

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY WRIT JURISDICTION
WRIT PETITION (C). NO. 2764 OF 2011

Nandini Dutta & Ors

....Petitioners

Versus

University of Delhi & Ors

...Respondents

REJOINDER AFFIDAVIT ON BEHALF OF THE PETITIONERS TO THE
COUNTER AFFIDAVIT FILED BY RESPONDENT NO.1 & 2

I, Nandini Dutta, w/o Jyotirmaya Khatri, aged 45, petitioner 1, resident of Flat No. 1, Miranda House, Teachers' Flats, Chhatra Marg, Delhi University, Delhi – 7, petitioner no. 1 in the petition do hereby state on oath as under:

1. I say I have received the counter affidavit of the Respondents 1 & 2 and in rejoinder. I am filing this affidavit. I am filing this rejoinder on behalf of all the petitioners.
2. We started our pleadings in our petition by contrasting the present annual system with the semester system that is being introduced. In the annual system the examinations are conducted once a year for over 300,000 students, 40% of whom are in the regular courses and the remaining in the correspondence courses. The students are studying in 77 affiliated colleges in the city. This is a unique and massive system of education and examination in the background of which the change over to the semester system must be understood.
3. An examination of this magnitude typically takes about 4 months from the setting of the question papers to the ultimate declaration of results. One of our main arguments is that it is impossible to

conduct two such examinations in the year without having an immediate adverse effect on the intensity of teaching, the quality of the course and the duration of the available teaching time. It is our case that quality teaching time will be replaced by examination related activities thus academically affecting the students concerned.

4. We have set out in our petition that the University is internationally recognized particularly for its honours courses. This is a unique system of teaching where students are carefully nurtured to switch over from the rote system of education regrettably so widely prevalent in our country, to a system of conceptual understanding and analytical thinking. Once the students begin to learn in this different framework they then begin to specialize in certain streams studying much more intensely and with greater focus than the education system elsewhere. Delhi University Honours students are therefore recognized internationally as not only being conceptually clear but also far more advanced and academically rigorous in their line of specialization.

5. The reason why we are so opposed to the semester system of two massive examinations is as follows. Although the academic year begins end July and carries on to March in the annual system, a large number of students enter the University much after July and many are given admission as late as October. This is because of late announcement of the results of some of the state boards, and also because students leave the University after admission to join other courses such as medical and engineering and seats fall vacant resulting in the lowering of the cut off marks for admission. The third reason is inter-college and inter-University migration. In any case a

large number of students particularly from the SC/ST and persons with disabilities categories begin to get admission in the University late while the first term teaching has already commenced. There is a centralized admission system for these students unlike the general category and OBC students who approach the colleges directly. The SC/ST and persons with disability apply to the University directly and the University assigns them to the various colleges. In the Campus Colleges (those located near the University) about 20% of the students are admitted quite late into the first term. In the non campus colleges which cater substantially to students coming from weaker backgrounds almost the entire admission starts only after the IIIrd cut off list of the University is announced in July. Then the admission process starts and the admissions are done till October.

6. The consequences of the switch over to the semester system can now be clearly understood. In the semester system the first university examination will be held in November. A large number of students who have been admitted during August-October would not have settled down when they need to sit for their first university examination. The consequences must be understood. The students have come into the university from a system of rote learning where analytical thinking and concept building is completely missing. In the honours system of an annual examination the first two terms ingrain the rudiments of this conceptual thinking. In the semester system all this will be lost. Within a couple of months of joining the University, the student will need to appear for an examination without an opportunity of settling down into quite a different system of education.

7. The enormous effort that teachers have to put into conducting an examination for such a large number of students, has, to be now duplicated. Whereas earlier this valuable time would be spent in nurturing students to study in a different way, it will now be spent on rote learning once again in haste to satisfy the requirements of an examination. The petitioners have set out in the petition from pages 8 to 19 in more detail the advantages of the annual system over the semester system. At pages 11, 16, 30, 32 and 34, we have set out how the Honours Courses will be severely compromised. We have shown how, apart from the effect on students who are admitted late, that the semester system will inevitably result in the dilution of course content, the decline of inter disciplinary courses (see pages 12, 16, 17, and 27 to 29 of the petition), a stoppage of teachers research due to preoccupation with examinations and ultimately in the decline in the reputation and value of the honours degree. We have also pleaded how weaker students particularly from non English speaking background who, in the annual system are given special assistance through remedial teaching, tutorials and student mentoring, to catch up by the end of the year, will now be left to their own resources and will suffer terribly.

