



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.12973 of 2026

(An application under Article 226 and 227 of the Constitution of India)

Omm Patnaik

... Petitioner

-versus-

State of Odisha and others ... Opposite Parties

Advocates appeared in the case through hybrid mode:

For Petitioner : Mr.S. P. Mishra,
Sr. Advocate with
Miss. S Rout, Advocate

-versus-

For Opp.Parties : Mr. T. K. Dash, A.G.A.
Mr. B. Routray,
Sr. Advocate with
Mr. S. Routray, Advocate
(For O.P. Nos.3, 4 and 5)

CORAM:

THE HONOURABLE MR. JUSTICE B. P. ROUTRAY

THE HONOURABLE MR. JUSTICE SASHIKANTA MISHRA

Date of Hearing: 24.6.2026: Date of Judgment:29.6.2026



Sashikanta Mishra,J. The petitioner, a student of BBM (Hons) in XIM University, Bhubaneswar, being debarred from appearing in the End-Semester Examination-II for the first year in the subject 'Introduction to OB & HR' because of shortage of attendance has filed this Writ Petition seeking the following relief;

"It is therefore prayed that your Lordships may be graciously pleased to admit the writ application, call for the records, issue Rule NISI calling upon the opposite parties, to show-cause as to why

a) the Debarment Notice/Order dated 07.04.2026 issued by Opposite Party No.3 (vide Annexure-7) insofar as it debarred the Petitioner from appearing in the End-Term Examination-II for the subject "Introduction to OB & HR" shall not be set-aside/quashed:

b) the Opposite Parties-Authorities shall not be directed to permit the Petitioner to appear in the said End-Term Examination-II in the subject "Introduction to OB & HR through the Make-up Examination for Program (vide Annexure-11) and to declare his result accordingly

And in the event, the opposite parties fail to show-cause or show insufficient cause, the said Rule be made absolute and

a) the Debarment Notice/Order dated 07.04.2026 issued by Opposite Party No. 3 (vide Annexure-7) insofar as it debarred the Petitioner from appearing in the End-Term Examination-II for the subject "Introduction to OB & HR shall be set-aside/quashed,

b) the Opposite Parties-Authorities shall be directed to permit the Petitioner to appear in the said End-Term Examination-II in the subject "Introduction to OB & HR



through the Make-up Examination for All UG Program (vide Annexure-11) and to declare his result accordingly.

And may further be pleased to pass any other writ(s), order(s), direction(s) and relief(s) as deemed fit and proper

And for this act of kindness the petitioner shall as in duty bound ever pray.”

2. Be it noted that originally, by order dated 05.5.2026, the Writ Petition was disposed of permitting the Petitioner to appear in the supplementary examination to be held either from 1st July, 2026 or from 1st February, 2027. However, the petitioner sought review of the said order in RVWPET No.117/2026. After hearing the parties, this Court, by order dated 24.6.2026 allowed the application for review by recalling the order dated 5.5.2026 passed in this Writ Petition. This is how the Writ Petition came to be heard again on merits.

FACTS:

3. Bereft of unnecessary details, the facts of the case are as follows;

The petitioner took admission in the Four-Year Full-Time Bachelor's Degree Programme namely, BBM (Hons.)



for the academic Session 2025-2029 in the School of Commerce, XIM University, Bhubaneswar. The petitioner successfully completed the First Semester Examination from 22.7.2025 to 08.12.2025. During the Second Semester, which commenced from 09.12.2025 and continued till 16.4.2026, the petitioner fell ill and sustained back injury due to accidental fall from the stairs. As such, he was placed under complete medical care with restrictions imposed on his daily activities. Under such circumstances, the petitioner submitted a leave application to the University on 18.12.2025 along with medical prescriptions and documents seeking medical leave. He thus remained absent from 16.12.2025 to 02.1.2026 during which period a total of 6 classes were conducted. The petitioner's absence in the classes was marked as 'Absent Medical'. Again on 30.3.2026, he was diagnosed with acute respiratory tract infection accompanied with high fever and other complications, which continued till 04.4.2026. As such, he was constrained to submit a leave application on 01.4.2026. Despite such application seeking leave on medical



