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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 9th July, 2020

+ **W.P.(C) 1879/2020**

MANISH & ORS.

..... Petitioners

Through: Mr. Siddharth Seem and Mr. Arun Kasi, Advocates.

versus

THE UNIVERSITY OF DELHI THROUGH ITS VICE
CHANCELLOR & ORS.

..... Respondents

Through: Mr. Mohinder Rupal and Mr. Hardik Rupal, Advocates for DU.
Mr. Apoorv Kurup, Ms. Nidhi Mittal and Mr. Siddharth Nigotia, Advocates for R-3

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done by video conferencing.

CM APPLs.14439/2020(exemption from filing Court fees) & CM APPLs.14440/2020 (exemption from filing notarized affidavit)

2. These are applications seeking exemption from filing court fee and from filing notarized affidavits. Binding the deponent of the affidavit to the contents of the application, the exemption is granted. Insofar as the court fee is concerned, the deposit with the concerned authority would be made within one week. The physical court fee stamp would be deposited within 72 hours from the resumption of the regular functioning of the Court. Applications are disposed of.

W.P.(C) 1879/2020 & CM APPL.14438/2020

3. The present application has been filed by the students of the first year

of the School of Open Learning (*hereinafter* 'SOL'), University of Delhi (*hereinafter* 'DU') for the academic year 2019-20.

4. The writ petition was originally filed seeking quashing of the implementation of the Choice Based Credit System (*hereinafter* 'CBCS'), introduced in the SOL and seeking the appointment of an eminent educationist to make recommendations as to whether the CBCS should be discontinued and be replaced with the annual-mode of examinations, as done hitherto. In the writ petition, notice was issued on 18th February, 2020, on which date, the Court had adjourned the matter, directing the ld. counsel for DU to revert with instructions. On 27th February, 2020, time was granted to DU to file its counter-affidavit, which has not been filed till date.

5. The grievance of the Petitioner is that the SOL is meant to cater to students who come from various sections of society and a large majority of students, who avail of the courses belong to the under-privileged sections. It is submitted that the SOL used to have annual examinations at the end of the academic year till last year. However, after the students had sought admission for the academic year 2019-2020 into the SOL, the CBCS system was approved, vide minutes of the meeting dated 14th August, 2019 by the SOL Staff Council and thereafter confirmed by the SOL Executive Council in its meeting dated 17th August, 2019. However, the syllabus for the various subjects and the course material, which has to be supplied in hard copies, was not made available to the students.

6. Further, the course material, which was supplied for the first semester, for which exams were to be held in November, 2019, was grossly deficient which led to the filing of W.P.(C). 11800/2019. The same was considered by this Court and a detailed judgment was passed on 21st November, 2019.

As per the said judgment, in view of the various deficiencies in the course material, a direction was given that the examinations for the first and second semester would be held together sometime in May-June 2020. It was agreed that the course material for both the semesters would be prepared and dispatched to the students well in advance, so that they can adequately prepare for the examinations.

7. Mr. Siddharth Seem, Id. counsel for the Petitioners submits that the manner in which the SOL has been functioning shows that there was no preparation whatsoever since inception to prepare the course material. Even the syllabus was not ready. In fact, as of 18th December, 2019 and 5th February, 2020, the SOL issued notices calling for resource persons and translators, for preparation of the course material. This is evidence of the fact that the SOL was inadequate in its preparation for the academic year 2019-2020, especially in the CBCS mode.

8. He also submits that the University Grants Commission (Open and Distance Learning) Regulations 2017 (*hereinafter 'UGC Regulations'*) clearly mandates the following:

- a) That the quality of the course material should be of a particular standard.
- b). That hard copies of the course material ought to be provided compulsorily, though additional material can be provided online.
- c) That at least 16 classes would be held annually for each and every paper.

9. According to Id. counsel for the Petitioner, all these regulations of the UGC have been violated by the SOL, DU and that according to the UGC Regulations, show-cause notice is liable to be issued and the recognition of

the SOL is liable to be withdrawn. In fact, the violation of any of the provisions of the UGC Regulations could also entail registration of an FIR against the officials or management of SOL as per Regulation 4(3).