8. What the semester system makes impossible with its examination orientation is extra-curricular activities including sports, dramatics, debates, music and so on which makes the student a complete human being. With the twice a year University examination all this will be undervalued.

9. In para 4(a) of the counter, the University argues that the Academic Council (AC) and the Executive Council (EC) have vide resolution

dated 28.2.08 and 2.5.08 approved the semester system at the PG level and that this has been implemented. What the University does not tell this Court is that this involves a small number of students (not more than 400 per course) and that for such a limited number of students a dual examination system is feasible. More important the papers are set by the teacher teaching the course and the evaluation done likewise.

10. Even here there are major problems. There is a noticeable tendency for students from weaker sections to fall outside the system. For instance, the first semester M.A. results of the Department of History for the academic year 2010-11 of the 13 students from the non collegiate women group, none passed. From the School of Open Learning, of the 40 students who appeared, 38 failed. From the South Campus, of the 33 students who appeared for examination 30 failed. From Rajdhani College, which is a non Campus college, of the 7 students who appeared for examination all failed. From Zakir Hussain College, which caters to students from Trans Yamuna and Old Delhi, of the 12 students who appeared for the examination 10 failed. Similarly, in the M.A. results of the Department of Political Science, from Satyawati College, of the 10 students who appeared for examination all failed. For the non collegiate women course of the 35 students who appeared for examination 21 failed. From Zakir Hussain College, of the 23 students who appeared for the examination 16 failed. From Lakasmibai College of the 4 students that appeared for examination all failed. For M.Sc. Mathematics, of the 58 students from non collegiate women course who appeared for examination 55 failed. From Zakir Hussain College, of the 5 students who appeared for examination all failed.

11. In contrast, the failure rate both in post graduate and undergraduate courses in the annual system is significantly lower. For instance, for the School of Open Learning M.A. History results for the academic year 2009-10 which was held in the annual system, of the 65 students who appeared for examination only 8 failed.
12. In the semester system now being introduced papers setting is centralized through the examination branch where a committee of teachers or an individual teacher sets the paper for a particular course in an anonymous process. The evaluation is also done in a similar way by a group of teachers appointed by the examination branch.
13. We have already seen the terrible effect of the semester system on such students. In the M.A. courses in history, political science and mathematics, more than 50% of students failed. A careful look at the Hindi medium students show that about 70% of the students failed in history. More than 70% of the SC/ST, students with disability, OBC students and non collegiate women also failed. In some courses the entire batch of non collegiate women have been wiped out. We have set out in our petition how the disadvantaged sections of students will be badly affected at pages 9, 12, 13, 15, 36 and 66.
14. This chaos is further complicated by the impossibility of the university conducting two massive examinations in a year for over 300,000 students. The results for the semester July to November for M.A. History, Political Science and other courses which was supposed to be declared in early January before the students join the second

semester, was declared only end March while the students were substantially through the second semester and were preparing to sit for the second semester examination in April and at a time when only three weeks of teaching for the second semester was remaining.

15. In the annual mode of examination the correspondence course students could migrate to the regular course. Now with the semester system introduced only for the regular courses, this migration has become impossible, thus putting such students at an added disadvantage. The reverse is also true. Students who were unable, for any reason, medical or otherwise, to continue with regular attendance at the regular courses, could also migrate to the correspondence course and not waste an academic year. This option is also closed.
16. The University tells this Hon'ble Court that JNU successfully has a semester system but forgets to inform this Court that as compared to 150,000 students in the affiliated colleges, JNU has only 7000 students. The semester system with its dual examination is doable where the number of students are limited. The comparison therefore is not appropriate. There is a second reason. In the JNU semester system the papers are set by teachers of each course directly and the evaluation done likewise. There is no centralized system of paper setting and evaluation. This kind of semester system is also prevalent in the USA and some countries of Europe.
17. In the present annual system there already exists a well established system of continuous evaluation which happens through

assignments, projects, seminar papers and a midterm exam. 25% of the total marks for the year in each paper come from the internal assessment. Thus without disturbing the academic programme for the year and while retaining the focus on intensive learning some of the stated so called merits of the semester system i.e continuous evaluation is in fact happening in a better way in the annual system of education.

