

RAJASTHAN HIGH COURT

Gaurav A. Jain

Vs.

MaharanaPratap Univ. of Agri. and Tech.

S.B. Civil Writ Petition No. 728 of 2003
(Sunil Kumar Garg, J.)

16.04.2004

ORDER

Sunil Kumar Garg, J.

1. This writ petition under Article 226 of the Constitution of India has been filed by the petitioner on 6.7.2003 against the respondents with a prayer that by an appropriate writ, order or direction, the respondents be directed to consider the case of the petitioner for being awarded the merit certificate for third and fourth year and the gold-medal for the integrated course of B.E. Agriculture after ignoring the remarks of make- up.

2. The facts of the case as put forward by the petitioner are as under:

(i) That the petitioner took admission in B.E. in Agriculture subject in the year 1999 in Rajasthan Agriculture University now known as MaharanaPratap University of Agriculture and Technology, Udaipur (hereinafter referred to as the respondent No. 1-University). The petitioner obtained degree in B.E. in Agriculture subject from respondent No. 1-University.

(ii) Further case of the petitioner is that in the Third Year of B.E. Course in the year 2001, the petitioner was completing his paper, but on 13.4.2001 while examination of Computer Programming "C" paper was being held, there was violent protest amongst the students due to certain part of the questions which were out of course and for that there was general boycott by all the students and since there was no provision for security of the petitioner, inspite of his willingness to appear in the examination of Computer Programming "C" paper, he was also forced to join the boycott as done by others.

(iii) Further case of the petitioner is that on the instructions of the Dean, the students were marked absent and practical examinations were postponed for a subsequent date and this type of remarks were also found in the mark-sheet (Annexure 3) of third year of the petitioner. Thus, the result of 3rd year of B.E. Course was declared along with the remark of absence in the above- mentioned paper and granting of make-up to all the students.

(iv) Further case of the petitioner is that when the students protested for recon duct of the above-mentioned paper and this request was accepted and all the students were allowed to re-appear in examination of Computer Programming "C" paper as well as practicals.

(v) Further case of the petitioner is that he secured highest marks in the Computer Programming "C" paper, but the merit certificate was withheld on the ground that Computer Programming "C" paper was given status of make-up.

(vi) Further case of the petitioner is that in the 4th year of B.E. Course, he also obtained 79.87% marks with distinction and stood first in the rank in the agriculture branch. A copy of mark-sheet of 4th year is marked as Annexure 4.

(vii) Further case of the petitioner is that the petitioner was deprived of Gold-medal as well as merit certificate on the ground that paper of Computer Programming "C" in the year 3rd year of B.E. Course was given the status of make-up and this fact was also mentioned in the mark-sheet (Annexure 3). Hence, this writ petition with the above-mentioned prayer.

3. In this writ petition, the main case of the learned counsel for the petitioner is that the plea of make-up mentioned in the Rules is for those persons who are permitted to improve or are given a chance even when they are absent due to their personal liability or because of lack of personal merit, but however since in this case, the petitioner was forced to joint the boycott during the violent protest even when he was personally willing to take the paper of Computer Programming "C", and in other words paper of Computer Programming "C" in 3rd year of B.E. Course was given status of make-up due to the cause which was beyond the personal control of the petitioner and therefore, there was no fault on the part of the petitioner and hence denial of gold-medal and merit certificate to the petitioner on the ground that paper of Computer Programming "C" in 3rd year of B.E. Course was given status of make-up is illegal and this writ petition deserves to be allowed.

4. Reply to the writ petition was filed by the respondents and their case is that since the petitioner did not qualify 3rd year examination in one attempt as is evident from the mark-sheet (Annexure 3), therefore, he was rightly denied the gold-medal and merit certificate and it was further submitted that when on 13.4.2001, the examination of Computer Programming "C" paper was being held by the respondent No. 1-University, the students of 3rd Year B.E. Course including the petitioner boycotted the examination and left the examination hall despite the pacification by the invigilators and officials of the respondent No. 1-University. It has also been submitted by the learned counsel for the respondents that officials of the respondent No. 1-University including the Dean of the Faculty informed the Controller of the Examination about the walkout of the students of 3rd year of B.E. Course through communication dated 13.4.2001 (Annexure R/1). The case of the petitioner that he was compelled forcibly to join the boycott was denied by the respondents and so far as awarding of gold-medal and merit certificate is concerned, it has been submitted by the learned counsel for the respondents that Academic Council of the respondent No. 1-University resolved in the meeting held on 26.2.2002 that since the petitioner did not pass B.E. 3rd year examination in first attempt, therefore, he was deprived of getting gold medal. A copy of the notification dated 28.5.2002 placing the resolution of the Academic Council is marked as Annexure R-1/3 in which it was stated that reappearance in the examination of walkout paper will be counted as second attempt and hence no case is made out and the writ petition be dismissed.

