



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF FEBRUARY, 2023

PRESENT

THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE ASHOK S.KINAGI

WRIT APPEAL NO. 1080 OF 2022 (EDN-RES)

BETWEEN:

NATIONAL LAW SCHOOL OF INDIA UNIVERSITY
AFFILIATED TO BAR COUNCIL OF INDIA
REPRESENTED BY ITS REGISTRAR
POST BOX No.7201, NAGARBHAVI
BENGALURU - 560 242.

...APPELLANT

(BY SRI. ADITYA NARAYAN, ADVOCATE)

AND:

1. MANJULA P R

2. DIRECTOR OF DISTANT EDUCATION
NATIONAL LAW SCHOOL OF INDIA UNIVERSITY
REPRESENTED BY ITS REGISTRAR
POST BOX No.7201, NAGARBHAVI
BENGALURU - 560242



3. COURSE COORDINATOR
MBL COURSE,
NATIONAL LAW SCHOOL OF INDIA UNIVERSITY
REPRESENTED BY ITS REGISTRAR
POST BOX No.7201, NAGARBHAVI
BENGALURU - 560242

...RESPONDENTS

(BY SRI. DINESH RAO N., ADVOCATE FOR R1;
V/O DATED 14.11.2022, NOTICE TO R2 & R3
DISPENSED WITH)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 23.08.2022 PASSED BY THE HON'BLE SINGLE JUDGE IN WRIT PETITION W.P. NO. 7230/2022 AND DISMISS THE SAID WRIT PETITION; AND ETC.

THIS WRIT APPEAL COMING ON FOR PRELIMINARY HEARING THIS DAY, **ASHOK S. KINAGI, J.**, DELIVERED THE FOLLOWING:

JUDGMENT

This intra-court appeal is filed under Section 4 of the Karnataka High Courts Act challenging the order dated 23.08.2022, passed in W.P.No.7230/2022 by the learned Single Judge.

2. Parties are referred to as per their ranking before the learned Single Judge. Appellant is respondent No.1,



respondent No.1 is the petitioner, respondents 2 and 3 are respondents 2 and 3 before the learned Single Judge.

3. Brief facts leading rise to filing of this appeal are as under:

Petitioner is enrolled in II Year MBL program offered by respondent No.1 – University. Respondent No.1 – University issued a letter providing details of *inter alia* the assessment and grading mechanisms for the MBL program. On 15.01.2022, Formative Assessment –I for Corporate Law paper of MBL Course (Examination) was scheduled to be conducted online. The University issued a email notifying the revised schedule of the exam. The exam was conducted on 23.01.2022 from 11.30 a.m. to 12 noon. The petitioner and other students faced issues in accessing the exam portal. However, the issues were resolved expeditiously. The students, including the petitioner, were given full 30 minutes and also some additional time of few minutes to complete the examination thereafter. The petitioner was given access



by 12 noon and continued to have access until 12.35 p.m. On 23.01.2022, the petitioner sent emails to the respondent No.1-University alleging that she had access to the exam for only 8 minutes in total due to auto submission at two instances, one after 5 minutes of getting access and another 3 minutes. The University replied to the above said email stating that as per the data available with the University, the petitioner had access to the examination for the entire duration. The petitioner sent one more email to the vice-chancellor of the respondent-University claiming that her exam was auto submitted in 10 minutes. The grievance of the petitioner is that full 30 minutes was not provided to the petitioner to complete the examination. Hence, the petitioner aggrieved by the inaction on the part of the respondent-University, filed a writ petition in W.P.No.7230/2022. Learned Single Judge vide order dated 23.08.2022, allowed the writ petition and directed the University to conduct re-examination in Corporate Law paper of Formative – I Assessment, only insofar as the petitioner is



concerned, within a period of 3 weeks from the date of receipt of copy of the order. Respondent No.1 – University aggrieved by the order passed by the learned Single Judge, has filed this writ appeal.

