course of B. Tech. prays to set aside order dated 12th March, 2021 of respondent No.1 - Director of Sardar Vallabhbhai National Institute. The next prayer is to set aside order dated 04th November, 2020 of the same authority rejecting the request of the petitioner. Also prayed is to quash decision dated 05th October, 2020 reflected in communication issued by Dean (Academic) & Chairman, Academic Performance Review Committee. By the said last decision dated 05th October, 2020, the respondents have sought to cancel the registration of the petitioner on the ground that he did not complete the minimum requirement of earned credit.

WWW.LIVELAW.IN

3. It is the case of the petitioner that he passed his qualifying 12th standard examination with flying colours obtaining 85%, thereafter cleared the prestigious JEE examination by getting All India Ranking and secured admission in the respondent Institute in Bachelor of Engineering course. It is the case that during the lockdown, the mental health of the petitioner deteriorated. He reeled under depression which started from January, 2020 and peaked in May-June, 2020. It is stated that petitioner conceived even suicidal thoughts at regular bouts. For such compelling reasons, the petitioner could not appear in the examination which was conducted online by the respondent Institute, it was pleaded. The petitioner appears not to have conveyed his feelings to his parents.

3.1 The Academic Review Committee on 18th September, 2020 resolved to remove the petitioner from the course on account that he could not earn 25 credit at the end of second semester. It appears that petitioner had previously filed Special Civil Application No.2558 of 2021 which was disposed of on 10th February, 2021 and respondent No.1 was directed to decide the representation of the petitioner. After the said order, the representation came to be decided and the respondents stuck to their earlier decision to reject the request of the petitioner by stating in communication dated 04th November, 2020 that in view of Regulation No.10.3(a) of the Academic Regulations it was not possible to consider the case of the petitioner.

3.2 As per the said Regulation mentioned, the student is expected to complete 25 earned credit at the end of second semester, failing which his/her registration may be terminated. Decision dated 12th March, 2021 given by the authorities pursuant to the order of this Court was reiterative to mention that in view of the Academic Regulations it was not possible to reconsider.

3.3 The communication-cum-representation dated 25th December, 2020 addressed by the parents of the petitioner - student to the Director of the respondent Institute, annexing therewith Certificate dated 21st December, 2020 of the Doctor, reads as under, in which request was made to reconsider the cancellation of admission of their son.

"Respected Sir,

With due respect, we want to draw your kind attention towards some unknown facts about our son, which recently comes in our notice when we felt his abnormal behavior past some day. Being typical Indian parents, it did not come in our notice earlier. We can't even think about it that such a situation may happen with our son, who was extra ordinary brilliant in studies throughout his academic carrier. We were in a belief that our son's shy and reserve nature is normal and that's why he generally doesn't share feelings with anyone. But, seeing his abnormal behavior since some days, we felt that there is something very suspicious which his taking him away from everyone & everything but that he didn't want to disclose or share with anyone, as he became more and more silent day by day. We were afraid about his behavior that he may also take some wrong step, then someone suggested us to consult with Psychologist. Initially, we were not agreeing

WWW.LIVELAW.IN

for it but feeling the severe situation, we heavily hearted consulted Psychologist where we come to know the real fact about our son. The fact, which not only shocked us but now, we are really feeling that everything has been snatched from us. As per the Psychologist, our son was in huge mental stress since January 2020 which aggravated to its peak in May/June 2020 and even suicidal thoughts were continuously coming in his mind. Now, we really feel that the condition of the mental stress of our son affected his studies and that's why he was not able to score the minimum required marks as defined by the Institute, for passing 1st year B.Tech. Knowing the fact, we at once started the medicines and other remedies suggested by the doctor for our son. As par the doctor, our son will come over it very soon. But, now knowing the facts, we want to promise you that we will take utmost care of our son and try our best that he may do his best in his future academic career."

3.4 The Doctor's certificate read as under.

"To whomsoever it may concern

This is to certify that Mr. Krishabh Kapoor 18 y/0 Male R/o Vadodara S/o Mr. R.K. Kapoor is diagnosed with severe depressive episodes with suicidal ideation currently in partial remission. His problem started in Jan. 2020, reached its peak in May-June (2020) and now decreased in severity and for that he is put on appropriate treatment. He needs regular supervised care & follow up visits for his problem."

