

**HIGH COURT OF CHHATTISGARH, BILASPUR**  
**Writ Petition (C) No.503 of 2018**

Devendra Khobragade, S/o Shri Rajkumar Khobragade, aged about 28 years, R/o C/o S.S. Thakur, Near Hanuman Mandir, Kududand, P.S. Civil Lines, Bilaspur (CG)

---- Petitioner

Versus

1. State of Chhattisgarh, Through the Principal Secretary, Department of Higher Education, Mahanadi Bhavan, Raipur (CG)
2. The Bilaspur University through the Registrar, Old High Court Building, Bilaspur (CG)
3. The Examination Controller, Bilaspur University, Old High Court Building, Bilaspur (CG)

---- Respondents

For Petitioner	:	Mr.Rakesh Pandey, Advocate
For Respondent No.1	:	Mr.R.N.Pusty, Govt.Advocate
For Respondent No.2&3	:	Mr.Neeraj Choubey, Advocate
For Amicus Curiae	:	Mr.Hari Agrawal, Advocate

**Hon'ble Shri Justice Sanjay K. Agrawal**

**Order on Board**

27/03/2018

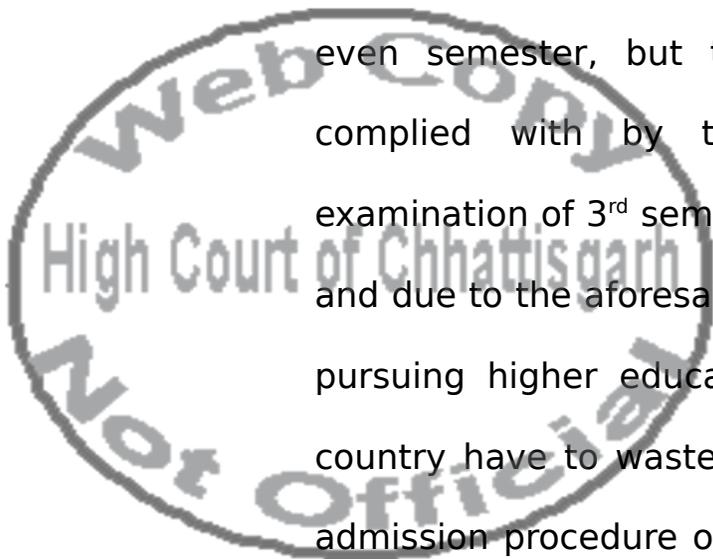
1. Dipak Misra, J. (as His Lordship then was) speaking for the Supreme Court in the matter of **Sambhavana v. University of Delhi**<sup>1</sup> while dealing with the right of education of differently abled person has held that "a University has to live the role of loco parentis and must show its concern to redress the grievances of its students in proper perspective."
2. The petitioner, who is a student of LL.B. Part II (1<sup>st</sup> semester) studying at Kaushlendra Rao Law College, Bilaspur, affiliated to the Bilaspur University, has filed this writ petition for issuance of a writ of mandamus directing respondents No.2

<sup>1</sup> (2013) 14 SCC 781

and 3 to effectively implement the academic calendar as issued by the Joint Director, Directorate of Higher Education, State of Chhattisgarh vide notification dated 11.5.2017 (Annexure P/1) and also sought relief to direct the respondent-University to conduct examination in time bound manner.

**3.** Case of the petitioner is that academic time table as issued by the University prescribes examination for odd semester to be held in the month of February-March and similarly, the month of September-October is prescribed for examination of even semester, but that is not being followed and not complied with by the respondent-University and now examination of 3<sup>rd</sup> semester is to be held w.e.f. 2<sup>nd</sup> April, 2018 and due to the aforesaid situation, many students desirous of pursuing higher education in other Universities across the country have to waste their one year because by that time admission procedure of other Universities have already been completed and closed.

**4.** Counter-affidavit has been filed by the respondent-University contending that LL.B. three year law degree course under the semester system is being run by the respondent-University as per its Ordinance, which has force of law, therefore, the circular dated 11.5.2017, which is an additional Executive Instructions issued by the State Government, is not binding on the respondent-University. However, the Ordinance issued by the University Grants Commission is applicable by which examination of 3<sup>rd</sup> and 5<sup>th</sup> semesters (odd) are held to be in



the month of January-February and examination for even semesters is held to be in the month of July-August, 2018, but on account of difficulty and representations made by the students, examination would not be held and now it is held w.e.f. 2<sup>nd</sup> April, 2018 finally.

**5.** I have heard learned counsel for the parties, also heard Mr. Hari Agrawal as Amicus and considered their rival submissions made hereinabove and also gone through the records with utmost circumspection.

