

IN THE HIGH COURT OF DELHI AT NEW DELHI
WRIT PETITION (CIVIL) NO. 3435/2020

IN THE MATTER OF:-

SANDESH JHA & Ors

.....PETITIONER

VERSUS

UNIVERSITY OF DELHI & ORS.

....RESPONDENTS

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MOHINDER J.S.RUPAL
CHAMBER NO. 212, BLOCK – III
DELHI HIGH COURT
NEW DELHI

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IN THE MATTER OF:-

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SHORT COUNTER AFFIDAVIT FILED BY THE RESPONDENT-
UNIVERSITY OF DELHI

I,

presently Registrar (Acting), University of Delhi,
Delhi-110007 do hereby solemnly affirm and submit as
under:

1. I am well conversant with the facts and circumstances of the case on the basis of the record maintained by the University of Delhi in its ordinary course and can accordingly depose to the same on behalf of University of Delhi.
2. I have gone through the contents of the present Writ Petition and in order to deal with the same submit as under. The contents of the Writ Petition which are not specifically traversed may be deemed to be denied.
3. I am filing this Short Counter Affidavit in order to deal with the main controversy but seek liberty to file detailed parawise reply if so required at a later stage.

4. The present Writ Petition is not maintainable in the facts and circumstances of the case or in law therefore, the same deserves to be dismissed at the outset with costs.
5. The Petitioners have admitted in para 4 of the writ petition that a notification has been issued dated 22.08.2017 by the Respondent – University doing away with the supplementary examinations for any back log paper, immediately after the Semester VI examination. The students are therefore required to appear in any backlog paper of any odd semester with the regular odd semester examination which is held in December each year and for the even semester backlog papers with the regular even semester examination, which is generally held in May in each Academic Year.
6. The present writ petition has been filed in June 2020 and therefore suffers from grave laches and the same ought not to be entertained at the very outset.
7. The Petitioners have not raised any cogent grounds to challenge the *vires* of the said impugned notification dated 22.08.2017. It is respectfully submitted that the Faculty of Law is following the same examination pattern as is adopted vide impugned notification dated 22.08.2017. The Faculty of Law has been always holding the examination for backlog papers (supplementary exams) always with the regular examination for the odd and even semesters respectively.

Supplementary exams are never conducted separately for Semesters I-IV as students get multiple chances for appearing in these Semesters I-IV examinations. The terms and conditions in this regard are clearly spelled out in the admission bulletin which was uploaded on the website for the Academic Year when the Petitioners had sought admission in LL.B. in 2017.

8. It is submitted that the judgment relied upon by the petitioners herein pertains to the students of a particular prior batch during 2014-17. However it is pertinent to mention that the scheme and pattern for examination for Faculty of Law has always been consistent throughout all academic years, even for the academic year 2014-17. The Petitioners have been undergoing the course of study in LL.B. from 2017 till now and never had any grievance whatsoever, with respect to the impugned notification dated 22.08.2017.
9. The Petitioners now at this stage cannot throw a challenge to the said notification which is consistently being followed on any ground whatsoever. The Petitioners cannot overburden the Faculty of Law by compelling to hold separate supplementary exams for the failed students. The students cannot claim any vested right for seeking separate supplementary exams. The Petitioners cannot take advantage of their own wrong, by first not able to clear the exams in time and then seeking as a matter of right the Faculty of Law to hold separate supplementary exams for them.

10. It is pertinent to mention that the total span period for completing the LL.B. course is specifically made longer than the regular course of 3 years, so as to enable any such student to clear the backlog papers by appearing during the routine exams along with odd/even semester respectively.
11. It is also pertinent to point out that each semester comprises of only a very short duration of study through classes. The classes for the odd semester begin in August and end in November each Academic Year. Similarly, the classes for the even semester begin from January and end in April, each Academic Year. The Faculty of Law cannot hold supplementary examinations during the on-going regular classes of the semester concerned. However allowing the request / prayers of the petitioners will amount to extra burden with another supplementary examination at the cost of the regular teaching of the LL.B course. Otherwise, it will amount to compromising the academic standards for which the Faculty of Law is well known.
12. The impugned notification dated 22.08.2017 is valid and proper. It is a well laid down principle of law that it is for the Academic Bodies to decide as to the mode and scheme of examination. The Petitioners cannot invoke the extra-ordinary original jurisdictions of this Hon'ble Court for seeking the reliefs as prayed for through the present writ petition. The same may therefore be dismissed at the outset with heavy costs.

PRAYER

In the aforesaid facts and circumstances it is therefore most humbly prayed that this Hon'ble Court may be pleased to:

- a) Dismiss the present Writ Petition at the outset with costs.
- b) Pass such other and further orders as this Hon'ble Court may deem fit and proper.

DEPONENT

VERIFICATION:

Verified on this ____ day of July 2020 that the contents of foregoing affidavit are true and correct and nothing stated therein is false or concocted.

DEPONENT

IN THE HIGH COURT OF DELHI AT NEW DELHI
WRIT PETITION (CIVIL) NO. 3435/2020

IN THE MATTER OF:-

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APPLICATION UNDER SECTION 151 CPC FOR SEEKING
EXEMPTION FROM FILING DULY AFFIRMED AFFIDAVIT

1. That the applicant/ respondent has filed the accompanying short counter affidavit in the present Writ Petition.
2. That due to prevailing pandemic the applicant is unable to file duly affirmed said affidavit. The applicant undertakes to file the same as soon as the situation improves.
3. The application is bonafide and due to the circumstances as submitted above

PRAYER

In the aforesaid facts and circumstances it is therefore most humble prayed that:

- a) The present application may be allowed and the accompanying affidavit be taken on record.
- b) Pass such other and further orders as may be deemed fit and proper.

APPLICANT

IN THE HIGH COURT OF DELHI AT NEW DELHI
WRIT PETITION (CIVIL) NO. 3435/2020

IN THE MATTER OF:-

SANDESH JHA & Ors.

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UNIVERSITY OF DELHI & ORS.

....RESPONDENTS

AFFIDAVIT

I,

Registrar (Acting) University of Delhi, Delhi-110007
do hereby solemnly affirm and submit as under

1. I am well conversant with the facts and circumstances of the case on the basis of record.
2. The accompanying application has been filed under my instructions and the contents of the same are true and correct.

DEPONENT

VERIFICATION:

Verified on this ____ day of July 2020 that the contents of foregoing affidavit are true and correct. Nothing stated therein is false or incorrect.

DEPONENT

**IN THE HIGH COURT OF DELHI AT NEW DELHI
(CIVIL EXTRAORDINARY JURISDICTION)**

Suit /Appeal No./ **CWP No. 3435** JURISDICTION of 2020

In re:

SANDESH JHA & ORS

Plaintiff/AppLL./Pett./ Compl.

V E R S U S

UNIVERSITY OF DELHI & ORS

Defendant/Respondent/Accused

KNOW ALL to whom these present shall come that I **REGISTRAR-
ACTING, UNIVERSITY OF DELHI** The above named **RESPONDENT UNIVERSITY OF
DELHI** do hereby appoint

**MOHINDER J. S. RUPAL ADVOCATE, LAWYER'S CHAMBER NO. 135, BIK-I AND 212
A, BLOCK III, DELHI HIGH COURT, NEW DELHI- 110001**

(herein after called the advocate/s) to be my/our Advocate in the above noted case authorized him

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us.

To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings. The deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think it to do so and to sign the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which he shall receive and retain himself.

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court.

I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on this _____ day of **JULY** 2020.

Accepted subject to the terms of fees.

Advocate

Client

Client