



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)
(ITANAGAR BENCH)

Case No. : WP(C) 320/2019

1:SHRI KIPA KAMAN

VERSUS

1:RAJIV GANDHI UNIVERSITY, DOIMUKH AND 3 ORS.
REPRESENTED BY VC, RONO HILLS, DOIMUKH, AP

2:THE REGISTRAR
RGU
RONO HILLS
DOIMUKH
AP

3:THE DEPUTY REGISTRAR
RGU
RONO HILLS
DOIMUKH
AP

4:THE CONTROLLER OF EXAM
RGU
RONO HILLS
DOIMUKH
A

Advocate for the Petitioner : C. Modi

Advocate for the Respondent : T. Gadi S/C RGU

**BEFORE
HONBLE MR. JUSTICE ROBIN PHUKAN**

JUDGMENT

Date of hearing : 24.03.2022

Date of verdict : 19.04.2022

VERDICT (CAV)

This writ petition, under Article 226 of the Constitution of India is preferred by Shri Kipa Kaman, for directing the respondent authorities to award the decree of LL.B. to him, as he has already passed in 36 papers, as per the Ordinance of Rajiv Gandhi University.

2. The factual background leading to filing of the present petition is adumbrated here in below:-

“The petitioner took admission in the 1st semester of LL.B three years Degree course in the month of July, 2011, in Arunachal Law Academy. He has passed 36 papers as per the Ordinance of Rajiv Gandhi University, Doimukh. But, the Rajiv Gandhi University has adopted one extra paper, as a result of which the total number of papers goes up to the 37. The petitioner failed in the paper No. XXXV (Taxation law) in the 4th semester and he availed the second chance, wherein also he failed to clear the backlog paper. Thereafter, the petitioner has approach the respondent authorities to give one special chance to complete the said paper. But, the same was denied to him. He also

approached the authority for revaluation of the paper in which he fails, but the same was also denied. Though, in the similar matter, some other students were allowed to reevaluate their papers. The Bar Council of India has advised the Rajiv Gandhi University to adopt 33 papers since 2017, but till 2018, the prayer of the petitioner for granting LL.B. Degree by virtue of completion of 36 papers is denied. Being aggrieved, the petitioner approached this Court by filing present petition.”

3. The respondent authorities also filed affidavit-in-opposition denying the averments made in the petition. It is stated that on the basis of one representation filed by the LL.B. students, the University authority included the Drafting, Pleadings and Conveyance paper in the syllabus of LL.B. three years Degree course. And as such, the University authority has included this paper in the syllabus of LL.B. three years Degree course. The students, studying in Arunachal Law Academy has accepted the syllabus of three years Decree course and appeared in the examination. However, the petitioner was unsuccessful and failed in the paper No. XXXV (Taxation Law) and submitted a representation to the Vice Chancellor for consideration of revaluation of his answer booklet of the said paper. However, the same was denied to him, as in the semester system of examination, revaluation is discontinued, as per the Academic Council Resolution dated 17.06.2010. The authority has also given ample opportunity to the petitioner, but he was unsuccessful in the paper No. XXXV (Taxation Law). It is also stated that the candidates, who have appeared in the examination and have failed in the backlog paper in the examination, he has no locus-standi to file a writ petition, and his fundamental right has not been violated. And he has not challenged the resolution of the Academic Council Meeting held on 19.04.2011, by which the Paper of Drafting, Pleading and Conveyance has been

included in the three year Degree course syllabus vide notification No. dated AC/676/BUGS/Law/07, dated 25.05.2011. It is also stated that the petitioner having accepted the prospectus and the syllabus and took admission in the LL.B. three years Degree course and participated in all the examination of 37 papers and having been failed they cannot turn around and file this writ petition for rejecting the prayer for revaluation, after failing in compulsory paper No. XXXV (Taxation Law).

4. I have heard the learned Advocates of both sides.

5. Mr. C. Modi, learned counsel for the petitioner submits that as per Ordinance of the Rajiv Gandhi University, Doimukh, there are 36 papers to be completed by the students, so as to get the LL.B. Degree. But, it has included another paper of Drafting, Pleading and Conveyance in the syllabus of LL.B. three years Degree course. And the petitioner has completed all the 36 paper but, fails in one paper, and as per ordinance, he has completed 36 papers, as such he is entitled to get the LL.B Degree. Therefore, it is contended to allow the petition.

