



High Court of Sikkim
Record of proceedings

WP (C) No.29 of 2018

PREETI SHARMA

...PETITIONER

VERSUS

SIKKIM UNIVERSITY AND ANR.

...RESPONDENTS

Date : 27-11-2019

CORAM :

THE HON'BLE MR. JUSTICE ARUP KUMAR GOSWAMI, CHIEF JUSTICE

J U D G M E N T (O R A L)

Heard Mr. Korah Joy, learned Counsel for the petitioner and Mr. Manish Kumar Jain, learned Counsel for the respondents.

2. The petitioner took Ph.D written test, 2018, conducted by Sikkim University on 04.06.2018 on the subject of "Law". The result of written test was declared on that very day and the petitioner did not come out successful. The petitioner belongs to general category. Prospectus of Sikkim University for the year 2018-19 indicates that Ph.D courses will be offered in "Business Law", being the broad area of specialization. Total intake was indicated as four seats, out of which two seats were reserved for general candidates, one for OBC candidate and one for SC candidate.

3. The contention advanced in the writ petition is that setting of the question paper was in violation of Clause 41.8 of Prospectus 2018-19. It is, primarily, on the aforesaid grievance, the writ petition was filed with the following prayers:

"12. In the light of above submissions, this Hon'ble Court may graciously be pleased to:

a. Issue an appropriate writ(s), in the nature of *Mandamus* directing the Respondents herein to stay the furtherance of the



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procedures of entrance exam 2018-19 and publication of results until this court thinks it fit to do so;

b. Issue such other order as this court deem fit and an order to quash the Ph.D entrance examination conducted by Respondent No.2 on 4th of June, 2018 by issuing a writ in the nature of Certiorari to hold the exam void.

c. Issue such other appropriate writ(s), including a Writ of Continuing Mandamus to organize reexamination in accordance with the provisions of the Prospectus 2018-19 in due course of time, or any other order this court will deem fit and proper, in the facts and circumstances of the case.

d. Call for the records in this case and more particularly the examination rules set by the Respondent 1 and 2 for the entrance examination 2018-19, including the minutes of the meetings of the Ph.D committee of Respondent 2 to prove the Petitioner's assertions.

e. The Petitioner also humbly prays before this court to set up an independent court monitored enquiry into the admissions 2018-19 of the university.

f. Order payment of costs to the Petitioner for having driven her to litigation to seek relief, and

g. Pass such further or other order(s) as this court may deem fit and proper for the ends of justice."

4. During the course of the hearing today, Mr. Joy submits that prayers made in a, b, c have been rendered infructuous because of efflux of time.

5. It is submitted by Mr. Joy that when the Ph.D course is offered for "Business Law", questions ought to have been set for 50% out of the



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total marks of the written test on “Business Law” in terms of Clause 41.8 of the Prospectus. However, no question was asked from the subject of ‘Business Law” and questions were set on “Constitution Law” and ‘Jurisprudence” and therefore, manifestly, question paper was not in accordance with the Prospectus.

6. On a query of the Court, Mr. Joy submits that the petitioner is now pursuing Ph.D from Inter University Centre for Intellectual Property Rights Studies, Cochin University of Science and Technology.

7. Mr. Jain, on the other hand, submits that as the prayers a, b and c have been rendered infructuous as submitted by Mr. Joy, necessarily, it must be construed that the entire writ petition has been rendered infructuous as prayers c, d, e and f cannot be considered in isolation. He has further submitted that candidates selected, pursuant to the written test in which the petitioner had also participated but had not succeeded, having not been made parties to the present proceeding, the writ petition, even otherwise, is liable to be dismissed on the ground of non-joinder of necessary parties.

8. It is submitted by Mr. Jain that pursuant to the order of this Court dated 19.09.2019, the respondents had filed an interlocutory application i.e. I.A No.01/2019, amongst others, placing the question paper in question. He submits that though the contention of Mr. Joy is fortified from a reading of the question paper that it consisted of questions in “Constitution” and “Jurisprudence”, there is no infirmity in the setting of the question paper and the same is in accord with Clause 41.8. When the written test was in the subject of “Law”, in absence of any requirement to that effect in the Prospectus, it is not necessary or incumbent or essential that the questions had to be set on the subject of “Business Law”, though “Business Law” was being offered for the programme of Ph.D. Accordingly, he submits that the writ petition is liable to be dismissed.



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9. Having considered the submissions of the learned Counsel for the parties and on perusal of the materials on record, I am inclined to agree with the submission of Mr. Jain that as prayers a, b and c had been rendered infructuous as per submission of the learned Counsel for the petitioner himself and as the selected candidates had not been made parties to the proceeding, no further adjudication with regard to prayers d, e and f is really called for. Having said that, I also find that the contention advanced by Mr. Joy that the question paper was set in contravention of Clause 41.8 of the Prospectus is without any merit.

10. Clause 41 of the Prospectus deals with the admission procedure of M.Phil/Ph.D programme. After Clause 41.7, a chart showing schedule for written test for M.Phil/Ph.D, indicating date, programme, Departments/Subjects for M.Phil/Ph.D programmes, finds place and the same reads as follows:

SCHEDULE FOR WRITTEN TEST FOR M.Phil/Ph.D

Date	Programme	Departments/ Subjects
4 th June 2018 (Monday)	M.Phil.	Anthropology, Chemistry, Economics, English, Geography, Hindi, History, International Relations, Law, Mass Communication, Mathematics, Microbiology, Nepali, Peace and Conflict Studies and Management, Physics, Political Science, Psychology, Sociology, Tourism.
	Ph.D	Anthropology, Botany, Chemistry, Chinese, Commerce, Computer Applications, Economics, Education, English, Geography, Geology, Hindi, History, Horticulture, Law, Management, Mass Communication, Microbiology, Music, Nepali, Peace and Conflict Studies and Management, Physics, Political Science Psychology, Tourism, Zoology.

11. Clause 41.8 reads as follows:



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“41.8 The written examination shall be of one hour duration from 11:00 AM to 12:00 Noon and will be held at respective department. The written examination shall be of 50 marks. The syllabus of written examination consists of 50% research methodology and 50% subject specific. List of selected candidates in written test shall be displayed in respective departmental notice boards.”

12. Clause 41.8 spells out that the written test will be of 50 marks. The syllabus of the examination indicates that questions to the extent of 50 % of the total marks shall be in respect of research methodology and the rest 50% in respect of subject specific.

13. Clause 41.8 finds place immediately after the schedule for written test for M.Phil/Ph.D where subject of “Law” is only indicated as a programme for Ph.D. In the above context, there is no scope to accept the contention of the petitioner that the questions in respect of subject specific ought to have been on “Business Law” and not on “Law”.

14. In view of the above discussions, I find no merit in the writ petition and, accordingly, the same is dismissed. No costs.

Chief Justice

Approved for reporting: Yes

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