18. In para 4 (c) of the counter the University relies on Academic Council Resolution dated 5.6.09 which introduced the semester system at the undergraduate level for the academic session 2010-11. University says that the Executive Council approved this on 26.6.09.
19. The truth of the matter is as follows. On 7.10.08, the Academic Council considered the semester system for UG courses. The AC decides to seek wider opinion from the colleges (DUTA petition, Vol I, page 32). Accordingly on 16.10.08, the University sent out letters seeking opinion of the colleges (page 32). More than 35 colleges responded in detail, all rejecting the semester system (DUTA, Vo. II, pages 147-267/Nandini, compilation page 15-119). This feedback was suppressed by the University. On 20.11.08, 13.3.09 and 20.3.09 the AC met thrice and at these meetings the members of the AC asked for the feedback. The VC refused to give the feedback. The meetings ended inconclusively without any decision on the semesterization for UG courses (DUTA, Vol. I, page 33-34). On 21.3.09, in an utterly arbitrary decision without any application of mind, UGC recommended to all universities that they complete semesterization within two years DUTA, Vol. I, page 35, 124). This recommendation was based on the Knowledge Commission report

which also did not give any justification for this conclusion. As a result the universities interpreted the UGC recommendation as a directive and, in turn, issued similar directives to the colleges and faculties to start the process.

20. This procedure was upside down. The correct procedure would be for the university to first obtain the approval of the AC, which would then send the resolution to the Committee of Courses (CoC) (Ordinance XIV B (6)) who would, in turn, refer the matters to the faculties (Ordinance XIV B (6)), after which the matters goes back to the AC for approval then to the EC for implementation. University then changes the Ordinances which are notified and implementation follows.

21. On 12.5.09, the University made a CD of the feedback received from the colleges together with the summary. The summary, however, was deliberately misleading and contrary to the feedback (DUTA, Vol. I, page 36/DUTA, Vol. II, page 139).

22. This is why on 25.5.09 members of the AC and the EC protested the circulation of the misleading summary (DUTA Vol. I, page 37/DUTA Vol., II page 259).

23. On 5.6.09, the AC held a meeting without presenting the University's response to the feedback from the colleges. The meeting was inconclusive. No voting was done on debated issues. Sensing that the majority was against the semester system, the VC abruptly closed the meeting. He thereafter immediately goes to the press and announces that the semesterization has been cleared. No minutes of the meeting were made or ratified. All the 26 elected members of

the AC protested (DUTA Vol.I, page 37/ DUTA Vol. II, page 268-291).

24. The Academic Council then met on 16.6.09 and 22.7.09 where the minutes of the controversial 5.6.09 AC meeting was not circulated and elected members once again protested (DUTA, Vol. 1 page 38, 39)
25. It is in such a manner on that on 26.6.09 that the EC adopted the alleged recommendation of the AC dated 5.6.09 with 4 members dissenting (DUTA, Vol. II, page 322 A).
26. Acting on this resolution, the VC bypasses the AC and forms an Empowered Committee for Implementation of Semester System (ECISS) to draw up a framework for semesterization. As the formation of such a committee was illegal, 5 elected members on the ECISS resigned in protest (DUTA, Vol. I, Page 39, 40). The illegality lies in the breach of section 8 of the Delhi University's Act, 1922 which gives the Academic Council the exclusive power to deal with an issue such as the semester system, and the VC had no powers to set up the ECISS and therefore the decisions of the ECISS are illegal and void. Moreover, the action of the VC is malafide as the intention was to bypass the statutory body.
27. Within a span of 5 days i.e. from 29.10.09 to 4.11.09, the ECISS drew up a programme for the entire semester system for all the UG courses. This was never placed before the AC. Nevertheless, the University directs the implementation (DUTA, Vol. I, page 41). Thus

the semester programmes for UG courses is drawn up illegally contrary to section 8 of the Act.

28. On 9.11.09, for the first time, the fabricated minutes of the 5.6.09 of the AC meeting was placed before the AC and 26 elected members put their dissent on record (DUTA, Vol. I, page 42). It is in these circumstances, that the English Department General Body Meeting attended by a large number of teachers on 11.11.09 resolved to reject the semester system (Nandini Compilation 134). The History Department General Body Meeting similarly rejected the semester system on 12.12.09. On 18.12.09, the ECISS once again makes changes in the semester system by-passing the AC (DUTA, Vol. I, page 43,44). Teachers make numerous representations against the changes which the University ignores. One said sample of Dr. N. K. Jain of Zakir Hussain College is of importance (Nandini, Compilation 142).
29. Following the English department and the History department, the science teachers hold the GBM and criticize the ECISS program for semester courses for the UG finding many faults with the entire semester program (DUTA, Vol. I, page 47/Vol. II page 327)
30. A similar meeting of the Physics teachers on 19.11.09 rejected the semester system (Nandini, Compilation 150). Not withstanding this on 08.04.10 the HoD overrides the teachers and fabricates the minutes of the CoC even though the semester system courses were not passed in the physics department (DUTA, Vol. I, 47/Vol. II, 332). This is why on 07.05.10 the physics department teachers send the independent record of the resolution passed to the VC, Pro-VC, ECISS, Dean of Science and the Dean of Colleges and the Director

