

\$~

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

Judgment reserved on 03.03.2020

%

Judgment pronounced on 30.04.2020

+ **W.P.(C) 10503/2018, & C.M. 8537/2020**

RINKU KUMARI & ORS.

..... Petitioners

Through: Mr. Gautam Narayan, ASC with
Ms. Asmita Singh, Advocate.

versus

UNIVERSITY OF DELHI & ORS.

..... Respondents

Through: Mr. Mohinder J.S. Rupal, Advocate
for University of Delhi.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J.:

Prefatory facts:

1. There are four petitioners before me. The principal grievance articulated by the petitioners in the captioned writ petition is that their Ph.D. thesis has not been evaluated.

1.1 As to how the petitioners have come to this pass is set forth hereafter:

2. The petitioners who belong to reserved category, joined the Ph.D. Programme in the Department of Hindi (in short "Department") in the University of Delhi (in short "University") in 2011 upon being awarded Junior Research Fellowship by the University Grants Commission (UGC).

3. At the time when the petitioners were registered as Ph.D. scholars, the Ordinance VI-B of the Delhi University's Statue was in vogue. As per

Clause 11 (xvii)¹ of Ordinance VI-B, the concerned students were required to submit their Ph.D. thesis within four years of provisional registration.

3.1 However, a leeway of six months beyond four years, could be granted by the Board of Research Studies (in short “BRS”), *albeit*, upon a written request of the concerned student and recommendation of the Supervisor(s).

3.2 Any extension beyond four years and six months required both, the student and supervisor(s) to submit a written justification for the delay and the seal of approval of the Vice-Chancellor.

4. The record shows that the petitioners had registered for the Ph.D. Programme on the following dates:

Petitioner No.	Name of the Petitioner	Year of Registration
1	Rinku Kumari	04.04.2011
2	Amita	07.04.2011
3	Megha	06.04.2011
4	Pooja Cheema	07.04.2011

5. As it so happened, on 05.08.2015, Ordinance VI-B was amended. The total span period for submission of the Ph.D. thesis was enhanced to six-and-half years, commencing from the date of initial registration. Furthermore, a caveat was added which allowed the Vice-Chancellor to recommend acceptance of the Ph.D. thesis beyond the total span period of six-and-half years based on the specific recommendation and justification of the supervisor, Department of Research Committee (DRC), and the BRS.

¹ (xvii) Students shall submit their thesis within four years of provisional registration. A six month extension for submission can be granted by the Board of Research Studies on a written request by the student and recommendation of the Supervisor(s). Any extension beyond this shall require a written justification for the delay by the student and the Supervisor(s). Such extension shall require the approval of the Vice-Chancellor.

For the sake of convenience, Clause (4) of para H of the Ordinance is extracted hereafter:

“H. EVALUATION AND ASSESSMENT

xxx

xxx

xxx

4. Students shall be eligible to submit their thesis after two years but within five years of registration. A six-month extension for submission can be granted by the BRS on a written request by the student and recommendation of the Supervisor and DRC. Any extension beyond this shall require a written justification for the delay by the student and the Supervisor. The justification provided by the student and the Supervisor, along with the recommendation of the DRC shall be forwarded to the BRS and the Research Council for recommending the extension as a special case to the Vice-Chancellor for approval. The total span period from initial registration shall be six and a half years. Only in exceptional cases, with specific recommendations and justification from the Supervisor, DRC and BRS, the Vice Chancellor may recommend the extension beyond the total span period specified.”

(emphasis is mine)

6. Evidently, Ordinance VI-B was amended once again on 12/17.02.2016, however, this time around no change was brought about with regard to Clause (4) of paragraph H of Ordinance VI-B.

7. The record shows that UGC via Notification dated 05.05.2016 titled **University Grants Commission (Minimum Standard and Procedure for award of M.Phil./Ph.D Degrees) Regulations, 2016** (in short “2016 Regulations”) brought about a relaxation in the timeframe for completion of Ph.D. programme by a “*woman candidate*” and persons with 40% or more Disability (PWD).

7.1 As per Regulation 4.4 of the 2016 Regulations, women candidates and PWD's were granted accommodation of two years in the maximum duration provided for completion of the Ph.D. programme.