**6.** The Bilaspur University has been established by notification dated 3.2.2012 under the provisions of the Chhattisgarh Vishwavidalaya Act, 1973 (hereinafter called as "the Act of 1973"). Section 37 of the Act of 1973 provides that academic affairs of the University have to be governed by Ordinances. It is the case of the respondent-University that Ordinance No.110 of the Guru Ghasidas University, Bilaspur is applicable, which has been adopted in Executive Council meeting dated 18<sup>th</sup> July, 2014 which reads as under:-

"(2) LLB. First Semester shall be made in the month of July every year and the Semester examination shall be held in the month of January of the following year.

Examination for all the Semester shall be held twice a year namely January/February and July/August."

**7.** If the statement of the University is accepted and Ordinance No.110 of the University is applicable, examination for odd semester has to be held necessarily in the month of January-February. In the instant case, examination is scheduled to be

held for 3<sup>rd</sup> semester w.e.f. 2<sup>nd</sup> April, 2018. No material is available on record to demonstrate the delay of two months in holding the examination for the said semester by the respondent-University.

8. The Supreme Court in the matter of **Baba Sahiv Nath Singh, Shikshan Avam Prashikshan Sansthan v. National Council For Teacher Education and others**<sup>2</sup> has emphasized the need for complying with the academic calendar strictly by the University to maintain uniformity and consistency. It was observed as under:-

“11. We have considered the matter and explored the options that would best serve the interests of the Institutions; the students and the need to maintain the academic calendar. While we have seriously considered the suggestion of the learned counsels for the petitioners to declare either the Academic Year 2014-2015 or 2015-2016 as a “zero” year and make the Academic Session of both the years into one i.e. 2014-2016, we are of the view that such course of action would not be proper in the absence of all the Institutions and the representatives of the students who may be affected. We have, therefore, taken into account the available options and have considered it appropriate to conclude that the following directions would serve the purpose indicated above i.e. maintaining discipline, uniformity and consistency in the academic calendar balanced with the interests of the Institutions and the students:

(i) The commencement of the Academic Session 2014-2015 will be from the date as mentioned on behalf of the State of Uttar Pradesh i.e. 22-9-2015. The session will commence for the seats available against the first, second and third batch of seats/students mentioned in the Chart extracted above, meaning thereby that for the Academic Session 2014-2015 the seats available against the fourth and fifth batch will not be filled up.

(ii) The Academic Session 2014-2015 will be

brought to a close on completion of the mandatory number of working days at the earliest and without any delay.

(iii) The Academic Session 2015-2016 will commence on 22-9-2016 and affiliations/admissions etc. in respect of the said Academic Year would stand concluded well in time to enable the commencement of the Session from the date mentioned i.e. 22nd September, 2016.

(iv) The Academic Session 2015-2016 similarly will be brought to its earliest conclusion so that the next Academic Session can begin as per the original academic calendar i.e. July, 2017 and thereafter each Academic Session will strictly adhere to the academic calendar of the State.

(iv) We direct all Authorities i.e. NCTE and SCERT to strictly comply with and adhere to the above directions and not to permit recognition or affiliation beyond the dates mentioned in *Maa Vaishno Devi Mahila Mahavidyalaya*<sup>3</sup> and not to grant admissions beyond such dates which may have the effect of putting the date of commencement of the concerned Academic Session itself in peril.”

Likewise, the Supreme Court in the aforesaid judgment (supra) has also expressed concern over the inconsistency in commencement & conclusion of examination and consequent delays occurring in academic sessions and has directed for strict adherence to the academic calendar.

**9. In the matter of Parshvanath Charitable Trust and others**

**v. All India Council for Technical Education and others**<sup>4</sup>,

Their Lordships of the Supreme Court have held as under:-

“38. We must notice notice that the admission schedule be declared once and for all rather than making it a yearly declaration. Consistency and smoothness in admission process would demand and require that there is a fixed and unaltered time schedule provided for admission to the colleges so that the students know with certainty and well in

<sup>3</sup> (2013) 2 SCC 617

<sup>4</sup> (2013) 3 SCC 385

advance the admission schedule that is to be followed and on the basis of which they are to have their choice of college or course exercised.”