grounds, the University authorities issued the impugned order dtd.7.4.2026 debarring him from appearing in the End-Semester Examination in the subject 'Introduction to OB and HR' on the ground that his attendance was 64.41%. The petitioner attempted to meet the authorities on several occasions to justify his absence but to no avail. He therefore, approached the Odisha Human Rights Commission in Case No.1312/2026. By order dated 10.4.2026, the Commission refused to interfere in the matter but left it open to the University to take a decision. Despite such order, the authorities did not take any action for which the petitioner approached the National Human Rights Commission by filing a complaint registered as Case No.301/18/28/2026. The National Commission by order dated 16.4.2026 directed the authorities to permit the petitioner to appear in the examination scheduled to be held on the same day on humanitarian grounds and also called upon them to submit a compliance report. Though the petitioner brought the order of the National Commission to the notice of the authorities, they did not comply with the



same for which the petitioner was constrained to file the present writ Petition.

4. According to the petitioner, the classes were held in a compressed and accelerated manner between 31.3.2026 and 04.4.2026 whereby, 9 classes were held in 5 days. During such time, the petitioner's medical condition did not allow him to attend the classes which he duly brought to the notice of the authorities. It is further contended that as per the provisions of the Student Manual of Policies 2025-2026 (for short, the Manual) of the University, the petitioner's absence on medical grounds can be condoned by permitting him to appear in a make-up examination in the subject in question. According to the petitioner, the relevant provisions of the Manual have not been considered in the proper perspective by the University authorities.

5. The case of the University, on the other hand, is that there is no provision in the Manual to conduct a make-up examination for a student who has been debarred in one subject for lack of attendance. It is stated that as per the relevant provisions a student is required



to attend minimum 75% of classes in all individual courses failing which he shall not be allowed to appear in the End-Semester Examination. The petitioner's attendance was 64.41% in the subject 'Introduction to OB and HR'. Therefore, he was rightly debarred in that subject and duly intimated on 07.4.2026. It is further stated that as per the provisions, in case of grave personal tragedy or hospitalization, a student can approach the Controller of Examinations for conduct of supplementary examination with approval of the Dean of the School. Said supplementary examination will be taken in the next available semester in the same year. However, if the total attendance falls below 75% or the student has been debarred from appearing in an End-Term Examination, he shall have to take the supplementary examination with the junior batch in the next year. There is no provision in the Manual as well as in the UGC Regulation to conduct specific examination for students debarred in the Mid-Term Examination or End-Term Examination. Debarment in such Semester requires giving of the entire course in the supplementary



examination. A student cannot choose a particular component to appear in the supplementary examination. 64 batchmates of the petitioner being faced with similar situation have agreed to appear in the supplementary examination scheduled to commence from 01.7.2026. The petitioner, instead of appearing in the said examination seeks conduct of a make-up examination for him which is not permissible. The petitioner while taking admission had undertaken to maintain 75% attendance and that he would be debarred in case it falls below the said percentage. The University is ready to permit the petitioner to appear in the supplementary examination.

SUMMISSIONS:

6. Heard Mr. S. P. Mishra, learned Senior counsel with Miss S. Rout, learned counsel for the Petitioner, Mr. T. K. Dash, learned Addl. Government Advocate for the State and Mr. B. Routray, learned Senior counsel with Mr. S. Routray for the University (Opp. Party Nos.3, 4 and 5).

7. Mr. Mishra, learned Senior counsel would argue that the University authorities have taken an unnecessarily rigid stance in respect of a student, who



was forced to remain absent on some dates owing to medical exigencies. His case ought to have been considered on a separate footing considering the fact that his attendance in all other subjects was more than the required percentage. It is further submitted by Mr. Mishra that the authorities have misconstrued/mis-applied the relevant provisions of the Manual. In this context, Mr. Mishra has referred to Clauses 10.5, 12.1 and 12.3 of the said Manual. He also refers to the order of the Controller of Examinations issued with approval of the Vice Chancellor of the University on 16.03.2026 providing for make-up examination for all U.G. programmes. According to Mr. Mishra, this provision squarely applies to a student, who has missed the Mid-Semester or an End-Semester Examination due to absence with prior permission from the Dean. Since the petitioner being medically indisposed had submitted application seeking leave and the same was duly reflected in the record of attendance, it is implied that such absence was with prior intimation to the Dean. It is not a case of the petitioner remaining willfully absent but one



where he was forced by circumstances beyond his control. Mr. Mishra also argues that the very manner of holding 9 classes in 5 days shows that the University authorities were themselves guilty of non-adherence to the teaching schedule. If the petitioner's absence in those 9 classes is condoned, his percentage would go beyond the required 75%. Under such circumstances, forcing the petitioner to forgo one full year in order to appear in the supplementary examination in the following year with his juniors would seriously prejudice his career. To buttress his contentions, Mr. Mishra has cited a judgment of a Division of the High Court of Patna in the case of ***All India Students Federation through Abhishek Anand, Member, Bihar State Council vs. State of Bihar and others***,¹ which we shall refer to at the appropriate stage later.

