

(2005) 08 AHC CK 0234

Allahabad High Court

Case No: C.M.W.P. No. 41596 of 2005

Salil Srivastava and Others

APPELLANT

Vs

Vice-Chancellor, Aligarh Muslim
University and Others

RESPONDENT

Date of Decision: Aug. 3, 2005

Citation: (2005) 6 AWC 6066

Hon'ble Judges: Arun Tandon, J

Bench: Single Bench

Advocate: A.K. Gupta, for the Appellant; Sunita Agarwal, for the Respondent

Final Decision: Disposed Of

Judgement

Arun Tandon, J.

Heard. Sri A.K. Gupta, learned Counsel for the Petitioners, and Smt. Sunita Agarwal, learned Counsel for the Respondent Nos. 1 to 3.

2. The Petitioners, who are ten in number, are regular students of L.L.B. Five years degree course of Aligarh Muslim University, Aligarh. All the Petitioners were detained from appearing in the examinations of their respective semesters, conducted by the Aligarh Muslim University, Aligarh, on the ground that they had not achieved requisite percentage of attendance. Against the said decision of the University, the Petitioners have filed this writ petition and placed reliance upon the provisions of Chapter XVII of the Aligarh Muslim University Calendar, wherein it has been provided as follows:

2. A candidate shall be deemed to have undergone a regular course of study for the period specified for the course to be eligible to appear at the examination, if he has fulfilled requirements as given in the chart below:

Attendance

	75%
Practical Tutorials/ Seminars	75%
As per new Academic Ordinances	75%
Social Sciences	75%
Sciences	75%
Commerce	75%
Engineering	75%
Combined	75%
Diploma	75%
Medicine	80%
	75%

N. B.-The attendance requirements for the Semester Courses shall be the same as for the non-Semester Courses and the details to be prescribed by the Academic Council.

Provided that the Academic Council may, in special circumstances condone any shortage in such attendance.

(b) he has obtained a certificate of satisfactory conduct and clearance of dues from (1) Provost cornered or (2) The Dean of the Faculty concerned in case of students of Evening Classes.

3. In view of the aforesaid provision it is contended that the Academic Council has to consider the case of the Petitioners, and has to satisfy itself as to whether special circumstances exist for condoning the shortage of attendance or not.

4. On behalf of the Respondents a counter-affidavit has been filed wherein it has been stated that the Vice-Chancellor constituted a condonation committee consisting of three professors of the University for recommending the case for grant of condonation of shortage of attendance. It is stated that the said committee considered the case of the shortage of attendance of the students in the light of Clause 2, Chapter XVII of the Ordinances and made recommendations for approval of the Vice-Chancellor. According to the recommendations so made (a) all the candidates who had obtained more than 75% attendance were permitted to appear in their respective examinations (b) students who had obtained between 75% to 65% attendance were also permitted to appear in their respective examinations after consideration of their cases on individual basis and recommended names of the students belonging to the said category (c) The Committee did not recommend the students for being permitted to appear in the examinations, who had obtained less than 65% attendance, in any circumstances. It is further stated that the names of the

Petitioners are mentioned in the list of (c) category students, therefore, their cases are not being considered for grant of any relaxation under the proviso to the Clause 2 Chapter XVII of the Ordinances (Academic) for being permitted to appear in their respective examinations. Reference, paragraph 17 of the counter-affidavit wherein it has been stated on behalf of the Academic Council that the Vice Chancellor has constituted a condonation committee referred to above, and therefore, it is submitted that the Petitioners are not entitled to any relief in the present writ petition.

5. I have heard learned Counsel for the parties and have gone through the records.

6. In the opinion of the Court the recommendations of the condonation committee, constituted by the Vice-Chancellor for his approval as stated in Paragraph 9 (c) are only recommendatory in nature as the ultimate power to condone the shortage of attendance in special circumstances vests in the Academic Council only, in view of the statutes quoted hereinabove. The case covered by the special circumstances require examinations by the Academic Council under the said statutes and therefore, are necessarily to be dealt with by the Academic Council. However, it is open to the Academic Council to take into consideration the recommendations made by the condonation committee also. The decision of the condonation committee however, is not binding upon the Academic Council and it can independent of the said recommendations take a decision in the special circumstances to condone any amount of shortage of attendance in case of a particular student.

7. Under interim orders of this Court dated 23rd July, 2005 and dated 28th July, 2005, the Petitioners have been permitted to appear in their respective examinations subject to the condition that their results shall not be declared without the leave of the Court.

8. In these circumstances, in the opinion of the Court, interest of justice would be served if the Petitioners are permitted to plead their cases by way of representations before the Academic Council for condonation of the shortage of attendance with reference to statute Rule 2 of Chapter XVII of the Ordinances (Academic) of the Aligarh Muslim University Calendar within ten days from today supported by such documents/ pleadings, as they may be advised. On receipt of the representations so made, the Academic Council of the Aligarh Muslim University, Aligarh, shall consider the same individually and shall record its satisfaction as to whether any special circumstances exist for condoning the shortage of attendance in respect of Petitioners individually or not. The Academic Council shall take its decision, preferably within four weeks from the date the representations so made. The result of the Petitioner shall be declared only after the Academic Council comes to the conclusion that shortage of attendance of the individual Petitioners is liable to be condoned.

9. This Court has no room to doubt that the Academic Council having regard to the fact that the Petitioners had already appeared in the semesters examinations under the interim order of this Court, shall take decision in the case of the Petitioners sympathetically so that the academic career of the Petitioners are not jeopardized.

10. With the aforesaid directions the writ petition is disposed of finally.