

ITEM NO.50

COURT NO.10

SECTION IX

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).4561/2011

(From the judgement and order dated 21/01/2010 in WP No.10916/2009
of The HIGH COURT OF BOMBAY)

FARAH CHAUDHARY

Petitioner(s)

VERSUS

UNION OF INDIA & ORS

Respondent(s)

(With prayer for interim relief and office report)

Date: 16/12/2011 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA

HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s) Mr. K.N. Balgopal, Sr. Adv.
 Mr. A.P. Mukundan, Adv.
 Ms. Nitya Nambiar, Adv.
 Mr. Balaji Srinivasan, Adv.

For Respondent(s)

Ms. Vibha Datta Makhija, Adv.

UPON hearing counsel the Court made the following
O R D E R

We have heard Mr. K.N. Balgopal, learned senior
counsel for the petitioner, and Ms. Vibha Datta Makhija,
learned counsel for respondent Nos. 2 and 3.

The petitioner was selected on the basis of All
India Common Admission Test for four years graduate course
(8 semesters) in Fashion Design (2004-08). She has
successfully completed seven semesters. As regards 8th

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semester, the final result was declared on July 19, 2009.

She was awarded re-examination due to her D grade with

SGPA 4 by the external jury. On September 6, 2009

re-examination jury was held but for almost a month result

was not declared. The petitioner was not informed whether

she was declared pass pursuant to the jury held on

September 6, 2009 or not.

She then approached Division Bench of the High Court. When the matter came up before the Division Bench on January 21, 2010, the following statement was made on behalf of the respondent :-

"The Head Office, has also given another option of Re-Jury, wherein her Design Collections (5 garments) considered earlier will be reconsidered by the internal as well as external jury, however, no work done thereafter (after the external jury will be given any weightage)."

While recording the above statement, the Division Bench of the High Court, in its order also recorded the statement of the respondent that the result will be declared preferably before 9th February, 2010.

It is from the above order that the present special leave petition arises.

The principal grievance raised by the petitioner before us is that reconsideration of her creations by the jury on February 4, 2010 was by the same members who had awarded her D grade; the jury took into consideration 5

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garments which had already been considered earlier and the 3 garments made by her during the re-examination process were not at all considered.

Learned senior counsel argued that the petitioner was wrongly declared unsuccessful.

On the other hand, Ms. Vibha Datta Makhija, learned counsel for respondent Nos. 2 and 3, submitted that re-examination result is based on evaluation of her creations. She further submitted that the petitioner left the institute on her own and by communication dated April 19, 2010 she asked for return of security deposit and in pursuance of her request, she has been returned the security deposit.

Though there is some merit in the contention of the learned counsel for respondent Nos. 2 and 3 that the petitioner voluntarily left the institute, but having

regard to the fact that the petitioner has already cleared 7 semesters out of 8 for graduate course in Fashion Design, in our considered view, to enable her to complete the course, she may be given one opportunity to repeat and clear 8th semester in accordance with the rules.

We, accordingly, dispose of this special leave petition by the following order :-

(i) the petitioner is permitted to seek re-admission in ensuing 8th semester course in the Fashion Design as and when it is notified by respondent Nos. 2 and 3.

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(ii) on such application being made by the petitioner, respondent Nos. 2 and 3 shall re-admit the petitioner in 8th semester graduate course in Fashion Design and also enable her to appear for the examination that may be held for that semester.

(iii) the petitioner shall deposit requisite fee and security deposit and also comply with other requirements as prescribed in the rules.

(iv) In case the petitioner does not join the ensuing 8th semester within seven days of start of the course, the direction for her re-admission in the 8th semester shall stand discharged.

(Rajesh Dham)
Court Master

(Renu Diwan)
Court Master