

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA,
MIZORAM AND ARUNACHAL PRADESH)

Writ Petition (Civil) No.196 of 2012

Shri Harang Cheda,
S/o Shri Talam Cheda,
R/o Naharlagun,
P.O & PS. Naharlagun,
Papumpare District,
Arunachal Pradesh.

..... *Petitioner.*

-Versus -

1. The Rajiv Gandhi University,
Represented by the Registrar,
Rono Hills, Doimukh,
PO & PS : Doimukh,
Papumpare District,
Arunachal Pradesh.

2. The Arunachal Law Academy,
Represented by the Director,
Lekhi Village, Naharlagun,
PO & PS : Naharlagun,
Papumpare District,
Arunachal Pradesh.

..... *Respondents.*

**BEFORE
THE HON'BLE MR. JUSTICE S.C. DAS**

For the petitioner : Mr. R Sonar, Advocate,
Mr. K Tame, Advocate,
Ms. Hintic Jeram, Advocate

For the respondents : Mr. Muk Pertin, CGC

Date of hearing & Judgment : 16.08.2012

JUDGMENT & ORDER (ORAL)

Heard learned counsel, Mr. R Sonar for the petitioner. Learned counsel, Mr. C Modi at the Bar submits that learned Central Government Counsel, is away and therefore, prays for an adjournment.

2. Record shows that the case was taken up, on 13.08.2012 and on that day, learned counsel of the petitioner was heard since the matter is urgent but in view of the fact that learned counsel of the respondent was absent the case has been fixed for hearing today. Since the matter is considered to be urgent and is very simple in nature, I think, it may be disposed of in absence of learned counsel of the respondents.

3. **Brief facts :**

The petitioner, Harang Cheda prosecuting his studies in L.L.B(3 years course) under the Arunachal Law Academy (respondent No.2) and he appeared in the 1st Semester examination in the year 2008 and cleared the same in 2009. He also cleared the 2nd Semester in the year 2009 itself. In the 3rd Semester exam, he could not clear all the subjects and he failed in two papers namely, "*Law of Evidence*" and "*Women & Law*". In the year 2010, he could not appear in the exam for his illness but in the year 2011 he appeared for those subjects i.e. Law of Evidence and Women & Law and had cleared "*Law of Evidence*" but could not clear the subject "*Women &*

Law". In the meantime, he appeared in 5th Semester exam and cleared it. He finally also appeared in 6th Semester and completed the Course. He approached the Rajiv Gandhi University (respondent No.1) for allowing him to appear in the failed papers of 3rd Semester i.e. for the subject "Women & Law" but the Assistant Registrar, Examination of the said University by a letter dated 09.04.2012 (Annexure-P/3(A)) to the writ petition) informed him that since a student only entitled to get maximum three consecutive chances and since he already appeared in the examination held in the year 2009 and 2011 respectively and he did not appear in the examination 2010 and thereby exhausted three consecutive chances, his appeal to give him a chance to clear the back paper of 3rd Semester was rejected. The petitioner, therefore, approached this Court for giving direction to the University to allow him to avail a 3rd chance to clear the subject of 3rd Semester.

4. The respondents failed to submit any counter-affidavit to challenge the contention of the petitioner. The petitioner, however, placed on record the relevant Rules/Regulation referring which the prayer of the petitioner has been disallowed. The relevant Rules, as placed in page-29 of the writ petition, reads thus :

"12.9 The degree programme leading to LLB shall be of 3(three) years duration from the date of his/her first admission. A Student shall be allowed to appear in not more than three consecutive chances in any of the L.L.B (3-year) examinations. A candidate, who fails to appear in an examination due, shall loss that particular chance allowed to him/her by this clause.

12.10 A student will be eligible to join the next semester provided he/she should clear at least three papers of the preceding semester.

12.11 After completion of the 4th Semester, he/she should clear 18 papers out of the 24 papers to be eligible for admission to the 5th Semester.

Those who completed the course should clear the back papers within 2 years (i.e. five years in total). Otherwise the registration stands cancelled."

A bare reading of the above provisions makes it clear that a student shall be allowed to appear in the exam for not more than three consecutive chances in any of the three year L.L.B course and if, a student fails to appear in an examination due, he shall lose the particular chance allowed to him/her. The provisions further makes it clear that a student after completion of 4th Semester, he/she should clear 18 papers out of the 24 papers to be eligible for admission in the 5th Semester and those who completed the course should clear the back papers within 2 years (i.e. five years in total) otherwise the registration would stand cancelled. Except one subject of 3rd Semester, the petitioner cleared all subjects up to 4th Semester and therefore he was allowed admission in the 5th Semester. He cleared 5th Semester and also appeared in 6th Semester exam. A conjoin reading of the provisions makes it clear that a student may be allowed to clear his back papers within a period of 2(two) years after completion of course. Admittedly, the petitioner availed 2(two) chances for clearing all the papers of third Semester and in two chances he cleared all the subjects except the subject "Women & Law".

5. In view of the above Rule/Regulation of the University, the petitioner, who has completed the course and appeared in 6th Semester examination, his registration is still valid and therefore, I

find no cogent reason for disallowing him in taking a 3rd chance for clearing up the remaining one paper of the 3rd Semester examination.

6. The ratio of the decision of the Division Bench of this Court in the case of *Chow Pinkkham Munglang Vs. Gauhati University & Ors.* reported in *2007 (4) GLT 878* may fairly be applied in the facts and circumstances of the present case. In that case also the petitioner who was not allowed to avail all the three chances, the Court was pleased to direct the University to allow the petitioner to avail the third chance.

Having found the present case almost on similar facts, this Court is of considered view to direct the respondent University to afford an opportunity to the petitioner to appear in the 3rd Semester exam for the subject he has failed (Women & Law) and with this direction the writ petition stands disposed of.

7. A copy of this judgment be sent to the respondents for compliance.

JUDGE

Sukhendu