- 10.** The Division Bench of the Kerala High Court in the matter of **University of Kerala v. Sandya P. Pai**<sup>5</sup> while dealing with similar facts wherein the University has failed to perform its duties in timely conduct of examinations and declaration of results has held as under:-

“14. The University states that it has to determine the destiny of many thousand students and within a compressed time, and that the court should be appreciative of the practical difficulties in running and managing any massive human organisation. While appreciating the massiveness of the works that have to be done and even the time limit within which they have to be done and with perfection, we cannot, on that ground, exonerate the University of its fundamental obligation to complete the valuation of the merit of a student within time. Difficulties do not permit an authority to act in derogation of its duty such as the duty to observe principles of natural justice, (vide R. v. Havering Justice, (1974) 3 All ER 484 at 488). If men and material are inadequate, it is for the University to address itself on those questions and to find out appropriate and adequate remedies. It is not for the court to give an advice or guideline in such matters. The Universities were not born yesterday. The hallowed institutions carry with them the rich and ripe experiences of bygone ages, and of a rare variety of human species the cream of the intelligential. New situations-require modulations. That is precisely the duty of those with whom the functions of a University are entrusted by a solemn legislative enactment. A University is not yet another factory where production by number is fixed as the sole standard for payment of wages. The University cannot compromise with quality. The followers of Darwin cannot reconcile with anything imprecise in their life, even in the course of an innocent narrative in an informal meeting. (Darwin woke up from his sleep, to tell his lively awake friends in a dinner party, about an inaccurate statement which had crept in in an earlier narrative he had made). We will not be justified in winking our eyes, at grievous lapses when they mar precious

lives of a studious generation of students. If additional posts are required to cope up with the increased volume of work, it is the duty of the State to find out the resources needed for the same, and to resort to sophisticated and scientific methods which would destroy the tedium in the work and facilitate precision and speed simultaneously. The delay of about 8 months in the despatch of the revaluation marks is murderous in character in relation to the educational life of a young student. Every second of the victim of the erroneous valuation is a lynching experience for the student. No court will permit such cruelties to pass unnoticed. (See the stern action taken by the Supreme Court in Board of High School and Intermediate Education, U. P. v. Chitra Srivastava, AIR 1970 SC 1039).

16. It is unnecessary in this case to launch on a discussion about the origin, growth and flourishing of the great Universities from early times. Nor is it necessary even to sketch their position in modern India. An effort was made in India, in early days, 'to raise the standard of higher education'. 'The first five Universities of Calcutta, Madras, Bombay, Lahore and Allahabad undertook instruction and supervision as well as examination. The Senates of the Universities of the early days took in "High Court Judges, Bishops, members of Executive Councils, the provincial Directors of Public Instruction and Professors of Government and missionary colleges. (See "The New Spirit in India", by Henry W. Nevinston, pages 4, and 5). It is not without reason that a University is thought about as "a place of light, of liberty and of learning". (See The Governance of England, by Sioney Low, page 146). Time was when the University and its academic bodies had received the greatest of respect from courts. (See University of Mysore v. Govinda Rao, AIR 1965 SC 491). The large number of eases in which the courts have been forced to interfere even in matters of academic character, is a sad but striking feature of the current functioning of many of the Universities."

- 11.** Applying the principles of law laid down by the Supreme Court and the Kerala High Court in the aforesaid judgments (supra) to the facts of the present case, it is quite apparent that the respondent-University has miserably failed to comply with the academic calender and examination has not been

done right in time flouting the Ordinance of the University and flouting the order of the State Government as well as not following the mandate of the Supreme Court held in **Baba Shiv Nath Singh** (supra), which is really unfortunate.

**12.** In view of above, it is directed that the respondent-University will follow the Ordinances and instructions strictly for holding the examination right in time so that career of the students may not affect and the students may obtain admission in other Universities in other appropriate branch/subject. The University has to act diligently, fairly and reasonably and in better interest of the students by holding the examination right in time as mandated by the Ordinances, Instructions etc.

**13.** Since, it is the State University, the Chief Secretary, State of Chhattisgarh is directed to look into the matter and ensure that academic calender is followed by the University and examinations are held right in time.

**14.** With the aforesaid observation, the writ petition finally stands disposed off. No cost(s).

**15.** This Court appreciates the assistance rendered by Mr.Hari Agrawal, who in short notice, submitted written synopsis and assisted the Court.

Sd/-

(Sanjay K. Agrawal)

Judge

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

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**(SB: Hon'ble Shri Justice Sanjay K. Agrawal)**

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**Writ Petition (C) No.503 of 2018****Petitioner**

Devendra Khobragade

**Versus****Respondents**

State of Chhattisgarh and others

**(English)**

Bilaspur University has to follow Ordinance and Instructions for holding the examination strictly.

**(हिन्दी)**

परीक्षा कड़ाई से कराने हेतु बिलासपुर विश्वविद्यालय को अध्यादेश तथा निर्देशों का पालन करना है।