South Campus (DUTA, Vol. II, 339). Matters do not end there. On 08.04.10 and 07.05.10 at meetings of the CoC, Physics, instead of the CoC preparing the syllabi the HoD prepared the syllabi without the discussion and declared the syllabi passed (DUTA, Vol. I, page 48). Member of CoC, protest (DUTA, Vol. II, page 339). Then on 19.04.10 and 08.05.10 the B.Sc. (H) Physics syllabi prepared in the above mentioned manner was passed not in the department as is customary but in the VCs office. The CoC minutes do not show the syllabi were passed (DUTA, Vol. I, page 49). This is why on 07.05.10 the CoC members dissent when the minutes are prepared (DUTA, Vol. III, page 348,350).

31. Similarly on 22.04.10 the GBM of the Chemistry teachers rejects the semester system (DUTA, Vol. III, page 352/Nandini Compilation, 147).
32. Similarly on 06.05.10 the Electronics teachers unanimously rejects semester system (DUTA, Vol. III, page 386). On 21.05.10 the GBM of Electronics teachers rejected the semester system (DUTA, Vol. III, page – 383). On 24.05.10 the CoC members of the Electronics department dissented (DUTA, Vol. III, page – 378).
33. On 10.05.10 the Mathematics department joint CoC (PG + UG) rejected the semester system (Nandini, Compilation, page -9).
34. On 13.04.10 the CoC of Zoology department fabricated the minutes claiming the on 13.11.09 all the teachers were present and had consented to this syllabi change (DUTA, Vol. I, page 52/Vol. III, page 355-357, 363,367). The Zoology teachers of the University

immediately sent protests letters (Nandini, Compilation, page 131,146).

35. On 16.04.10 the Anthropology department unanimously rejected semesterization (DUTA, Vol. I, page – 53/ Vol. III, page 373, Nandini, Compilation, page – 10). Despite this rejection the Faculty of Science allegedly approves the syllabi for Anthropology on 08.05.10 (DUTA, Vol. I, page – 53).
36. On 02.02.10, the GBM of Botany department teachers rejected the semester system. Nevertheless the syllabi was passed without any record of the CoC meeting (DUTA, Vol. I, page 54, Vol. III, page 376, Nandini, Compilation, page – 144).
37. On 03.06.10 and 13.09.10 DUTA office bearers and the teachers elected representatives met the Visitor of the University (President of India) and submitted their protests (DUTA, Vol. III, page – 427, 432).
38. References made in para 3f of the counter that a small section of the teaching community is opposed to the University decision. The pleadings in our petition show that teachers of over 35 colleges protested, over 1000 teachers have protested in writing on 25.04.2011 and this protest has been included in our compilation, over 2600 students have protested as recently as last month, the General Body Meetings of Electronics, Chemistry, English, Physics, Political Science, History, Geography, Botany and Economics have near unanimously rejected the semester system. Additionally the Deans of Faculty of Education, Faculty of Social Sciences dissented in

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writing. The Heads of the departments of Education, Economics, Geography and Germanic and Romance Studies dissented in writing. The dissatisfaction is widespread and there are a much larger number of teachers and students who are extremely unhappy but are afraid to openly protest. DUTA representing 8000 teachers has twice had General Body Meeting and rejected the semester system. By characterizing us as a "habitual opposition" the University is both right and wrong. Right because we are habitually opposed to high handed and unlawful actions of the University authorities and wrong because the opposition to the semester system is principled, academically thorough and well thought out. In contrast to our arguments, the Hon'ble Court will notice how sketchy and shallow the arguments of the University are and that they are almost entirely based on minutes and resolutions obtained by inducement of fear. None of the so called advantages of the semester system have been set out with any degree of rigor. No evaluation of the annual system showing flaws has even been produced. No study of evaluation of the semester system has been produced. Everything is based on surmises and conjectures.