8. Mr. T. K. Dash, learned Addl. Government Advocate would submit that the State has no role to play in the matter as the University has its own Manual to follow. Nevertheless, he fairly submits that this being a case of

¹ 2016 SCC Online Pat 7383



non-attendance of classes by a student on medical grounds, having the effect of adversely affecting his career, it is for the University authorities to consider the matter from such perspective.

9. Learned Senior counsel Mr. Routray would argue that the University cannot go beyond the provisions of the Manual issued by it. As per the said provisions, a student failing to secure the minimum required attendance without prior permission of the Dean has to be debarred from appearing in the examination. All students including the petitioner had submitted undertaking to such effect at the time of admission and therefore, cannot claim any special privilege at this stage. Mr. Routray further argues that admittedly, the petitioner had attended classes below 75% in the subject in question. Therefore, as per Clause 10.1 read with Clause 10.7, 11.1, 15 (iii) (2) read with 15 (iii) (4) of the Manual, the petitioner was rightly debarred. Nevertheless, as per the provisions of Clause 15 (iii) (2) he can still appear in the supplementary examination scheduled to commence from 01.7.2026 for which he has already registered. This



examination is being conducted for all the students having backlogs as well as those who have been debarred. The petitioner not having complied with the procedure prescribed for obtaining leave of absence cannot be given any special treatment. It is further argued that the make-up examination is available only for Post-Graduate students. The office order regarding extension of such facility to Under-Graduate students has not been acted upon as it is not provided for in the Manual. Since the Petitioner's case comes within the purview of Clause 15(iii) (2) as he was hospitalized and as his total attendance is below 75%, he shall have to take the supplementary examination with the junior batch in the next year. Making a departure will result in setting a wrong precedent and will also amount to discrimination in respect of 64 batchmates of the petitioner.

ANALYSIS AND FINDINGS:

10. As already stated, this is a case where the petitioner did not attend as many as 9 classes on the ground of his ill-health. This is not disputed by the University authorities. In fact, the reason for his absence has been



duly acknowledged in the record of attendance for the relevant dates by mentioning 'Absent Medical'. This implies that the petitioner's assertion that he had sought leave of absence on medical grounds by duly intimating the authorities is correct. It is also not disputed that out of a total 59 classes held in the subject 'Introduction to OB and HR' the petitioner remained absent on medical grounds on 9 dates. His total attendance is said to be 38 classes out of 59. So, if his absence in 9 classes is condoned, the total attendance would come to $38+9=47$. While 38 out of 59 amounts to 64.41%, 47 out of 59 would amount to 79%.

11. Having observed as above, we may now refer to the Manual which, interestingly, both parties have heavily relied upon in support of their rival contentions. As it appears, the Manual issued w.e.f. June, 2025 is in two parts - Post Graduate Programme and Under Graduate Programme. Clause 10 pertains to 'Attendance'. Clause 10.5 being relevant is extracted below;

"10.5. Exemption from attending classes is not permissible for reasons other than personal physical



illness, grave personal tragedy and university official work The provision of 25% absence is only to accommodate these reasons only.”

12. Leave of absence is governed under Clause-12, 12.1 and 12.3 being relevant are reproduced below;

“12. LEAVE OF ABSENCE

12.1. For any leave as mentioned in section 10.5, the student shall have to seek and obtain prior permission from the Dean. Such leave of absence may be granted by the Dean on application along with documentary evidences. Any other types of leaves may be rejected by the Dean upon his sole discretion

12.3. Students missing classes due to health reasons are required to produce valid medical certificate along with doctor's prescription and original GST bill for the medicines purchased, GST bills for any medical tests and a Medical Certificate of Fitness while joining back.”

13. From a conjoint reading of these provisions, it would be clear that ordinarily, exemption from attending classes is not permissible save for reasons of physical illness, personal tragedy, etc. to the extent of 25%. It is also provided that leave of absence has to be sought and prior permission obtained. In the instant case, as already stated, the fact that the petitioner sought for leave of absence and also appears to have been granted leave is substantiated by necessary endorsement in the record of attendance referred above.