5. Heard and perused the record.

6. There is no dispute on the point that on 13.4.2001, when the examination of Computer Programming "C" paper, there was general walkout by all the students of 3rd year of B.E. Course and the petitioner also had to follow the other students because it was general walkout by all the students appearing in the aforesaid paper.

7. There is also no dispute on the point that all the students who boycotted the paper of Computer Programming "C" were allowed to re-appear in the examination of Computer Programming "C" and thus this paper was given status of make-up and this fact was mentioned in the mark-sheet (Annexure 3) of 3rd year of B.E. Course of the petitioner.

8. There is also no dispute on the point that the petitioner was otherwise qualified for getting gold medal and merit certificate except for giving status of make-up to the paper of Computer Programming "C" because he stood first in B.E. Examinations

conducted by the respondent No. 1-University.

9. There is also no dispute on the point that there were several conditions for award of gold medal and one of the conditions is that the gold medal would be awarded only to the student who passes all the papers in first attempt.

10. Now the question which arises for consideration in the facts and circumstances of the case just mentioned above is whether since there was general boycott on 13.4.2001 by all the students of 3rd year of B.E. Course appearing in the examinations of Computer Programming "C" and the petitioner also had to follow the other students and subsequently, all the students were allowed to re-appear in the examination of Computer Programming "C" and thus, the paper of Computer Programming "C" was given status of make-up and this fact was also mentioned in the mark-sheet (Annexure 3) of 3rd year of B.E. Course of the petitioner, the petitioner is entitled to get gold medal and merit certificate or not ?

11. In my considered opinion, the petitioner is entitled to get gold medal as well as merit certificate because he stood first in the B.E. examination (Agriculture). So far as status of make-up given to the paper of Computer Programming "C" is concerned, it was not because of his personal fault as on 13.4.2001, when all the students of 3rd year B.E. Course boycotted the paper of Computer Programming "C", it was impossible for the petitioner to appear in the examination of Computer Programming "C" paper. Furthermore, the career of the petitioner itself reveals that in no manner, by heart, he would have liked to boycott the paper of Computer Programming "C" because he was very meritorious student. Therefore, the status of make-up in the Computer Programming "C" paper which has occurred in the case of the petitioner could be assessed as beyond his personal control for which he should not be penalized.

12. It may be stated here that no doubt reappearance in the examination on account of walkout will be counted as second attempt, but that second attempt stands distinguished from the second attempt where students are permitted to improve or are given a chance even when they are absent due to their personal liability or when they are permitted to re-appear because they did not pass in first attempt and since in the present case there was general walk out by all the students of 3rd year B.E. course and that had to be followed by the petitioner, otherwise, it was not possible for him alone to appear in the examination of Computer Programming "C" paper, in the above circumstances, it would be proper that giving of status of make-up to the Computer Programming "C" Paper should not come in the way of the petitioner in getting gold-

medal as well as merit certificate and therefore, by not awarding gold medal and merit certificate a legal right of the petitioner has been infringed and a legal right has accrued in favor of the petitioner for getting gold medal and merit certificate as he stood first in B.E. Course (Agriculture).

13. The Court is aware that in determining whether action of the authority was unreasonable or not, the Court should not sit as court of appeal, but reasonableness has to be determined with reference to the circumstances and if the Court comes to the conclusion that the authority concerned has exercised its discretionary power unreasonably, the Court can interfere in such matter even in internal working of educational institution and because of the reasons just mentioned above, interference is being made in this case.

14. For the reasons mentioned above, the present writ petition deserves to be allowed and it is held that the petitioner is entitled to get gold medal and merit certificate for standing first in the B.E. Course (Agriculture).

Accordingly, the present writ petition is allowed and the respondents are directed to award gold medal to the petitioner for standing first in B.E. (Agriculture) as well as merit certificate for third and fourth year of B.E. Agriculture.

Cost made easy.

Petition allowed.