7.2 That being said, Regulation 12.1 of the 2016 Regulations provided that the award of degrees to candidates registered for the M.Phil/Ph.D. programme between July 11, 2009, and the date when the said Regulations were notified i.e. 05.05.2016, would be governed by the provisions of the UGC (Minimum Standards and Procedure for Award of M.Phil/Ph.D Degree) Regulations, 2009) (in short "2009 Regulations").

7.3 In other words, all students who had registered themselves for a Ph.D. programme in the aforementioned period would be governed by the 2009 Regulations and not the 2016 Regulations.

8. Moving on with the narrative, it was communicated to each of the petitioners by the Chairperson, BRS by four separate letters, each of which is dated 22.12.2016, that they had been granted two years extension for completing their Ph.D. programme. A perusal of these communications (which are similarly worded) demonstrates that it was based on a written request made by the Head of the Department (in short "HOD") in the University on 25.11.2016 and backed by a recommendation made by the DRC on 04.11.2016.

8.1 These communications also bring to fore the fact that the aspect concerning extension was considered by the BRS at its meeting held on 30.11.2016 in the backdrop of the UGC press release dated 12.04.2016.

8.2 Pertinently, UGC's press release did contain a caveat which was introduced *vide* notification dated 05.05.2016 issued by the UGC in the form of Clause 12.1 of the 2016 Regulations.

9. Given the fact that the timeline for completion of Ph.D. programme had been extended, the petitioners, it appears, accordingly, reset their timetable for submission of their respective thesis.

10. Insofar as petitioner No.1 was concerned, she completed her “pre-submission seminar” on 21.06.2017, while petitioner No.2 completed her “pre-submission seminar” on 13.10.2017.

10.1 Insofar petitioner No.2 is concerned, it is her case that she made attempts to submit her thesis since 13.10.2017.

10.2 The record shows that petitioner No.3 completed her “pre-submission seminar” on 04.12.2017.

11. It is the stand of petitioner no.1 that her Ph.D. thesis and the Ph.D. extract, which includes the submission, lay in the Department since 15.12.2017. This aspect emerges upon perusal of petitioner No.1’s letter dated 05.09.2018 addressed to the HOD.

12. Insofar as petitioner No.2 is concerned, she claims that she has been ready and willing to submit her thesis since 28.12.2017.

12.1 For this purpose, petitioner No.2 relies upon the document marked Annexure P-26, which is, a format letter addressed to the Controller of Examinations of the University at the time of submission of Ph.D. thesis.

13. Likewise, petitioner No.3 claims that she deposited her thesis with the Department on 05.03.2018 after failing to obtain a response from the said Department as to when she could submit her thesis.

14. Insofar as petitioner No.4 is concerned, she claims that she submitted her draft Ph.D. thesis to the DRS on 04.05.2018. For this purpose, petitioner No.4 relies upon a letter dated 07.09.2018 addressed to the Section Officer, BRS. This communication bears the signatures of the recipient.

15. It appears, that in and about 15.03.2018, the petitioners were informed by the Department that their thesis could not be accepted since their registration had lapsed and that the extension granted by the BRS *vide* communication(s) dated 22.12.2016 contained a technical flaw.

15.1 In other words, it was communicated to the petitioners that the extension granted by BRS was not valid.

15.2 Given this circumstance, a joint representation dated 19.03.2018 was made by petitioner Nos.1 to 3 to the HOD that a meeting should be convened to enable them to, formally, submit their thesis.

16. It is, perhaps, in this background that the then HOD, one, Prof. Mohan wrote to the Dean, Research Council, on 25.09.2018, that seven research scholars who were enrolled in the Ph.D. programme, which included the four petitioners, should be allowed to submit their thesis since the same could not be submitted in time due to administrative lapse committed by the Concerned Section Officer.

16.1 This communication identified the delinquent Section Officer, as one Mr. Dharam Raj, posted in (Educational) Arts Faculty.

17. Given the fact that there was no movement qua the issue concerning the formal submission of Ph.D. thesis by the petitioners, they were compelled to approach this Court by way of the instant petition.

Court Proceedings

18. Notice in this petition was issued on 04.10.2018. On this date, the University was represented by its counsel, Mr. Amit Bansal, who was granted three weeks to file a counter-affidavit in the matter. Furthermore, in

the very same proceeding, the Court allowed the petitioners to submit their thesis with a direction to the Department to accept the same, *albeit*, without prejudice to the rights and contention of the University. The Court also put in a caveat, which is, that the acceptance of the thesis would be subject to the outcome in the writ petition.