14. The question is, what would be the remedy available to a student in such case. The answer is to be found in Clause 15(iii). Clause 15 (iii) (2) provides for conduct of supplementary examination in case of grave personal tragedy or hospitalization of a student. Thus, in such a situation the student has to take supplementary examination. In the instant case, the petitioner was debarred from appearing in the examination. Debarment of the student is permissible and prescribed under Clause 10.4 of the Manual, which is reproduced below;

“Absence without prior permission/intimation for leave from the Dean is considered to be a serious breach of discipline, and the student is liable for appropriate disciplinary action, besides reduction in grade points and or debarment from the end semester examination.”

15. We have already held that the petitioner had duly intimated the authorities of his medical condition and sought leave for such purpose. A copy of the leave application is enclosed as Annexure-6 to the Writ Petition. It is therefore, not a case of absence of the Petitioner without prior permission/intimation for leave from the Dean. The impugned letter of debarment



dtd.07.4.2026 also does not spell out any reason whatsoever for debarment except for mentioning his percentage of attendance in the subject in question as 64.41%. Strictly applying the provisions of the Manual, we find no justified reason for debarment of the petitioner. To such extent therefore, the impugned order of debarment cannot be sustained.

16. While the ordinary remedy available would be as provided under Clause 15(iii) (2) yet, it has been emphatically argued on behalf of the Petitioner that the authorities are empowered to hold a make-up examination for the petitioner also. A holistic reading of the Manual reveals that make-up examination is available only for P.G. courses. Clause 4.8.1 is the relevant provision and is reproduced below;

“If a student has missed a mid-term or an end-term examination due to absence with prior permission from the Dean, s/he should report his/her presence to the Dean and Controller of Examinations within one week of returning to the campus for the purpose of make-up examination. Necessary arrangements shall be made by the CoE Office to conduct a make-up examination within two weeks of her/his re-joining.”



17. There is no specific provision akin to Clause 4.8.1 for Under Graduate Programme. But then, by an order issued from the office of the Controller of Examinations of the University and communicated to the students by e-mail on 16.3.2026, the facility of make-up examination was also extended to all U.G. Programmes. Said e-mail categorially mentioned that the proposal was approved by the Vice Chancellor. It has been argued on behalf of the University that the aforesaid order has not been acted upon being contrary to the Manual. We are unable to accept such argument firstly, for the reason that no material is placed before us to substantiate such contention. Secondly, in view of the Disclaimer provided to the Scope and Applicability of the Manual, as reproduced below, there can be no doubt that the University has the power to make changes in and addition to the Policies.

Disclaimer

The statements made in this Student Manual of Policies (MoP) and all other information contained herein are believed to be correct at the time of publication. However, XIM University, reserves the sole right to make changes in and additions to the policies, regulations, conditions governing student conduct, degree requirements, fees, or any other



information or statements in this Manual at any time as deemed necessary.

The University shall not be held responsible for any hardship, expense or inconvenience caused to students or any other individuals due to such changes, additions, omissions, or errors regardless of the manner in which they occur.”

[Emphasis added]

The order extending the facility of make-up examination to U.G. Programmes has to be understood in this context. Thirdly, having itself issued the order it is not open to the University to turn around and subsequently say that the same has no effect being contrary to the Manual.

18. Had such facility not been extended to the U.G. Programmes, the matter would have been different and the only remedy for an affected student would have been to take Supplementary Examination as provided under Clause 15(iii)(2) of the Manual. Since the additional facility of make-up examination is available, there is no reason why the same shall not be extended in an appropriate case. From what has been narrated above, we are convinced that the present case is an appropriate case for application of the order.



19. We may now, refer to the judgments cited at the bar. In the case of ***Regional Engineering College, Hamimpur and others vs. Ashutosh Pandey***², (cited by Mr. Routray) the student in question had absented himself from classes and did not apply for condonation. Despite being informed of the shortfall, he submitted application for condonation after lapse of three months. The Principal refused to grant condonation as the absence was in excess of the discretionary percentage of 10%. The facts of the present case are clearly distinguishable from the cited case inasmuch as the petitioner herein not only applied for grant of leave at the appropriate time but also the period of his absence was well within the permissible limit of 25%. The cited case has therefore, no application.

