

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 9TH DAY OF OCTOBER, 2020

BEFORE

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

WRIT PETITION NO. 10721 OF 2020 (EDN-RES)

BETWEEN:

SHRI MADHAV MITURKA,

... PETITIONER

(BY SRI. SIDDARTH BABURAO, ADVOCATE FOR
SRI. VIJAYA RAGHAVA SARATHY H M, ADVOCATE)

AND:

1. THE VICE CHANCELLOR,
THE NATIONAL LAW SCHOOL OF INDIA UNIVERSITY
TEACHERS COLONY,
GNANABHARATHI ROAD,
BENGALURU-560 072.
2. THE NATIONAL LAW SCHOOL OF INDIA UNIVERSITY
REP BY ITS REGISTRAR,
TEACHERS COLONY,
GNANABHARATHI ROAD,
BENGALURU-560 072.

... RESPONDENTS

(BY SRI. ADITYA NARAYAN, ADVOCATE FOR C/R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ENDORSEMENT ISSUED BY THE R-2 UNIVERSITY DATED 07.08.2020 VIDE ANNEXURE-J AND THE ORDER DATED 08.08.2020, PASSED BY THE UG CHAIRPERSON REJECTING THE APPEAL OF THE PETITIONER (VIDE ANNEXURE-L) AND ORDER OF THE R-1 VICE CHANCELLOR AGAINST THE APPEAL OF THE PETITIONER,

DATED 14.08.2020 (VIDE ANNEXURE-Q) DENYING THE PEITIONER ADMISSION TO THIRD YEAR B.A.LL.B (HONS) FOR THE ACADEMIC YEAR 2020-21 AND AFTER PERUSAL SET ASIDE THE SAME AND ETC.,

THIS PETITION COMING ON FOR ORDERS THIS DAY THROUGH VIDEO CONFERENCE, THE COURT MADE THE FOLLOWING:-

ORDER

Petitioner, who has been pursuing B.A. LL.B (Hons.) Course in the first respondent- Law University is knocking at the doors of Writ Court seeking invalidation of the Endorsement dated 07.08.2020 at Annexure-J, the order dated 08.08.2020 at Annexure-L & the order dated 14.08.2020 at Annexure-Q which have the cumulative effect of denying him the admission to the third year of the Course in question for the Academic Year 2020-21; he has also sought for a direction to the University to evaluate his project work in the concerned Course subjects.

2. After service of notice, the respondents having entered appearance through their counsel resist the writ petition making submission in justification of the impugned action; they have also filed a Preliminary Statement of Objections on 06.10.2020.

3. Having heard the learned counsel for the parties and having perused the petition papers, this Court

declines to grant indulgence in the matter for the following reasons:

a) the respondent-University had informed the petitioner of shortage of his attendance in September, 2019; petitioner's attendance status in the third year subjects is furnished in a tabular form at Annexure-R1 which is as under:

“Madhav Mitruka – attendance status

3rd year subjects

Id No.	Name of the Student	Subject	Classes attended till 7 th August (until the detainment notification was issued)	Total number of classes held from 1 st July- 21 st September	Attendance Rate
2484	Madhav Mitruka	Evidence	22	60	36.66%
		Criminal Law II	22	60	36.66%
		CPC I	16	60	26.66%
		Contemporary Issues In International Trade Law & Policy – Seminar Course	13	38	34.21%

thus, apparently, the attendance of the petitioner in this Premier Law School is too short to be little; this undisputable statistical data militate against his claim for the grant of equitable relief in writ jurisdiction.

b) the University has promulgated B.A. LL.B (HONS.) ACADEMIC AND EXAMINATIONS REGULATIONS, 2020 of which, Regulation 6 providing for condonation of attendance shortage reads as under:

“6. Condonation of attendance shortage – Students may apply for condonation of attendance shortage on (i) medical grounds on (ii) bereavement or serious illness in the immediate family:

a) Condonation of attendance shortage shall only be considered when a student has attended at least 66% of the classes held in that trimester.

b) Students seeking condonation shall submit an online application to the AAD, within 6 days of resuming classes.

in terms of this Regulation, the case of the petitioner having been considered by the University at different levels, has been rejected; such a decision by its very nature cannot be subjected to a deeper examination at the hands of the Writ Court, even if arguably some legal or factual lacuna as sought to be made out by the learned counsel for the petitioner is discovered, vide **SADHANA LODH VS. NATIONAL INSURANCE COMPANY & ANOTHER, (2003) 3 SCC 524.**

c) the vehement contention of the learned counsel for the petitioner that in the given circumstances of the case, while working out percentage of attendance, the number of

extra classes taken by the tutor concerned should be excluded falls foul of the very scheme of Regulation 6; such a submission cannot be countenanced without manhandling the text of the said provision; shortage of attendance especially in a Law Course conducted by the prestigious Law School like the respondent herein is a serious matter which does not much admit the argument of “humanitarian grounds”; the same being de hors the legal scheme; the leniency if shown by the Writ Court in such cases will have the risk of abundant abuse potential; and,

d) having said as above, still this Court finds a case for invoking “quantum meruit” in respect of refund of fees; there is some force in the contention of the learned counsel for the petitioner that whatever amount of money the respondent-University has accepted from the petitioner on the assumed promotion to the next level of the Course, needs to be refunded; the counsel for the respondents in all fairness at once undertakes to do the same.

In the above circumstances, this writ petition being devoid of merits is liable to be dismissed and accordingly it is, costs having been made easy.

However, the University in terms of above undertaking shall refund the amount of fees, within two weeks failing which, the same carries interest at the rate of 2% per mensem for the delay brooked.

This order shall not be construed to come in the way of respondent-University in its discretion and may be as a special case, granting reprieve to the petitioner.

**Sd/-
JUDGE**

DS/Bsv