

## **Joint Registrar (Judicial) (Budget)**

May kindly see the online application of Sri Ashwini Kumar Upadhyaya, Additional Civil Judge (Junior Division), Varanasi regarding grant of permission for submission of his Ph.D. thesis, on the topic of "Economic Analysis of Law: A Study with Special Reference to the Freedom of Trade, Business and Profession under Article 19(1)(g) of the Constitution of India" under the guidance of Dr. Shailendra Kumar Gupta, Professor, Law Faculty, Banaras Hindu University.

In his application, Sri Ashwini Kumar Upadhyaya has submitted the following facts:-

1. That he had joined as Additional Civil Judge (Junior Division) in the district of Varanasi on 15-11-2019.
2. That he was enrolled as a Ph.D. Scholar in the Faculty of Law, Banaras Hindu University (B.H.U) on 04.03.2017.
3. That the title of the thesis is "Economic Analysis of Law: A Study with Special Reference to the Freedom of Trade, Business and Profession under Article 19(1)(g) of the Constitution of India" under the guidance of Dr. Shailendra Kumar Gupta, Professor, Law Faculty, Banaras Hindu University.
4. That the Course duration of one year has been completed and successfully passed by him and no other study is left to be done in the Ph.D. programme.
5. That he has submitted all the Six-monthly Ph.D. Progress Reports as required by the B.H.U. Ph.D. Ordinance, 2016 and the same have been duly approved by the Departmental Research Committee (D.R.C.) of Faculty of Law, B.H.U.
6. That the thesis is complete and at the stage of submission followed by viva-voce.
7. That a period of about three months is required to complete the residential period in which no study as such is to be done and this period is only to complete the required residential period for which no study leave shall be required. This period can be completed by any mode of leave, preferably leave with half pay.

He has also submitted related papers as attachments and has, therefore, requested for grant of permission to submit the thesis which is at the submission stage, and for which the course work is already completed and passed before joining the service and no further study is to be done and no study leave as such is required.

It is submitted that in his online application and, in letter dated 01.10.2020 of the University concerned, submitted as attachment dated 11.01.2022 under heading - Certificate of the Supervisor, there is a difference seen about the topic of his Ph.D. and as such, he is requested to clarify about the actual position about the topic, alongwith its supporting papers, in response, the officer has subsequently submitted that the title of the thesis was changed afterwards. The initial title of the thesis was "Economic Analysis of the Fundamental Rights in the Constitution of India: A Select Study" which has been changed to "Economic Analysis of Law: A Study with Special Reference to the Freedom of Trade, Business and Profession under Article 19(1)(g) of the Constitution of India" as the final title after being duly permitted by the Departmental Research Committee as per the procedure laid down in the BHU PhD Ordinance, 2016. The aforementioned change is bona-fide and is required for the improvement in the research work. A certificate to these facts is enclosed in the new attachment (Certificate of the Supervisor- attachment dated 18.01.2022).

In this connection, it is stated that the officer has joined the Uttar Pradesh Judicial Service on 15.11.2019. There is Circular letter dated 4.11.11, which provides that if any Judicial Officer during the course of his service, requests to pursue higher studies, he has to apply for grant of 'Study Leave' as per rules which will be subject to the discretion of Hon'ble the Chief Justice. In the instant case, as the officer has stated that he has already completed and passed the course work before joining the service and no further study is to be done and no study leave as such is required. Only about three months is required to complete the residential period in which no study as such, is to be done and this period is only to complete the required residential period for which no study leave shall be required and this period can be completed by any mode of leave, preferably leave with half pay. Here, it is also to be submitted that as the length of

service of the officer is less than five years, study leave is also not admissible to him as per relevant rules. As he also wants, not to take study leave but any other kind of admissible leave, preferably leave with half pay, nothing appears to be objectionable relating to leave matter at the stage of consideration of grant of applied instant permission. Now, as the officer has completed the course work of Ph.D. and only submission of thesis and Viva-voce examination is left, it is on the discretion of the Hon'ble High Court either to grant permission to the officer for submission of Ph.D. thesis, as prayed or to pass any such order which deems to be proper.

It is also pertinent to mention here that as per report of the dealing section i.e. Admin A-II dealing with the leave matters, it is to submit here that the officer has already applied half pay leave (leave on private affairs) from 03.03.2022 to 31.05.2022 against leave Id-L00085392022 dated 18.01.2022. However, the same leave application cannot be processed at present due to lack of handing over charge certificate (appears to be made on 03.03.2022).

May, therefore, if approved, the instant matter may be laid before Hon'ble Mr. Justice Pritinker Diwaker, Nominated Judge for the purpose for His Lordship's kind perusal and, if His Lordship approves:-

A) Sri Ashwini Kumar Upadhyaya, Additional Civil Judge (Junior Division), Varanasi be granted permission for submission of his Ph.D. thesis on the topic on the topic of "Economic Analysis of Law: A Study with Special Reference to the Freedom of Trade, Business and Profession under Article 19(1)(g) of the Constitution of India" to Banaras Hindu University, as well as be granted permission to appear in the viva-voce followed by thesis submission, as requested, in order to complete his Ph.D.?

Or

B) To pass any other order, which His Lordship likes to pass.

Archana Awasthi, R.O.,

Mohd. Arshad  
Assistant Registrar,  
Admin (A-4)

**Hon'ble Mr. Justice Pritinker Diwaker,**

**Nominated Judge**

Submitted for kind perusal & order

Joint Registrar (Judicial) (Budget)