39. In para 4 (g) of the counter references made by the University to the AC approval on 13.05.10 for the syllabi for 12 graduate courses. It is said that out of 98 members present, 27 dissented and VC exercised his emergency power to approve the syllabi of one UG course. The University has conveniently omitted to inform this court that apart from the dissent by all the 26 elected members and one other member, even the Dean, Faculty of Education and the Dean, Faculty of Social Science also dissented. Additionally four Head of Departments Economics, Education, Geography and Germanic and

Romance Studies also dissented (Nandini, Compilation, 186-187, 217-219). The allegation that DUTA members disrupted the meeting and engaged in obstruction shows the repressive mind of the University authorities. If a dissent is an obstruction so be it. The law permits legal ways of protesting and, in fact, the law lay down that it is the duty of a member of a statutory body to operate lawfully according to her conscience and reason. If such widespread protests by thousands of highly qualified teachers can be characterized by the University in para 4(h) of the counter as "gimmicks" then all that we can say is that the VC has little regard for reason and polite and disciplined academic discourse. Perhaps it is sign of our times that the love for education and the right given to all is now replaced by crass commercialization. The minutes of this AC meeting dated 13.05.10 have not been confirmed in subsequent meetings to this date.

40. In para 4(i) references made to the AC meeting of 25.04.11 and that there were only six dissents out of 101 persons participating. The reason why there were only six dissents is because there is widespread misuse of this Hon'ble Court orders in this matter where this Hon'ble Court injuncted agitations in form of strike "or any other mode". Subsequently these Hon'ble Court injuncted peaceful protests such as teaching in open air and in tents. The petitioners have obeyed the orders of this court at all times. However some of the authorities are telling the teachers that the High Court orders mean that they cannot dissent and that they must obey orders and do as they are told. They cannot make an academic criticism of the semester system. To add to these threats the Registrar has circulated a letter to various departments asking the HoDs to give to

the University the names of the teachers who are dissenting. In turn, the HoDs of some departments are threatening teachers that if they dissent their names would be sent to the Registrar. This has happened on numerous occasions when the teachers are told that to dissent or disagree is tantamount to contempt of Court. According to the petitioners this is nothing but a misrepresentation by the respondents of this Hon'ble Court's order. Though this court never intended to stop dissent the respondents are making out as if this is so. This is most unfair and improper.

41. In this regard the counter draws attention to para 11 of the petition. At the outset the petitioners state that this is a badly drafted paragraph that was to be removed in the final petition and appears by mistake. The petitioners meant that the respondents are trying to represent the Court as saying something which the court has never said. This paragraph however was to be drafted in a correct fashion and a very preliminary draft of this paragraph has unfortunately remained in the final petition.
42. To complete the submissions on the AC meeting of 25.04.11, petitioners state that if it is clarified by this Hon'ble Court that if the court orders in the previous and pending petition were to be clarified by saying the court orders do not prevent the AC members from entering their dissent and disagreement, the outcome would be very different and many more elected AC members and others would dissent.
43. The sequence of events is particularly important to show how the University has functioned. On 19.04.11 a University notification is issued requiring all colleges to show in their prospectus that teaching

would be done in semester mode in all undergraduate courses (Nandini, Compilation, page – 241). This was done even before the AC meeting of 25.04.11. The moment this was done the elected members and others feared that if they lawfully protested in public interest and in the interests of the students against such a notification, it would be seen as contempt of Court.

44. Clause 10 of the University notification dated 19.04.11 is ultra vires section 17 read with Statute 10 and Ordinance XIV-B(6). On the same ground, the alleged AC resolution of 25.04.11 authorizing the VC to bifurcate the courses is also illegal.

45. Immediately after this notification of 19.04.11 a small group of about 15 members requisitioned an emergency AC meeting on 20.04.11. It may be remembered that after the AC meeting of 13.05.10 no AC meeting was held. Normally at least three meetings in a year are held, often more. Now after not convening a single AC meeting for an entire year, an emergency meeting is called a day after the University sends its directive bypassing the AC, directly to the colleges. The atmosphere therefore was extremely intimidating and not conducive for democratic discussion. There was also no need at all to call an emergency meeting.

46. The agenda for the AC meeting of 25.04.11 reached the AC members on 23.04.11 at night, running into 1000 pages and covering 54 semester courses. At least one of the AC members, who is visually challenged protested the short notice and also that the agenda not given in accessible format.