10. Ld. counsel for Petitioner further submits that the meeting of the Executive Council, where the implementation of CBCS was approved, had 13 members in attendance, out of which 4 members gave their dissent. Reliance is placed on the Dissent Note to argue that the said 4 members pointed out various glaring defects and irregularities in implementation of the CBCS. The said observations are:

- a) That the course material for the annual-mode examinations was already lying ready for which Rs.1.5 crores had already been expended by the DU. Duplicate expenditure for printing new material would amount to utter waste of Rs.1.5 crores.
- b) All the requisites for the semester system to be introduced, i.e., the complete syllabus, self-learning material, mode of examination, and the names of the learning centres for each of the students roll number wise, were all missing.
- c) The preparation for the conduct of the examination, evaluation, re-evaluation, provision of marksheets, degree, etc., was not an easy task.

Thus, the said 4 members were of the opinion, that the CBCS should not be implemented for the academic year 2019-20.

11. Counsel for Petitioner also relies upon the minutes of the meeting of the Staff Council and the resolution passed by the Staff Council on 26th November, 2019 wherein it was recorded that at least one year would be required for the purpose of preparation of the semester system course

material. The said resolution reads as under:

“The University of Delhi declared the introduction of semester system and new syllabi under CBCS in the mid of the first semester of 2019-20 session. The complete syllabi were not uploaded on the University website even by the end of August. This made preparation of study materials for first semester almost impossible. Knowing fully well that the time is very short to prepare new study materials and conduct PCP classes, the teachers at SOL extended cooperation in the interest of the students. However, the first semester examinations got postponed when the High Court of Delhi intervened through a writ petition filed by aggrieved students who made complaints about University’s ill preparation for the scheme.

It was also decided that University will now be informed about the lack of support system for teachers to handle the herculean task in very short period even for the second semester. The problem has been amplified due to delay in finalization of syllabi. The University appointed Oversight Committee to finalize the syllabi has not met yet. It is well known that ODL system needs syllabi in advance, at least before six months to a year, to prepare study materials. Nothing has been done by the University to help the teachers of SOL to perform as per the scheme created by itself. The VC must show solidarity with the teachers and provide them all support to serve the students efficiently.”

12. He further relies upon an e-mail dated 13th January, 2020 wherein the Secretary of the SOL Staff Council has highlighted all these difficulties, which are faced by the SOL and accordingly these issues were brought to

the notice of the Vice-Chancellor.

13. The present application is filed in view of the recent issuance of the Examination Notification dated 4th June, 2020 by the DU for conduct of online examinations. For the first and second semester students of the CBCS system, evaluation was to be based on Online Assignments, wherein the question papers for the same were already uploaded on 26th June, 2020 and the last date for submission and uploading of answer sheets is stated to be 11th July, 2020.

14. The submission of Id. counsel for the Petitioner is therefore, that the hard copies of proper course material having not been provided either for the first semester or for the second semester and the course material which has been uploaded containing several defects, it is virtually impossible for SOL students to give the examinations and to upload the answer sheets by 11th July, 2020.

15. Mr. Hardik Rupal, Id. counsel for the DU submits that the counter-affidavit in this matter was not filed. He further submits, that he has received comments from the DU and the affidavit shall be filed tomorrow i.e. on 10th July, 2020.

16. It is directed that the Director, SOL or any other responsible official from SOL, DU would specifically file an affidavit tomorrow i.e. on 10th July, 2020 dealing with the following issues:

- a) The date when hard copies of the course material were dispatched to the students in compliance with the judgment of this Court dated 21st November, 2019.
- b) The date when the hard copies of the course material for the second semester was dispatched to the students.

- c) The status of the course material based on the annual-mode examinations and whether they are still lying ready.
- d) Dates when the rectified course material for the first semester was uploaded online.
- e) Dates when the course material for second semester was uploaded online.
- f) Number of students who may have access to the said material, if the said data is available.
- g) The number of resource persons and translators available with the SOL for preparation of the course material.
- h) It shall also specifically state as to whether the date for uploading of answer sheets is being extended for first and second semester students of SOL.

17. It is also submitted by the ld. counsel for Petitioner that the DU had in fact appointed a Committee for curing all the defects in the course material, pursuant to the order of this Court on 21st November, 2019. The DU shall also take a stand as to whether the said Committee was appointed and if so, what was their report, if any. The contents of the report of the said Committee shall also be placed on record tomorrow i.e. on 10th July, 2020.

18. The ld. counsel for DU would also revert with instructions as to whether DU is willing to shift back to the annual-mode examination for the academic year 2019-20 and introducing the semester system with the CBCS material only after adequate preparations are made for the same. In this background, the deadline for submission of answer sheets i.e., 11th July, 2020 shall not be insisted upon and shall be subject to the further orders of this Court.

19. List on 10th July, 2020 at the end of board.

**PRATHIBA M. SINGH
JUDGE**

JULY 09, 2020/dj/A