19. Since the counter-affidavit was not filed by the University, on 16.01.2019, the court directed the respondents to initiate the process of considering the thesis of the petitioners in line with its earlier order dated 04.10.2018.

20. On the next date of hearing i.e. 27.02.2019, counsel for the respondents informed the Court that the process of evaluation of the thesis of the petitioners had commenced. The writ petition was, listed for further proceedings on 08.05.2019.

20.1 On 08.05.2019, counsel for the petitioners i.e. Mr. Gautam Narayan informed the Court that process of evaluation of the thesis was complete. Given this circumstance, Mr. Narayan sought the declaration of result as a post for the appointment of an Assistant Professor had been advertised by the University, and the cut-off date for making the application *qua* the same was 09.05.2019. The court, accordingly, directed the Counsel for the University to consider whether it was possible to declare the results by the 10.05.2019 so that a quietus could be put *vis-à-vis* the issue at hand.

21. As it transpired, the results were not declared on 10.05.2019. Thus, based on the submissions made by Mr. Narayan, the Court posted the matter for further proceedings on 16.05.2019.

21.1 In the meanwhile, respondents were directed to make all efforts to declare the results of the petitioners on or before the said date.

22. The proceeding sheet of 16.05.2019 shows that the respondents changed their counsel. Mr. Rupal stepped into the shoes of Mr. Amit Bansal on behalf of the respondents.

22.1 Mr. Rupal opposed the request made by the petitioners that their results be declared. He contended that if the results as ordered were declared, the writ petition, would, in effect, stand allowed. Mr. Rupal, however, offered to place the results before the Court, *albeit*, in a sealed cover. The Court, though, went on to note that notice in the matter was issued on 04.10.2018, and since then counter-affidavit had not been filed on behalf of the respondents. Given the state of affairs, the Court “forfeited” the right of the respondents to file a counter-affidavit in the matter.

22.2 Since Mr. Rupal conveyed to the court that he would be in a position to address arguments on behalf of the respondents based on the material on record, the court proceeded to list the matter for hearing and disposal on 20.05.2019.

23. The record shows that, due to paucity of time and other reasons, the matter could not be taken up for hearing till 06.09.2019 save and except on 24.05.2019. At this hearing, the court made a pointed observation that for the reasons best known to the respondents, they had changed their counsel. Furthermore, the University was directed to ensure that the thesis of the petitioners was fully evaluated and the result of the same be placed before the Court on the next date of hearing.

24. The matter was, however, finally released from part-heard on 27.09.2019. The matter was, accordingly, placed before the roster Bench.

25. At the hearing held on 01.10.2019, Mr. Rupal was, *inter alia*, asked to inform to the Court as to the stage which had been reached *qua* each of the petitioners *vis-à-vis* evaluation of their Ph.D. thesis.

26. Consequently, on 18.12.2019, Mr. Rupal placed before the Court, a note, the contents of which were recorded in paragraph 5 of the order passed on that date. Paragraph 5 of the order dated 18.12.2019 reads as follows:

“5 Mr. Rupal, who appears on behalf of the University has produced before me in a sealed cover a note-sheet which discloses the following:

<i>Ms.Rinku Kumari</i>	<i>Viva-voce examination has been conducted</i>
<i>Ms. Amita</i>	<i>Summary of Evaluation reports of the Examiners is pending</i>
<i>Ms. Megha</i>	<i>Two Evaluation reports of the Examiners are received and one report is pending</i>
<i>Ms.Pooja Cheema</i>	<i>Summary of Evaluation reports of the Examiners is pending.</i>

26.1 Furthermore, as would be evident from the aforesaid extract, except for petitioner No.1, all other petitioners had yet to undertake viva-voce exam.

26.2 This apart, on that date, Mr. Rupal took the stand that Ph.D. degrees could not be awarded to the petitioner as the span period provided in the concerned Ordinance had come to an end.

26.3 Mr. Rupal, however, did not dispute the fact that the Vice-Chancellor was conferred with the discretion, *albeit*, in “**exceptional cases**” to grant extension of time period given in the concerned ordinance i.e. beyond the period of six-and-a-half years.