47. The AC meeting of 25.04.11 had another defect. The visually challenged member was not given the agenda in an accessible format even during the meeting. No one was deputed to sit and assist him. The averments made in the counter to the contrary are false. He was therefore virtually excluded from the proceedings and he protested in writing.
48. The resolution of the AC ratifying the actions of VC using the emergency powers for implementing the semester system and authorizing him to take steps with respect to syllabi are illegal and beyond the powers of AC and contrary to Clause 7 and Statute 10 which names Faculties as an independent authority who has the jurisdiction to decide the syllabi and therefore the AC could not have, by this resolution, divested the faculty or itself (Statute 10, Ordinance XIV B gives the power to recommend courses to the AC on the basis of recommendations of the CoC and the Faculty) of this jurisdiction, and handed it over to the VC.
49. The alleged authorization by the AC on 25.04.11 is contrary to the regulation 3(5) in as much as the issue decided upon was not on the agenda and there were dissents.
50. The submissions in respect of the AC meeting are applicable for the EC meeting as well and are therefore not repeated herein. Both the elected members dissented.
51. With respect to para 2 of the preliminary submission, the petitioners are from the following colleges. P1 : Associate Professor, Department of Economics, Miranda House, P2 : Associate Professor,

Department of Economics, Shri Ram College of Commerce, P3: Associate Professor, Department of Economics, Kirori Mal College, P4: Assistant Professor, Department of Economics, Shri Ram College of Commerce, P5: Reader, Department of Physics, Dyal Singh College, P6: Assistant Professor, Department of English, University of Delh, P7: Associate Professor, Department of English, Hindu College, P8: Assistant Professor, Department of Political Science, Dyal Singh College, P9: Associate Professor, Department of History, Swami Shradhanand College.

52. Regarding the comparison made with the University of Madras and Bombay University, petitioners state that the comparison is not appropriate for several reasons. Firstly both Madras and Bombay do not have the type of Honours courses that Delhi University is internationally recognized for. Secondly the system of affiliation and examination is also very different with the centralized exam only for non-autonomous colleges, with the autonomous colleges opting for their own curricula and examination schemes. Many new courses introduced in the semester scheme are privatized in that the student fees directly pays for the teacher salary and there is no centralized examination. Petitioners are collecting further information regarding University of Madras and Bombay University but this is made difficult because the semester system in Bombay University has been introduced only in a few courses and that too from June 2010. No appraisal has yet been done of its merits.
53. In an article that appeared in The Hindu on 18.10.2010, the following was reported :

Where does the solution lie then? The heartening factor is that a definite pattern has emerged. The system continues to be a success in unitary universities and autonomous colleges where the institutions are able to conduct examinations and publish results in an organized way as students are in manageable numbers. It only means that the semester system is not at fault, but it just does not suit the affiliating model of Indian universities, former vice-chancellors acknowledge. It is time Indian higher education institutions adapted themselves to the requirements of the semester system or reverted to the annual system, they advocate.

According to P.S. Manisundaram, the first Vice-Chancellor of Bharathidasan University, the concept of semester system borrowed from American Universities has failed in India. In the American system, the system is workable because the evaluation process is entirely an internal affair. When it comes to implementing the same system in affiliating universities, the load on students and teachers become enormous, said Prof. Manisundaram who was the Syndicate Member of the University of Madras in the mid 1960s when the then Vice-Chancellor, A. L. Mudaliar, introduced the semester system only for engineering programmes as a pioneering project. But, even before the impact could be determined, the rest of the universities follow suit.

Restructuring needed

It is now better for universities to revert to the annual system by restructuring the courses accordingly, said Prof. Manisundaram, reasoning out that for one hundred years till the

semester system was introduced, the annual system was a success. In fact, for B.Sc. Honors course, candidates had to take the examination for all the papers only at the end of the third year. There is no reason why the universities should not get back to the annual system since it would also expand the duration of teaching-learning transactions. The teachers would be in a position to take part in the centralized evaluation work in large numbers during the summer vacation, Prof. Manisundaram explained.

Adaption to the semester system, according to P. K. Ponnuswamy, former Vice-Chancellor of Madras and Madurai Kamaraj University can be made possible in the real sense of the term only in the event of the higher education system resorting faith in internal evaluation at the level of individual colleges. He wondered how a system that believed in the teachers capacity to teach could desist from extending the trust for evaluation.

In any case with the right checks and balances to rule our scope for bias or nepotism, internal evaluation could be made reliable. When teachers value the papers of their own students, they, in all probability, will not compromise on the duration meant for teaching-learning transactions. The bottomline is that affiliating and semester system never go together, said Prof. Ponnuswamy.