4. Respondents filed their affidavit dated 17th April, 2021. Broadly stated, in the said affidavit, Regulation 10.3(a) was relied on along with other Regulations. It was stated that end-semester examination for first semester was held in December, 2019 and supplementary examination was held in February, 2020. In the same way, it was stated,

second semester examination was held in July, 2020 and supplementary examination took place in August, 2020. It was pointed out that the petitioner could secure credits much lower than the required 25 credits. Learned advocate for the respondents submitted that the date for paying late fee also passed-by but the petitioner did not do anything. It was further submitted by learned advocate for the respondents on the basis of paragraph-9 of the affidavit-in-reply that the petitioner's batch is nearing end of fourth semester and that it is not possible to permit the petitioner to sit in the supplementary examination. It was submitted that other two students were also denied admission to the course on the similar ground.

4.1 On the other hand, learned advocate for the petitioner relied on Regulations 15.3 and 15.4 which are as under.

"15.3 Students who are unable to appear in the semester-end examination due to some compelling reason such as serious illness or other special circumstances will be given II grade (on medical grounds) and NA grade (on non medical grounds) and will be permitted to appear in a supplementary examination to be conducted as scheduled by the institute.

15.4 Students who have failed in one or more courses in the end-semester examination of a semester, will be permitted to appear only in the supplementary examinations as scheduled by the institute and to be conducted preferably before the commencement of the next semester. The original grade will be modified to a new grade (AA to FF) based on the performance in the supplementary examination."

WWW.LIVELAW.IN

4.2 Learned advocate for the petitioner also invited attention to Regulation 7.3 which prescribed the procedure, to fairly submit that due to the mental condition of the petitioner, he could not meet with the said deadline.

5. When *prima facie* considered, Regulation 15.3 under the head "Examinations", provides that those students who are not able to appear in the semester-end examination due to compelling reason, could be given II grade on medical ground and such students may be permitted to appear in supplementary examination conducted by the Institute. Similarly, Regulation 15.4 also permit the students who have failed in one or more course in the end-semester examination to appear in the supplementary examination.

5.1 The compelling reasons as mentioned in Regulation 15.3 can be serious illness or other special circumstances. The petitioner herein has pleaded his own case. It is not possible to gather at this stage as to what were the circumstances attached to other two students whose admission is also cancelled as per the contention of the respondent - Institute.

5.2 Whether the petitioner is entitled to the benefit of aforesaid Regulations 15.3 and 15.4 and whether the circumstances which prevented him from appearing in the examination Resolution dated 17th October, 1988 compelling and whether they were

WWW.LIVELAW.IN

special circumstances or they constitute a good medical ground, may be examined by the Court in detail at the later stage.

6. In the facts of the case, Rule, returnable on 25th June, 2021.

6.1 Learned advocate for the petitioner submitted that the supplementary examination is going to take place in the first week of May, 2021 and if the petitioner is not permitted to appear in the said examination, he would suffer irreparable loss as would stand ousted from relief even while this petition is yet to be finally decided and that the petition itself would be rendered meaningless.

7. Considering all the above aspects including the provision of Regulation 15.3 and the attendant facts, circumstances and the factors, without expressing any final opinion on the merits of the case, in order that the petitioner is not placed in irreversible situation, and that the petition does not become meaningless, interim relief is granted to the petitioner by directing the respondents to permit the petitioner to appear in the supplementary examinations which are stated to be scheduled to be conducted in the month of May, 2021 for both first and second semester.

8. Learned advocate for the petitioner undertakes to pay all the semester fees and the supplementary examinations fees.

WWW.LIVELAW.IN

9. Permission given to the petitioner to appear in the said examinations shall not grant any equity in favour of the petitioner.

10. The results of supplementary examinations of the petitioner shall be placed on record of the petition.

Learned advocate Ms.Megha Jani waives service of notice of Rule on behalf of the respondents.

Direct service is permitted.

(N.V.ANJARIA, J)

ANUP