

CASE NO.:
Appeal (civil) 6822 of 2000

PETITIONER:
THAPAR INSTITUTE OF ENGINEERING AND TECHNOLOGY & ANR.

Vs.

RESPONDENT:
GAGANDEEP SHARMA & ANR.

DATE OF JUDGMENT: 05/09/2001

BENCH:
S.P. Bharucha, Y.K. Sabharwal & Ashok Bhan

JUDGMENT:

Y.K.SABHARWAL, J.

Respondent Nos.1 and 2 in this appeal were admitted to four year Bachelor of Engineering course in Thapar Institute of Engineering and Technology in the academic year 1997-98. The said Institute and its Director are appellants before us. Their challenge is to the judgment of the Division Bench of the High Court. The High Court, by the impugned judgment, reversing the judgment of the learned Single Judge, has declared that the respondents should be deemed to have passed the first year of their respective course. Accordingly, the appellants were directed to take immediate steps for allowing the respondents to prosecute their studies in the second year.

During the academic year 1997-98, Clause 17(a) of Schedule I of Academic Regulations governing the appellant-Institute required a student of the first year to repeat the examination if he fails to secure specified credits and/or specified grade and on inability to secure specified grade after repeating, to leave the Institution. The relevant part of Clause 17(a) at the material time in the academic year 1997-98 was as follows :

"17(a) A student will be required to repeat first year if (i) he fails to earn 40% of the credits offered in the approved scheme of courses for the first year; and/or (ii) he secures a CGPA of less than 4.00 at the end of first year. However, while repeating first year he will be exempted from repeating the courses in which the grade earned is A, B or C in the earlier attempt. If the student, after repeating first year under 17(a) is unable to secure a CGPA of 4.5, he will be required to leave the Institute."

The level of performance in the course on a 10 point scale, providing for grade point for purposes of computing

the Semester Grade Point Average (SGPA) and Cumulative Grade Point Average (CGPA) is as follows :

"Letter Grade	Performance	Grade Point	Average
A	Excellent	10	
B	Good		8
C	Fair		6
D	Poor		4
E	Fail		2"

By Notification dated 17/20th July, 1998, 14 students of B.E. of 1997 batch, including respondents, who had failed to secure the minimum academic requirement in terms of Clause 17(a) were informed that they are required to repeat first year during the session 1998-99.

Further, the Institute by letter dated 24th February, 1999 advised the respondents to put in maximum efforts and make up deficiency in the grades so as to continue on the rolls of the Institute drawing their attention to the fact that if they failed to meet the requirements as provided in Clause 17, they will be required to leave the Institution. They were also advised to meet the Dean of Student Affairs/Dean Academic Affairs/Student counselor and seek guidance in planning the studies.

The respondents, in the academic year 1998-99 repeated and again appeared for the first semester in the course in which they had secured either D or E grade since the Regulations exempted students from repeating the course in which they had secured either A or B or C grade. Respondent No.1 repeated 11 papers and was exempted for appearing in one paper. Respondent No.2 repeated 10 papers and was exempted from appearing in 2 papers having secured B and C grade in those papers.

In their repeated examination, it is not disputed, the respondents secured CGPA below 4.5. Thus, by Notification dated 13th July, 1999, noticing that the respondents have failed to attain the requisite CGPA and were required to leave the Institute, their names were struck off from the rolls of the Institute.

The respondents preferred a writ petition in the High Court seeking quashing of Notification dated 13th July, 1999 and striking of their names from the rolls of the Institute and also a direction for implementation of the amended Clause 17 in their case as well and allowing them to advance to second year of B.E. course. The writ petition was dismissed by a learned Single Judge. In appeal, however, reversing that judgment the Division Bench, as earlier noticed, allowed the respondents to prosecute their studies in the second year.

The Division Bench came to the conclusion that the amended Clause 17 applies with immediate effect to all the students and noticing that the amended Regulations have reduced the percentage of the marks to be secured by the students, it was held that the respondents could take advantage thereof and, thus, it was declared that the respondents should be deemed to have passed the first year course.

