

HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR

WP(C) 1903/2020
CM Nos. 5808/2020,
6460/2020, 6461/2020

Reserved on : 02.02.2021
Pronounced on: 08.02.2021

Syed Ainain Qadri

.....petitioner(s)

Through :- Mr. Salih Pirzada Advocate.

V/s

UGC and orsRespondent(s)
Through :- Mr. Tasaduq Khawja, Advocate

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

JUDGMENT

1 Through the medium of instant petition, the petitioners have sought a direction to respondent No.2-University of Kashmir to conduct the online examination of intermediary law students of 4th semester expeditiously on the basis of guidelines/decisions taken by the University Grants Commission and the Bar Council of India so as to save the career of the students. A further direction to respondent No.2 to complete the 5th semester course of the petitioners without any delay has also been sought. Apart from this, a direction to respondent No.4 for conveying his decision with regard to the extension of lockdown measures in the Union Territory of Jammu and Kashmir to the authorities of University of Kashmir has also been sought.

2 Briefly stated the case of the petitioners is that they are 2nd year law students pursuing intermediate five years course through the University of Kashmir since the year 2018. It is contended that due to that conditions that prevailed as a consequence of abrogation of Article 370 of Constitution of India and outbreak of COVID-19 infection, the petitioners have been adversely impacted so far as their studies are concerned, inasmuch as they have been made to lag behind by at least one semester.

3 The petitioners are aggrieved of notice dated 19th October, 2020 issued by respondent No.2 whereby they have been asked to appear in the examination through offline mode after physical opening of the University. According to them, the University of Kashmir except in the case of law student, as also the other Universities have conducted the examination of students through online mode, but respondent No.2 has not adopted the same mode for conducting the examination of the petitioners. According to the petitioners, respondent No.2 has been insisting on conducting the examination of the petitioners through offline mode. It is further contended that most of the law students enrolled in the Kashmir University and other affiliated Colleges in Kashmir are from far flung areas of Kashmir and it is not possible for them in this global pandemic to risk their lives to come to Srinagar and sit in the examination. In short, the petitioners are seeking a direction to the respondent-University of Kashmir to conduct their examination for various semesters of LLB course through online mode only.

4 Respondent No.2-University of Kashmir has filed its reply to the petition in which it has been contended that in view of the developments which have taken place after the filing of writ petition, the same has been

rendered infructuous. It is averred that the University of Kashmir has already initiated the process for conducting examination of various semesters and in fact, the date sheets for various semesters have already been issued. However, due to harsh winter, the examinations have been postponed till 15.02.2021. It has been contended that the examinations of other courses in the Union Territory of Jammu and Kashmir like 10th class, 12th class or MBBS are taking place through physical mode, as such, there should be no difficulty in conducting the examinations of the petitioners through physical mode.

5 I have heard learned counsel for the petitioners and have perused the material on record.

6 The short controversy involved in this petition is with regard to the mode in which the examination of the petitioners is required to be conducted. According to the petitioners, the mode of conducting of examination for them should be online as similar mode has been adopted by the other Universities as also in case of other faculties of University of Kashmir. There cannot be any vested right for the students with regard to the mode in which the examination of students is to be conducted. The online mode was adopted by the Universities and the Educational Institutions all over the country keeping in view the situation that had arisen on account of outbreak of COVID-19 infection. Respondent No.2 is right in submitting that after the filing of the instant petition, certain developments have taken place that have changed the whole scenario. In view of these developments, insistence on a particular mode of examination may not be available to the petitioners.

7 The Government of Jammu and Kashmir vide Government Order No. 04- JK (DMRRR) of 2021, dated 31 .01.2021 has issued the latest guidelines/instructions on Covid containment measures in the Union Territory of Jammu & Kashmir effective from 01-02-2021. As per these guidelines, opening of Schools, Colleges, Higher Educational Institutions, Technical/ Skill institutions has been permitted subject to regulation of these activities strictly in terms of the SOPs issued by the Central/ Government/UT of J&K Government.

8 In view of the aforesaid guidelines, all the Educational Institutions in the UT of Jammu and Kashmir have been reopened and the students are physically attending their respective Educational Institutions. In the face of this development, conducting of examination of the petitioners through physical mode is permissible, therefore, they cannot insist on conduct of their examination through online mode. It is an admitted position that the online mode of examination was adopted by the Educational Institutions on account of outbreak of Covid-19 infection, whereas the normal mode of conducting examination for the petitioners and the other law students is the physical mode. Therefore, in the changed scenario, the petitioners cannot claim that their examination should be conducted through online mode.

9 For the foregoing reasons, I do not find any justification in the relief sought by the petitioners so far as the same relates to insistence on online mode of examination. However, having regard to the fact that on account of the circumstances beyond the control of the petitioners as well as beyond the control of University authorities as enumerated hereinbefore, valuable time of the petitioners has been lost and they have lagged behind in their normal course of studies. Therefore, respondent No.2 is expected to

address the concern of the petitioners and other students regarding the delay in completion of the course with all sensitivity and seriousness.

10 Accordingly, while declining the prayer of the petitioners to conduct their examination through on line mode, a direction is issued to respondent No.2 to immediately conduct the examination of intermediary and 4th Semester law students within the current month only and further complete the 5th semester course of the petitioners expeditiously so that there is no delay in completing the said course.

The petition is disposed of in the above terms.

(SANJAY DHAR)
JUDGE

Srinagar
08.02.2021
Sanjeev PS

Whether the order is speaking : Yes
Whether the order is reportable : Yes/No