

CS No. 656/19
Sh. Rajan Singh Vs. Aryabhata College & Anr.

14.05.2019

Present: Plaintiff in person.
Ms. Beenashaw Soni Ld. Counsel for the defendants.

File perused.

The matter is fixed for further arguments on the application under Order 39 Rule 4 r/w section 151 CPC which was moved on behalf of defendants on 13.05.2019.

Further arguments advanced from either side.

It is submitted by Ld. Counsel for the defendants/ applicants that the present suit has been filed just to harass and blackmail the defendants which has been the practice of the plaintiff since the day he joined the college. It is submitted that the plaintiff who is student of final semester was very well aware of the rules regarding the attendance, which otherwise also are notified from time to time on the notice board of the college as well as its website. Copies of such notices have been annexed with the application. The details of semesterwise attendance of the plaintiff has also been filed by the defendants which reflects the aggregate attendance of all semester to be 27.03 % and that of the sixth semester, attendance in



which is relevant to be just 3.87 %.

Ld counsel for the defendants while relying upon the notification dt. 26.06.2015 of University of Delhi has submitted that as per ordinance VII (2) the plaintiff is not entitled to any relaxation whatsoever as the present case does not fall into any of the criteria mentioned therein . It is further submitted that even the Principal of college cannot exercise his discretion in cases where the aggregate attendance is less than 40 % . Monthwise attendance of the plaintiff which is stated to be available on the official website of the college, on the basis of which the attendance details of sixth semester have been compiled have also been filed on record today which has been certified by Dr. S.B.N Tiwari. It is stated that the plaintiff is involved in various political activities and for the precise reasons, he has not attended the classes. It is further submitted that order dt. 29.11.2017 passed by the then ASCJ, New Delhi was also obtained by the plaintiff by concealing facts and the plaintiff had apologized for the same in the court as well due to which the college did not initiate any proceedings against him for damages. Letter dt. 05.10.2018 written to the Principal , by the plaintiff and order dt. 06.10.2018 of Ld. ASCJ, New Delhi have been relied upon. It is further stated that the plaintiff who was allowed to take exams after order of this court was found indulging in using unfair means in the exam conducted on 13.05.2019, information of which has been sent to the University.



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Lastly, while strongly praying for setting aside the order dt. 10.05.2019 whereby the plaintiff was allowed to take the exams, it is submitted by Ld. Counsel that if such cases are not dealt with a heavy hand, it would send wrong signals to the other students who are diligently attending classes. Ld. Counsel has relied upon the following judgments:

1. Deen Dayal Upadhyaya College Vs. Ayushi Sethi & Ors
LPA 582/2017 CM Appeal 32363/17.
- 2 Heena Bahal Vs. University of Delhi & Ors. 2013(2) RLR
337
- 3 Kiran Kumari & Ors. Vs. Delhi University & Ors WP(C)
No. 9143/2007

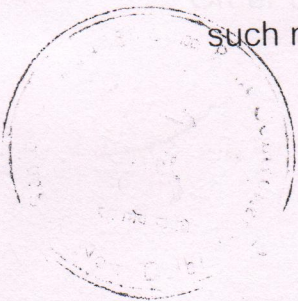
Per contra, the plaintiff has submitted that he is being victimized for standing against the Principal of the college. He has placed on record the screenshot of the attendance details which has allegedly been taken on 28.11.2017 which shows the total lectures delivered as 299 whereas in the details submitted by the defendants, reflects the same to be 180. He submits that it shows that the mechanism for calculation of the attendance suffers from defects and as such he be allowed to take examination with whatsoever condition. He has relied upon the news article published on 13.05.2019 which reflect that the Hon'ble High Court has also granted interim relief to a Delhi University student , who was short of attendance.



Considered. Records perused.

Vide order dt. 10.05.2019 ex-parte interim relief was granted to the plaintiff relying upon his submissions that his attendance was 83 % and not just 3 %. he had stated on oath that the web page of defendant no. 1 on 29.04.2019 was reflecting his attendance as 83 5 but later on it reflected just 3%. However, the details as have been furnished today on behalf of defendants reflects that his attendance in sixth semester is 3.87 % only. It has been apprised by Ld. Counsel for the defendants that the attendance is uploaded on a monthly basis. The said fact is not denied by the plaintiff. If it was so, then discrepancy if any, should have been brought to the notice of the concerned authorities but the plaintiff waited for the last moment to approach the court. The court finds no reason as to why defendants would manipulate the records, as alleged by the plaintiff, to stop him from appearing in the exams.

The news article relied upon by the plaintiff is of no help to him, the facts as mentioned in the said article are entirely different from the facts in hand. In that case, the petitioner had participated over 40 programs with the approval of the college authorities and as per the University her attendance was 60.84 % which is far more than 3 % of the plaintiff, who even in aggregate of attendance in all semester could reach only 27.03 %. The court finds no justification of such meager attendance throughout the academics of the plaintiff .



The court is in consonance with submissions of Ld. Counsel for the defendants that if such cases are considered and relief is granted, it would be injustice to those students who have been attending the classes diligently.

The court cannot go against the prescribed norms of attendance set by the Delhi University by giving any form of relaxation. The importance of attending classes cannot be diluted. The plaintiff has not approached the court with clean hands and has concealed material facts, on the basis of which order dt. 10.05.2019 was based.

The Apex court as well as High Court of Delhi have laid down in catena of decisions that a party who withholds or conceals vital facts/documents is guilty of playing fraud upon the court as well as on the opposite party and a litigant whose case is based on falsehood has no right to approach the court and his case can be summarily thrown out at any stage of the litigation. Reference can be have to the decisions given in re - **Satish Khosla vs. Eli Lilly Ranbaxy [(1998)1 AD (Delhi) 927]** and **Chengalvaraya Naidu vs. Jagannath (AIR 1994 SC 853)**.

In view of the above observations the application under Order 39 Rule 4 CPC moved on behalf of defendants is allowed.

Order dt. 10.05.2019 is set aside. However, keeping in view the career of the plaintiff at stake, the defendants are impressed upon to consider the case of the plaintiff, if any relaxation can be granted to him under the rules. In view of the same the application stands disposed off.

Written statement be filed by the defendants within the stipulated period with advance copy to the plaintiff who may then opt to file replication, if any.

Copy of the order be given dasti.

Put up for completion of pleadings and further proceedings on **06.08.2019**.

— Sd —

(Bhupinder Singh)

SCJ-CUM-RC : New Delhi

14.05.2019

Senior Civil Judge-cum-
Rent Controller, New Delhi