The amended Clause 17 of the Regulation was incorporated by the Institute in the information Brochure for the academic year 1999-2000. The amendment had been effected on 10th May, 1999. Under the amended clause of the Regulation, the percentage required to be obtained by a student was reduced and on failure to attain the minimum, students were required to withdraw from the programme and leave the Institute. The relevant part of the amended Clause 17 reads as under :

"17(a) A student will be required to withdraw from the undergraduate programme and leave the Institute.

(i) if at the end of first year, he/she is unable to secure a CGPA of greater than or equal to 3.70 and earn 40% of the credits offered in the approved scheme of courses:

(ii) if at the end of second year, he/she is unable to secure a CGPA of greater than or equal to 4.50 and earn 50% of the credits offered in the approved scheme of courses."

While the above Regulation reduces the percentage, it also provides that on failure to secure the reduced percentage a student is required to withdraw from the course and leave the Institute. In other words, it takes away the right of repeating the papers which had been provided for in the unamended Regulation.

On admitted facts, when the respondents joined the course in the academic year 1997-98 and also when they repeated the first semester, as noticed above, what was in vogue was the unamended Regulation that permitted a student to repeat the examination. The respondents did not make the required grade as per unamended clause as reproduced earlier. Taking advantage of the unamended clause in the Regulation, they reappeared but were unable to secure CGPA of 4.5. The respondents, therefore, could not be permitted to continue with the course and resultantly their names were removed from the rolls of the Institute on 13th July, 1999.

The amended Regulation did not provide for repeat examination. The fact that in the repeated examination, the respondents have obtained the CGPA as required by amended clause of the Regulation is of no consequence since under the unamended Regulation, they were required to secure CGPA of 4.5 and otherwise they were required to leave the Institute. Admittedly, they could not secure CGPA of 4.5. Their names were, thus, rightly struck off from the rolls of the Institute.

The respondents cannot be heard to say that they should be allowed to repeat the papers as is provided by unamended clause of the Regulation and should also be allowed advantage of amended clause insofar as reduced percentage is concerned despite the fact that the amended clause takes away the right to repeat the papers.

The learned Single Judge on correct interpretation of the Regulation rightly came to the conclusion that the amended Regulation was not applicable and said that :

"There under the amended regulation, the very concept of repeat year examination has been done away with. Under the amended regulation, if a candidate fails to make the requisite CGPA and credit percentage, he will be required to leave the institute and discontinue his course. Furthermore, the term first year cannot be construed to mean or include the repeat year examination on the true interpretation of the relevant regulations and rules governing the subject. If new regulation is made applicable from May 1999, the candidate obviously could not have taken the repeat year examinations even because there would be no re-appear examination as per the amended regulation. Thus, the interpretation provided by the learned counsel for the petitioners leads to an impossible situation which never existed in the facts and circumstances of the present case, more particularly, when the petitioners has taken the first year repeat examination voluntarily without prejudice under the old regulation."

The learned Single Judge further held that to prescribe the academic standards falls exclusively in the domain of special bodies like Senate, Board of Governors and Syndicate etc. The Court would normally not interfere with such prescribed standards and especially when they are intended to improve the academic standards in their respective institutes. The scope of judicial review in such matters would be very limited.

Under the aforesaid circumstances, the Division Bench was clearly in error in coming to the conclusion that the respondents could take advantage of unamended as well as the amended Regulation. The Regulations do not provide for any option as held in the judgment under appeal. The decision of the Division Bench cannot, therefore, be sustained.

For the aforesaid reasons, we set aside the judgment of the Division Bench and restore that of the learned Single Judge and allow the appeal accordingly. The parties are left to bear their own costs.

.....J.
[S.P. Bharucha]

.....J.
[Y.K. Sabharwal]

.....J.
[Ashok Bhan]

September 5, 2001

JUDIS