

RAJASTHAN HIGH COURT

Ramesh Chandra

Vs.

Kota Open University

Civil Special Appeal No. 75 of 2000

(N.N. Mathur and D.N. Joshi, JJ.)

13.11.2000

JUDGEMENT

N.N. Mathur and D.N. Joshi, JJ.

1. We have heard Mr. Dinesh Maheshwari, learned Counsel for the appellant and Mr. U.C.S. Singhvi, learned Counsel appearing for the respondents.
2. This Special Appeal is directed against the judgment of the learned single Judge dated December 3, 1999, dismissing the writ petition.
3. The petitioner was admitted to the course of Advance Diploma in Management, popularly known as ADIM by the respondent-Kota Open University, in the year 1992. As per the Scheme of the University, petitioner was eligible to appear in December, 1994 Examination, but he filled up his Examination Form for the examination of March, 1994. Apparently, as per Scheme itself, for six courses (subjects) for the Advanced Diploma in Management, a candidate is entitled to complete the same in one or more years, but not beyond four years. The petitioner submitted admission form in the month of November, 1992 and he was admitted in the course. The petitioner undertook all the subjects of the studies and also undertook internal evaluation and appeared in the Examination. The petitioner was issued admission card (Annex. 3). He took all the papers at Udaipur Centre. However, the petitioner's result was withheld. The petitioner was told that his examination shall be cancelled as he appeared in the examination before the scheduled time.
4. The petitioner made a detailed representation in that regard to the Vice- Chancellor. The Controller of Examination of University, vide letter dated 28-11-94 informed the

petitioner that the examination of February, 1994 was conducted for the batch of 1991 and, as such, the petitioner was not entitled to take the same. He was advised that he may fill up the form for appearing in December, 1994.

5. The petitioner, aggrieved of the decision of the respondent-University, initially approached the District Consumer Protection Forum at Udaipur. The complaint filed by the petitioner was rejected by the District Consumer Protection Forum, in July, 1995. The petitioner was advised to challenge the decision of the University by way of writ petition. Accordingly, he filed the writ petition in the year 1996.

6. The learned single Judge has rejected the writ petition on the ground of delay and laches, without going into the merits of the case. The learned single Judge also observed that in view of the number of decisions of the Apex Court, it would be inappropriate to interfere in the educational matters.

7. It is contended by Mr. Maheshwari, learned Counsel for the appellant, that at no stage, the petitioner was asked to wait for nearly two years to take the Final Examination. Otherwise, he would have exercised the option to take admission or not. It is also submitted that the petitioner cannot be penalized for no fault of him. Per contra, it is submitted by Mr. U.C.S. Singhvi, learned Counsel for the respondents, that it is evident from Annex. R/1 and Annex. R/2 that the examination for the year, 1992 was for the candidates who were admitted in the year 1992. In view of this, he is not entitled to appear in the examination held in March, 1994.

8. Mr. Singhvi has not been able to point out any Rule of instructions under the Scheme to the effect that for the first examination, there should be a gap of two years or so. The University itself has permitted the petitioner to appear in the examination, held in March, 1994. The University has only advised him that he may appear at the examination scheduled to be held in December, 1994. The stand taken by the University is wholly unjustified, when petitioner was permitted to appear at the examination held in March, 1994. It is not supported by any Rule. Be that as it may, once he has appeared at the examination, held in March, 1994, no useful purpose is going to be served at this stage to ask him to reappear for the same examination.

9. As far as delay and laches is concerned, it is evident that the petitioner was pursuing his remedy before another Forum. Thus, there is a proper explanation of the

delay. Thus, in our view, the learned Judge committed error in rejecting the petition on the ground of delay and laches.

10. Consequently, this Special Appeal is allowed. The order of the learned single Judge dated 3-12-99 is set aside. The Writ Petition No. 169/96 is allowed. Direction Annex. 8 dated 28-11-1994 is quashed and set aside. The respondent-University is directed to declare the result of the petitioner for the examination for which he appeared in March, 1994. The petitioner will be entitled to continue with the course in accordance with the Rules, for which he was admitted.

Appeal allowed.