4. Heard the learned counsel for respondent No.1 and learned counsel for petitioner.

5. Learned counsel for respondent No.1 submits that the petitioner was provided 30 minutes time to complete the examination held on 23.01.2022. Respondent No.1 – University appointed EDCHEMY Solutions India Pvt. Ltd., provider of online education services to facilitate the administration of examination in online examination mode. Totally 708 students, including the petitioner, appeared for the said examination. Out of which, a vast majority, i.e., 693 students completed the examination without any grievance or complaint. Only few students, including the petitioner, raised the issue of access with the EDCHEMY agency. The EDCHEMY agency, in turn, submitted a



report stating that petitioner and few others contacted the examination agency and expressed their difficulties in accessing the online examination and the difficulties were resolved immediately. The petitioner was given access by 12 noon and continued to have the access to exam until 12.35 p.m. 14 of the 15 students have completed their examination without any further complaint, except the petitioner. The said fact was not considered by the learned Single Judge and the learned Single Judge committed an error in passing the impugned order. In order to buttress his argument, he has placed reliance on the judgment of the Hon'ble Apex Court in the case of **CONTROLLER OF EXAMINATION & ORS. VS. G. S. SUNDER & ANR.**, reported in **1993 SUPP (3) SCC 82**. Hence on these grounds, he prayed to allow the writ appeal.

6. Learned counsel for the petitioner submits that the petitioner has lost her rightful and deserving access of 30 minutes due to server / technical issues from respondent No.1 – University. The petitioner had no



access for full 30 minutes which took place beyond the scheduled time. During the said time the online examination was not opening at all as proved from the call records, messages and emails and the petitioner did not get 30 minutes for the said assessment. The University deprived the petitioner of her fundamental rights to avail full assessment time as all other students of the same course and has acted irresponsibly by awarding six marks out of 20 marks. Respondent No.1-University had a server problem due to which the exams scheduled on January 15th and 16th were postponed in which the assessment never opened for 100 students on that day. The petitioner was hoping to score the best marks in the said paper. Because of server problem and lack of time from the University, she could not score more marks. The Corporate Law paper was scheduled at about 10.30 a.m. instead the petitioner was made to wait till 12.02 p.m. by the respondent-University because of server issue. The petitioner was deprived of her right to full 30 minutes of the assessment by the University and the learned Single



Judge was justified in passing the impugner order. The impugned order passed by the learned Single Judge is just and proper and does not call for any interference. Hence, prayed to dismiss the writ appeal.

7. Perused the records and considered the submissions of the learned counsel for the petitioner.

8. The petitioner joined two years MBL (Master of Business Law) program in the respondent No.1-University in August, 2021. The Formative Assessment-I and II are conducted in online mode and written summative assessment in physical mode in the year 2022.

9. In order to reduce the burden of assessments, so also to provide more phased out opportunities to the candidates to achieve the best possible academic outcomes, the evaluation mechanism for assessments in the MBL programme were modified. The earlier prescription that a single examination for 100 marks be



attempted and completed in each course has been modified into two assessment i.e., formative assessment and summative assessment 50 marks each. By dividing the total weightage of a course across three assessments, the system of assessment provides the students with multiple opportunities to secure good overall scores in the said course. Respondent No.1 – University appointed EDCHEMY Solutions India Pvt. Ltd., provider of online education services to *inter alia* facilitate the administration of examinations in online examination mode. The EDCHEMY has been managing on-line infrastructure (Learning Management Server) for all the courses of the respondent – University. The formative assessment-I examination of MBL course was scheduled on 15.01.2022 was cancelled. Thereafter, a Distance Education Department/PACE sent an email on 17.01.2022 notifying the revised schedule of the assessment. As per the revised schedule, formative assessment-I) examination of the Corporate Law was conducted between 11.30 a.m -12.00 pm on 23.01.2022. A total of 708 students including the



petitioner appeared for the said examination held on 23.01.2022. Out of 708 students, 693 students completed the examination without any grievance or complaint and did not raise any issue. A few students including the petitioner raised an issue of access with EDCHEMY. The EDCHEMY in its detailed incident report subsequently drawn up has narrated the facts relating to the same, which are as follows:

- i. EDCHEMY was contacted by the petitioner and few others regarding difficulties in accessing the online examination.
- ii. EDCHEMY resolved the issues immediately.
- iii. The petitioner and others who faced the issues, were - after full resolution of the issue raised by them granted access and furthermore, given the full 30 minutes thereafter, as also some additional time of few minutes, to complete the examination.
- iv. The petitioner's access, post resolution of the issue raised by these students including the petitioner was given by 12.00 noon and the petitioner continued to have access to the



examination until 12.35 p.m. The petitioner logged in at 12.02 p.m. and answered questions, and the last answer submitted by her was at 12.35.06 p.m.

10. The respondent -University has produced the incident report prepared by the EDCHEMY vide Annexure R5, R6 and R7. The material produced by the respondent - University discloses that the issues were faced by a muniscule group of 15 students (including the petitioner) out of as many as 708 students who took the examination. Without even enquiring into the reasons for such problems faced, EDCHEMY resolved the same by ensuring access and grant of allotted time along with few additional minutes as grace period to all such students including the petitioner. Out of 15 students including the petitioner, 14 students have completed the examination without any complaint except the petitioner. The examination was completed by all 707 students without any grievance or compliant except the petitioner. The respondent- University have archive, which contains the zoom video



showing that the petitioner was attempting the examination after 12.16 p.m. and it is contended that the video recording is available only till 12.27 p.m. and the respondent has issued an email at Annexure-J1 in response to her request sharing the EDCHEMY log showing she had access to the examination till 12.35 p.m. and the petitioner refused to accept the same and continued making such unreasonable demands. Thus, any difficulty of connectivity faced by her are solely on account of technical issues with her system. The said aspect was not considered by the learned Single Judge and proceeded to pass the said impugned order. Annexure R5 and R6 discloses that the time of 30 minutes allotted in full was utilized by the petitioner along with additional grace period of few minutes. The learned Single Judge erred in ignoring the records produced by the respondent No.1 -University. The impugned order passed by the learned Single Judge is contrary to the records produced by the respondent No.1-University. The impugned order passed by the writ court is arbitrary and erroneous and same is liable to be set aside.



11. The Hon'ble Apex Court in the case of **CONTROLLER OF EXAMINATIONS AND OTHERS (SUPRA)** held in para No.10 reads thus:

10. We have given our careful consideration to the above submissions. One thing must be put beyond doubt, in matters of enforcement of discipline this Court must be very slow in interference. After all, the authorities in charge of education whose duty it is to conduct examinations fairly and properly, know best how to deal with situations of this character. One cannot import fine principles of law and weigh the same in golden scales. In the present system of education, the system of examinations is the best suited to assess the progress of the student so long as they are fairly conducted. Interference by court in every case may lead to unhappy results making the system of examination a farce. For instance, we cannot but strongly condemn copying in the examination which has grown into canker of mass copying. Such unhealthy practices which are like poisonous weeds in the field of education must be rooted out in order that the innocent and the intelligent students are not affected. We feel that:

*"The hour has come when we must clear
The educational fields from poison and from fear;
We must remould our standards - build them higher,
And clear the air as though by cleansing fire,
Weed out the damning traitors to education,
Restore her to her ancient place of awe."*

Considering the law laid down by the Hon'ble Apex Court in the case of **CONTROLLER OF EXAMINATIONS AND OTHERS (SUPRA)**, the impugned order passed by the trial Court is contrary to the records.



In view of the above discussion, we incline to interfere with the impugned order.

12. Accordingly, we pass the following:

ORDER

1. The writ appeal is allowed.
2. The impugned order dated 23.08.2022, passed in W.P.No.7230/2022 by the learned Single Judge is set aside.
3. Consequently, the writ petition is dismissed.

In view of disposal of the writ appeal, pending IAs., if any, do not survive for consideration and are accordingly disposed of.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

RD/ssb