20. In the case of ***Ashok Kumar Thakur Vs. University of Himachal Pradesh and others***³, (cited by Mr. Routray) the Supreme Court found that on the facts of that case, it was beyond the jurisdiction or competence

² 2002 (9) SCC 720

³ 1973 (2) SCC 298



of the Principal to condone the deficiencies of the student in the matter of attendance of Lecturers. As such, it refused to grant the relief claimed by the petitioner. Such is not the case at hand inasmuch as the University, as already discussed, has ample power to condone the absence of a student from Classes in case of unforeseen circumstances like ill-health etc.

21. In the case of ***All India Students Federation (Supra)*** (cited by Mr. Mishra) the regulations in question permitted the authorities to condone the shortfall in attendance in case of serious illness or other unavoidable circumstances. It was a case where the Principal and Vice Chancellor did not exercise the discretion vested on them by the regulations. Holding that the regulation is punitive in nature with adverse civil consequences, the Court held that the authorities are duty bound to consider whether the lack of attendance was deliberate and was in conscious disregard of the norms of Policy. The following observations of the Court are noteworthy;

“31- Thus, just because the attendance of a student has fallen below the prescribed attendance of 75%,



the penal consequences, as mentioned in Regulation 5, will not automatically follow in the event of a prayer made by the student citing the grounds for his absence. The Principal or the Vice Chancellor, as the case may, are duty bound to consider whether the lack of attendance was deliberate and was in conscious disregard of norms of College. In a case, when the absence from classes was not in defiance of the Authority or a deliberate conduct on the part of the student, the discretion to condone the attendance has to be, ordinarily, exercised in favour of the student in view of the severe consequences likely to follow if such discretion is not exercised.

32- A Teacher, let us bear in mind, faces the challenge of shaping the career of students so that they can become useful citizens of the Nation and, thus, contribute towards its development. In view of the responsibility cast upon the Teacher, whenever circumstances arises for taking punitive measures against a student, he has to be very cautious in his approach, because the punitive measures may ruin the career of his students. It is in this backdrop that we propose to deal with this case.”

22. After analyzing the provisions, the facts and law relating to issue of mandamus in such cases, the Court ultimately observed as follows:

“58- The present case reveals an extremely sad approach of educationists. In such an emergent case, as the one at hand - when every moment is painful to pass - if the Court delays or hesitates to step in and issue appropriate directions, the consequences would be too disastrous inasmuch as it may severely shake the confidence of the people in the ability of the Courts to maintain rule of law and do justice. Hence, in view of the fact that the announcement or publication of the result of the examinees, who have already appeared in their respective examination, has been stayed by this Court, any further delay may cause immeasurable harm to the candidates, who have already appeared as examinees in their respective examinations. We, therefore, direct that the Principal, Patna Women's College, to condone the attendance of all those students, who have inadequate attendance



to the extent of 70%. We also direct the Vice Chancellor, Patna University, to condone the attendance of those students, who have inadequate attendance up to 60%. All these students be allowed to appear in their respective examinations within a period of 15 days from today. The results of the examination of the students, who have already appeared in their respective examinations, be published and declared along with the results of examinations of those students, whose inadequate attendances have been directed to be condoned by us. The entire result shall be declared within the scheduled date so that the students do not suffer any further. Upon publication of the results, the Vice-Chancellor of the Patna University and the Principal, Patna Women's College, shall lay before this Court a comprehensive report so as enable this Court to give such further direction(s) as may be warranted by the facts and attending circumstances of the present case.”

In view of the facts attending the present case, we are in respectful agreement with the above observations.

CONCLUSION:

23. Thus, from a conspectus of the analysis of facts, law, contentions raised and the discussions made, we are of the considered view that the order of debarment of the petitioner was contrary to the provisions of the Manual and otherwise unjustified. We are also of the view that the benefit of make-up examination can be extended to the Petitioner. Accordingly, we allow the Writ Petition. The impugned order of debarment dated 7.4.2026 is hereby quashed. The University authorities are directed



to conduct a make-up examination for the petitioner in the subject 'Introduction of OB and HR' as early as possible, preferably within a period of two weeks from today without insisting upon him to appear in the forthcoming supplementary examination.

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Sashikanta Mishra, J.

B. P. Routrary, J. I agree.

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B. P. Routrary, J.

Ashok Kumar Behera