54. The resolution of the Staff Council of Dyal Singh College has been taken out of context by the respondents. The Staff Council was asked by the Principal of the College on 02.05.11, to frame and send additional eligibility criteria for admission for the academic session

commencing 2011-12 on the basis of the admission notification issued by University of Delhi on 19.04.11. This additional eligibility criterion pertains to the specifics of the courses that are to be taught in the coming session. By the specifics is meant the course content, duration, structure, number of papers to be taught. By content is meant the substance of the papers that will be taught in the course. By structure is meant the Honours and the concurrent courses. By concurrent courses is meant the interdisciplinary and the other disciplinary courses that every Honours student is required to take. The blueprint of the courses is to be given by the University. This has not been done and the University has not sent to the college any information regarding the impending course content. Other than the course specifics provided by the University in case of 13 science courses the University appeared to be unable to give the course content to Dyal Singh College. Duration relates to the number of lectures per course per week. Some courses are 2 lectures per week, some 4, 5 and 6 per week. Again this is to be specified by the University which so far they have not done. By structure is meant the Honours courses (main stream) and the concurrent courses. Concurrent courses includes languages, interdisciplinary courses and discipline courses in other subjects. This also has to be passed by the University and passed on to the colleges. Since there is supposed to be complete flexibility whether the student is required to opt for 4, 5 or 6 papers in a particular semester out of which some will be the main discipline papers and others will be the concurrent papers, has also to be passed by the University and communicated to the college. This has not been done so far. Whether a student is permitted to choose certain papers or not is also not decided and communicated. Likewise the teachers are unaware of the

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weightage/credits given to different courses. Instead of merely requiring the colleges to print in their brochures that the teaching will be done in the semester mode, this basic preparation work had to be done and communicated to the colleges so that in the college brochure complete and comprehensive information regarding the course specifics would be made available to the students seeking admission so that they could make an intelligent and meaningful decision.

55. Instead of doing all these the University has put the cart before the horse requiring the Staff Council to declare the additional eligibility criteria unilaterally. This is impossible to do for the reasons set out herein after. Additional eligibility criteria includes marks obtained in certain specific subjects, exclusion/inclusion of certain specific subjects where marks of these subjects will not/will be considered for the best four subjects where the aggregate of marks is considered for the cut off and the cut off relaxation across streams.

56. This additional eligibility criteria will depend upon course specifics as stated above. For example if the course content is heavier in mathematics then the additional eligibility criteria regarding mathematics will change. If the teaching time is more rigorous the additional eligibility criteria is proportionality higher. Regarding the structure and the connection with additional eligibility criteria take the following example. If the student had the opportunity to do a concurrent course in mathematics designed specifically to substantiate the mathematics content of economics or commerce, the eligibility criteria for the main subject may not require a high level of mathematics to be already completed. If such a concurrent

course is not available then the additional eligibility criteria of a mathematics already done becomes critical.

57. Some of the colleges/departments have submitted an additional eligibility criteria without the University giving them the requisite information based on the past experience of the existing annual courses. But such an approach is guess work and is meaningless since the semesterized system is supposed to be totally different. Such eligibility criteria submitted without application of mind is likely to cause tremendous confusion and chaos amongst students. In fact at the time of passing of this resolution or soon thereafter the principal of the college sent the additional eligibility criteria based on the previous year criteria, which was, in turn, based on the annual system of the University.

58. In the University today 80% of all courses are in annual system, the remaining 20% are in the semester system which is restricted to about 13 science and few other courses.

59. Reference to the final order of the Hon'ble Court in the resolution of Dr. Singh College is on account of the College perception that the petitions will be finally decided on 11.05.11 and that immediately after that date the University will provide the relevant information to the colleges depending on the Court order, after which the additional eligibility criteria could be finalized. It was in this context that the resolution noted the additional eligibility criteria would be finalized after the Hon'ble Court decision of 11.05.11. It was not meant, even remotely, to ignore any interim direction made by this Hon'ble Court. In fact the discussions during the meeting showed that if the

University is satisfied with the college giving additional eligibility criteria (without considering the relevant information above mentioned) on the basis of the criteria followed for the existing system, it can and would be given immediately. This can be done but this would be an inappropriate, un-academic and irresponsible way of fixing the additional eligibility criteria.

60. The exercise of power by the respondents as set out in the petition is arbitrary and contradictory to Article 14 of the constitution of India.