26.4 Since the matter could not be concluded as the court time had elapsed, the University was directed to have the remaining petitioners (i.e. Petitioner Nos.2 to 4) also take the viva-voce exam.

26.5 Furthermore, the University was directed to place the results of petitioners in a sealed cover on the next date of hearing. This direction was issued with a caveat, that it would not prejudice the rights and contentions of the University and that the petitioners would not be permitted to claim any equity merely because they had been allowed to take the viva-voce exam. The matter was posted for further hearing on 24.03.2020.

27. In the interregnum, the petitioner No.1 moved an interlocutory application i.e. CM 6773/2020, for issuance of interim directions.

27.1 Notice in this application was issued on 19.02.2020 which was made returnable on 24.03.2020. On that date, Mr. Koushik Ghosh appeared for the respondents. He was directed to take instructions as to whether the evaluation of the petitioner No.1's thesis had been completed and if the same was completed, the result was directed to be brought to the Court in a sealed cover.

27.2 Importantly, the prayer made in the said application was that the result should be declared before 01.03.2020 as the post of Assistant Professor had been advertised, this time around, in the Hindi Department in Dayal Singh College, affiliated to the university.

27.3 There was, thus, an obvious typographical error in the order sheet prepared on 19.02.2020 as the returnable date in the application was indicated as 24.03.2020.

27.4 Realizing that this would render the application inefficacious, Petitioner No. 1 moved another application i.e. CM No.7602/2020 for advancing the date of hearing. This application was listed on 25.02.2020.

27.5 Since, Mr. Rupal was present, in Court, based on advance notice of the application, the same was allowed. Furthermore, with the consent of the parties, CM 6773/2020, was taken up for hearing

27.6 Insofar as CM 6773/2020 was concerned, it was conveyed by Mr. Narayan, if the court were to take up the main matter for hearing on an early date, he would not want to press the application further. Accordingly, the application was disposed of. The writ petition was placed for hearing on 02.03.2020. Furthermore, Mr. Rupal was directed to bring the record concerning petitioner No.1 to Court in a sealed cover.

27.7 The date already fixed i.e. 24.03.2020 in the main matter was cancelled. Besides this, typographical errors contained in paragraphs 7 and 8 of the order dated 18.12.2019 were also corrected.

28. It is in this foreground that the matter was listed for final disposal on 02.03.2020 and after hearing arguments advanced on behalf of the parties, the judgment *qua* the same was reserved on 03.03.2020.

29. As indicated right at the outset, the sole issue which arises for consideration in the matter is: as to whether “*exceptional circumstances*” existed for the Vice-Chancellor, to grant extension of time to the petitioners to submit the thesis beyond the period of six-and-a-half years?

29.1 It is not disputed by Mr. Rupal, as noted in the proceedings dated 18.12.2019, that such discretion vests in the Vice-Chancellor.

29.2 Mr. Rupal, however, contended that the reliance placed by the petitioners on letter dated 22.12.2016 is misconceived as it was based on the

2016 Regulations issued by the UGC which were not applicable to the petitioners. In support of his plea, Mr. Rupal drew my attention to Clause 12.1 of the 2016 Regulations.

29.3 Mr. Rupal also contended that since the petitioners had been registered for the Ph.D. programme in April 2011, they would be governed, if at all, by the 2009 Regulations. Therefore, in a nutshell, the argument advanced was that the extension granted by BRS *vide* communication(s) dated 22.12.2016 was invalid and, thus, would not subserve the cause of the petitioners.

30. Mr. Narayan, on the other hand, took me through the aforementioned facts and circumstances. In support of his plea that the circumstances at hand brought the petitioners' case within the ambit of the expression "exceptional cases", he placed reliance on Clause (4) paragraph H of Ordinance VI-B as amended on 05.08.2015.

30.1 Mr. Narayan also submitted that the University, based on the 2016 Regulations of the UGC, on 09.08.2017, had brought about amendments, *inter alia*, in Ordinance VI-B whereby a woman candidate could be granted a leeway of two years beyond the prescribed maximum period provided for completion of Ph.D. programme. In other words, the argument was that the University had recognized the women candidates like PWDs (having more than 40% disability) required accommodation for completion of Ph.D. programme. According to Mr. Narayan, this step taken by the University itself showed that the expression "exceptional cases" imbued for the principle of accommodation *vis-à-vis* students falling in special categories.