6. Per contra, Mr. T. Gadi, learned counsel for the respondent submits that though the student of LL.B. three years Degree course are supposed to passed 36 papers as per the Ordinance, yet, as per the mandatory provision of the Bar Council of India Rule on legal Education, the Board of Under Graduate Studies (BUGS) of law has recommended for inclusive of the paper of Drafting, Pleading and Conveyance into the three years Degree course. The meeting of the academic council held on 19.04.2011 has approved the said proposal and thereafter, a Notification was issued, vide No.AC/676/BUGS/Law/07, dated 25.05.2011. And, having not been challenged the Bar Counsel Resolution and

aforesaid Notification; the writ petition cannot be maintained. It is further submitted that the petitioner has accepted the syllabus and the prospectus and thereafter appeared in all the 37 papers, and having been failed in one compulsory paper No. XXXV (Taxation Law), he cannot file the present petition, and he is not entitle to get the LL.B. Degree. And therefore it is contended to dismiss the petition.

7. Having heard the submissions of the learned Advocate of both sides, I have carefully gone through the pleadings of the parties and the Ordinance of Rajiv Gandhi University, and also the Rajiv Gandhi University Act, 2006, and the Resolution No.AC: 06:20, adopted by the meeting of the Academic Council held on 19.04.2011, and also the Notification issued subsequently vide No.AC: 06:20.

8. It is an admitted fact, that the petitioner had not challenged the decision of the Academic Council, by which the new paper, i.e. Drafting, Pleading and Conveyance has been included in the syllabus of the three years Degree course, which has increase the total number of papers from 36 to 37.

9. It is also not a dispute, that the Notification issued subsequently is not challenged here in this petition by the petitioner.

10. Further, it appears that the petitioner having accepted the prospectus and syllabus took admission in the three years Degree course he appeared in all the 37 papers. But, having been failed to passed out in paper No. XXXV (Taxation Law), which is a compulsory paper and now challenged the incorporation of the paper the Drafting, Pleading and Conveyance in the syllabus. But, it appears that the paper No. XXXV (Taxation Law) is a compulsory paper, and that he has accepted the inclusion of paper No. 37 in the syllabus, and he has passed in

total 36 papers, but having been failed in a compulsory paper i.e. the paper XXXV (Taxation Law), to the considered opinion of this Court, he is not entitled to a Degree of LL.B., as he has not challenged the Academic Council Resolution dated 19.04.2011, and the Notification issued subsequently.

11. Since the petitioner had admittedly failed in a compulsory paper i.e. Paper XXXV (Taxation Law) and since he has not challenged the Academic Council Resolution and the Notification issued subsequently, he cannot file the present writ petition, for issuing direction to the respondent authorities to grant LL.B. Degree to him. Having appeared in all the 37 papers and having been failed in one compulsory paper he cannot challenge the process. Reference in this context can be made to a decision of Honourable Supreme Court in **Modan Lal & others vs. State of J&K & others, reported in (1995) 3 SSC 486,** where it has been held that :-

“It is now well settled that if a candidate takes a calculated chance and appears at the interview then, only because the result of the interview is not palatable to him he cannot turn around and subsequently contend that the process of interview was unfair or selection Committee was not properly constituted”

12. Again in the Case of **OM Prakash Shukla vs. Akhiles Kumar Shukla & Others: AIR 1986 SC 1043,** it has been clearly laid down by a Bench of 3(three) Judges of the Supreme Court that:-

“When the petitioner appeared at the examination without protest and when he found that he would not succeed in examination, he filed a petition challenging the said examination and the High Court should not have granted relief to such a petitioner.”

13. In view of the above discussion and finding, I find no merit in the submission so advanced by Mr. C. Modi, learned counsel for the petitioner and

also I find no merit in the present writ petition.

14. In the result, the petition stands dismissed. The parties have to bear their own cost.

JUDGE

Comparing Assistant