61. The proceedings of the Academic Council were conducted in arbitrary and non-transparent manner contrary to the Section 23 of Delhi University Act read together with the Statutes, Ordinances, regulations and contrary to Statutes VII and VIII. This is also the case with respect to the functioning of Executive Council. The Vice-Chancellor has misused his emergency powers under Statutes XI-G (4) in as much as no emergency has arisen which required immediate action.

62. The non-consultation with and the bypassing of Committee of Courses (CoC) as stated in the petition and the manipulation of minutes etc. as described in the petition is in breach of ordinance XIV-B(6) which required the recommendation of CoCs to be considered. Consideration meant serious and bonafide consideration by the faculty and the respondents of considered views of the CoCs that may not have been palatable to the authorities. Strong arm tactics and manipulation of minutes as well as overriding the views of CoCs without rational discourse and without allowing the debate

and discussion in keeping with the long settled practices and traditions, does not amount to either consultation or consideration. Rather it amounts to disregarding the views of CoCs and in many cases misrepresenting those views.

63. The facts set out in the petition also show breach of Statute 10 in as much as the AC, the EC and respondents have bypassed the Faculties and have refused to consider the recommendations of the faculties on several earlier occasions.
64. Clause 10 of the University notification dated 19-04-2011 is ultra vires section 17 read with statute 10 and Ordinance XIV-B(6). On the same ground, the alleged AC resolution of 25-04-2011 authorizing the VC to bifurcate the courses is also illegal.
65. The alleged authorization by the AC on 25-04-2011 is contrary to the Regulation 3(5) in as much as the issue decided upon was not on the agenda and there were dissents.
66. Clause 10 of the notification dated 19-04-2011 deserves to be questioned and set aside for reasons set out in the petition, and in any case, is an attempt to overreach this court and pre-emptitious.
67. The Academic Council, the Faculty of Arts, the Faculty of Mathematical Sciences, have been constituted contrary to Statute 7(1)(xiii) and Statute 9(3) respectively and therefore the decisions of these bodies are illegal and void.

68. Even the Ordinances relating to the 13 science courses are illegal as they are not proposed/approved by the Academic Council in accordance with section 31. Rather, the VC illegally used his emergency power to approve the changes.

69. In addition to the above the following statutory/legal violations have been established in pleadings of the petitioner.

Date	Act/Statute/Ordinance Violated	Event Description
5.10.2009	Section 23 of University Act, re: powers of AC	ECISS was formed in infringement of powers of AC
13.05.10; 25.04.11	Statute 7(1) xiii, provides for mandatory student members in the AC	All the decisions of these 2 AC meetings were taken without student members present. (Stakeholders never consulted or made part of decision making process)
13.05.10	Section 31(1) of University Act, regarding how ordinances are made	13 Science Courses were semesterized without amending the Ordinances of the University
1.10.10	Section 23 of University Act. (page 8, University Calendar, Vol. I)	Letter asking the Deans and HoDs to make semester-based syllabi; usurps the powers of AC

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<p>(a)14.03.1 1; (b)23.03.1 1</p>	<p>Statute 9:3 (v) regarding composition of Faculties of the University (page 25, University Calender, Vol. I)</p>	<p>(a) Meeting of Faculty of Arts, approved semester system, but composition was not in order: seniority list of teachers from all provisioned colleges not invited. (b) Meeting of Faculty of Social Sciences. approved semester system, but composition was not in order: seniority list of teachers was incomplete, teachers from all provisioned colleges not invited.</p>
<p>19.03.11</p>	<p>Regulation 16 (University Calender, Vol. II, page 910)</p>	<p>Meetings of Dept. of English Undergraduate Committee of Courses (UGCC) and Postgraduate Committee of Courses (PGCC). Violation of seniority of college teachers in UGCC and PGCC; violation of seniority of dept. teachers in UGCC.</p>
<p>19.04.11</p>	<p>(a) Ordinance XVIII-B re:powers of Staff Councils to organize admissions; and</p>	<p>Respondents Nos. 1 & 2 usurp powers vested in the Standing committee of admissions, AC and Staff Councils. Admission</p>

	(b) Ordinance II-4 (2) Standing committee of admissions, AC, to decide admission policies.	notification issued without getting the necessary concurrence from AC for uniform semester based study in undergraduate courses.
25.04.11	Section 17 of the University Act	Faculties and AC are separate authorities with distinct functions laid down by the Act. AC cannot hand over the powers of Faculties to the VC.

DEPONENT

Verification

Verified at New Delhi on this 9th day of May 2011. The contents of the affidavit are correct, no part of it is false, and nothing material has been concealed there from.

DEPONENT

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