Analysis and Reasons

31. Having considered the matter at length and perused the record, to my mind, there cannot be any dispute concerning the following facts and circumstances:

- (i) The petitioners registered for Ph.D. programme in April, 2011.
- (ii) They have completed their Ph.D. thesis which awaits evaluation. In the case of petitioner No.1, she has also taken her viva-voce exam.
- (iii) The petitioners were granted an extension by the BRS *vide* letter(s) dated 22.12.2016 based on the request of the Department and the recommendation of the DRC.
- (iv) The letter(s) of the BRS dated 22.12.2016, alluded to the press release of UGC dated 12.04.2016, and not to the notification dated 05.05.2016 whereby, 2016 Regulations framed by the UGC were brought in force. The press release, concededly, did not contain the provision which was incorporated in Regulation 12.1 of the 2016 Regulations.
- (v) Regulation 12.1 of the 2016 Regulations excluded the applicability of the said Regulations *qua* those students who had registered for the Ph.D. programme between July 2009 and 05.05.2016. *Qua* these students, it was made clear that they would be governed by the 2009 Regulations and not 2016 Regulations.
- (vi) The HOD, on 25.09.2018, wrote to the Research Council that the petitioners' thesis should be allowed to be submitted as an error had been committed by the Section Officer of the Department, in not accepting their thesis.

32. The aforesaid facts demonstrate that both the BRS and the Department were convinced that the petitioners had made out a case for grant of extension. BRS had taken this view, at the relevant time, by

aligning itself with the opinion of the UGC as expressed in the press release that women candidates needed accommodation.

32.1 Insofar as the petitioners were concerned, they were made to believe that the extension was valid and, therefore, they could rearrange their timetable for submission of the thesis.

33. The fact that the petitioners have submitted their thesis, *albeit*, in the circumstances as indicated above is not in dispute. The moot question is: given this backdrop, are the petitioners entitled to contend that their circumstances fall within the ambit of the expression “*exceptional cases*” as found in Clause (4) paragraph H of Ordinance VI-B?

34. In my view, the petitioner’s circumstances do fall within the scope and ambit of the said expression. The reasons I say so are as follows.

34.1 The petitioners verily believed that the BRS was empowered to grant an extension. The extension, as noted above, was granted by the BRS on the back of request of the Department and recommendation of the DRC.

34.2 The argument advanced by Mr. Rupal that the 2016 Regulations did not apply to the petitioners is misconceived as it proceeds on an erroneous assumption that the BRS recommendation was based on the 2016 Regulations. A careful perusal of the extension letter(s) dated 22.12.2016 would show that the BRS had independently concluded that the petitioners deserved to be given an extension for submission of their thesis and, if at all it looked for support, it relied upon UGC’s press release of 12.04.2016.

35. It is important to note that even according to the University, for the 2016 Regulations to apply, the University was required formally to adopt the same by amending its Ordinance. The amendment notification dated 09.08.2017 issued by the University fortifies this view.

36. Therefore, to my mind, the Vice-Chancellor ought to have considered the request made by the petitioners for acceptance of their Ph.D. thesis beyond the span period of six-and-a-half years, which, in substance, was and could have been the only plea of the petitioners. It is ordered accordingly.

37. The Vice-Chancellor, while considering the case of the petitioners, will take into account the aforesaid facts and circumstances including the recommendation letter(s) dated 22.12.2016 issued by the Chairperson, BRS and the letter of the HOD dated 25.09.2018.

38. In case the Vice-Chancellor concludes that the circumstances concerning the petitioners' fall within the ambit of exceptional circumstances, he would issue necessary directions for the next steps to be taken for the evaluation of their Ph.D. thesis including to have them sit for the viva-voce exam (if they have not already sat for the same up until now), so that their results, one way or the other, are declared at the earliest.

39. The Vice-Chancellor will provide a definitive timeline for this purpose. The Vice-Chancellor is requested to ensure that this exercise is completed at the earliest upon receipt of a copy of the judgment. I have consciously not set forth a defined timeframe given the fact that the city is under lockdown on account of pandemic caused by Coronavirus.

40. The writ petition is disposed of in the aforesaid terms. Consequently, the pending application shall stand closed.

(RAJIV SHAKDHER)
JUDGE

30 APRIL, 2020/aj