



Serial No.03
Daily List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WA No.74/2024

Date of Order : 06.05.2025

Shri Bamang Nabam

..... Appellant

Vs.

1. North Eastern Hill University (in short NEHU) represented by the Registrar of NEHU, Umshing Mawkynroh, Shillong-793002.

2. The Controller of Examination NEHU, Umshing Mawkynroh, Shillong-793002.

3. The Vice Chancellor, NEHU Umshing Mawkynroh, Shillong-793002.

4. The Principal, Shillong Law College, Dhankheti, Shillong, East Khasi Hills District, Meghalaya. Respondents

Coram:

Hon'ble Mr. Justice I.P. Mukerji, Chief Justice
Hon'ble Mr. Justice W. Diengdoh, Judge

Appearance:

For the Appellant

: Mr. P. Yobin, Adv with
Ms. I. Laloo, Adv
Mr. A. Dkhar, Adv

For the Respondent

: Mr. S. Sen, Adv with
Ms. E. Blah, Adv for R/1-3
Mr. S. Chakrawarty, Sr.Adv with
Mr. E. Laloo, Adv for R/4



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| i) | Whether approved for reporting in Law journals etc.: | Yes |
| ii) | Whether approved for publication in press: | Yes |

Note: For proper public information and transparency, any media reporting this judgment is directed to mention the composition of the bench by name of judges, while reporting this judgment/order.

JUDGEMENT: (per the Hon'ble, the Chief Justice) (ORAL)

The appellant was a 5th semester student of Shillong Law College under North Eastern Hill University (NEHU), pursuing its LLB course.

He was not allowed to write the 5th semester examination which was held some time in December, 2024. The reason why the college did not allow him to do so was that his attendance was short. Rule 12 of the Rules of Legal Education, 2008 was made applicable. It states that if a student does not have minimum 70 per cent attendance in each subject, he would be ineligible to take the examination. The Dean of the University or the Principal of the Centre of Legal Education had a limited power of allowing students with at least 65 per cent attendance to appear for the examination provided the reasons for such exercise of power were exceptional.

In this case, the attendance of the appellant-student was 60 per cent.



He pleaded that his attendance fell short due to gallbladder ailment followed by surgery that he underwent in November, 2024 and that he should be allowed to write the examination.

Learned single judge hearing the writ petition felt himself bound by the said rule and dismissed the writ petition.

The appeal was preferred before us.

By our interim order dated 5th December, 2024, we allowed the appellant to sit for the examination without prejudice to the rights and contentions of the parties in the appeal.

We are told that he appeared in the examination, the result of which is awaited.

In the meantime, the appeal became ready for hearing on filing of paper-books. We have heard out the appeal today.

First let us set out Rule 12. It is as follows:

“12. End Semester Test.

No students of any of the degree program shall be allowed to take the end semester test in a subject if the student concerned has not attended minimum of 70% of the classes held in the subject concerned as also the moot court room exercises, tutorials and practical training conducted in the subject taken together.

Provided that if a student for any exceptional reasons fail to attend 70% of the classes held in any subject, the Dean of the University or the Principal of the Centre of Legal Education, as the case may be, may allow the student to take the test if the student concerned



attended at least 65% of the classes held in the subject concerned and attended 70% of classes in all the subjects taken together. The similar power shall rest the Vice Chancellor or Director of a National Law University, or his authorized representative in the absence of the Dean of Law.”

The facts which the appellant/writ petitioner present before us and not contradicted by the respondents are these: He is a very diligent and meritorious student.

From or about August, 2024, he developed an ailment relating to his gallbladder. Often, he used to be in intense pain as a result of which, his attendance dipped sharply in August, 2024. However, he was in better state of health in September, 2024. His attendance was 100 per cent in evidence, Civil Procedure code, labour law and drafting, pleadings and conveyancing and 85.71 per cent in human rights, the average of which was 97 per cent.

Once again in October, 2024 his illness aggravated and there was a drop in attendance although not so much as it was in August, 2024. The attendance range was between 50 per cent and 85.71 per cent in the five papers. This continued in November, 2024 when he had to undergo a surgery. Before the 5th semester examination, it was only 60 per cent.

We had advanced the following reasons in our interim order dated 5th December, 2024 allowing the appellant/writ petitioner to sit for the examination:



“Prima facie we are of the view that this rule is to be interpreted reasonably. When it is possible for the student to attend classes and he deliberately or negligently does not do so, the rule would apply. In case of impossibility created by illness, act of God etc., this rule is either not to be applied or to be liberally construed, so that taking into account the overall performance of the student and his conduct, his case for being allowed to write the examination is compassionately considered.

Prima facie there is nothing to suggest anything against the merit of the student.

As an interim order, we direct the respondents to allow the appellant to sit for the examination commencing tomorrow, subject to the result of the appeal. All formalities like permission from the College or issuance of admit card by the University shall be done in course of the day on the basis of the written communication on the basis of this order by the learned Advocate-on-record for the appellant, counter signed by an officer attached to this Court, in case the server copy of the order is not available.

We expedite the hearing of the appeal dispensing with all formalities. Advocate-on-record for the appellant will file informal paper-books in this Court by 3rd February, 2025. Copies of the paper-books should be served on the respondent at least seven days before the date of hearing of the appeal.

List the appeal for hearing on 19th February, 2025.”

We affirm those reasons. We reiterate that the above rule could only cover a situation where in normal circumstances a student is absent and his attendance falls below 70 per cent. But this rule certainly does not cover extraordinary circumstances like illness or bereavement in a student’s family, natural disaster, riot strife, political upheavals, other acts of God and so on which prevent a student or students from attending classes.



In such a case, this rule would not apply. The administrators of the college are to consider each case on its own merit. If they find that with the existing attendance the student has shown sufficient interest in and has adequate knowledge of the subjects in the semester and is otherwise diligent and of good conduct, he should be allowed to write the examination.

In this case, the record shows that had the student not been inflicted with gallbladder ailment, he would have maintained regular attendance and fulfils the above qualifying criteria.

In that view of the matter, we direct that the attendance of the appellant/writ petitioner be treated as regular and that he be assessed in the 5th semester examination in regular course.

This appeal is accordingly allowed. The impugned judgment and order is set aside.

(W. Diengdoh)
Judge

(I.P. Mukerji)
Chief Justice

Meghalaya
06.05.2025
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