



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-30135-2019 (O&M)

Date of Decision: 29.08.2024

Shubham

.....Petitioner

Versus

Board of School Education, Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Amit Khatkar, Advocate for the petitioner.

Mr. Himanshu Raj, Advocate for respondent No.1.

Mr. Gaurav Mohunta, Advocate for respondent No.2.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for setting aside/quashing the impugned communication dated 14.11.2018 (Annexure P-9) vide which the result of 1st year of 'Diploma in Elementary Education' (D.El.Ed.) of the petitioner was cancelled.

2. Brief facts of the present case are that the petitioner is a young girl who was of the age of 20 years when she filed the present petition. She knocked the doors of this Court with a grievance that she got admission in the respondent No.2-College for pursuing Diploma in Elementary Education which is a two years course and the examinations for this course are held on annual basis. The concerned Session was of the years 2017 to 2019. In the first year of the aforesaid Diploma course, her attendance was short but as per



the petitioner she requested to respondents that her attendance was short due to mental depression and other family circumstances and therefore she may be permitted to take the examinations for first year and consequent upon the same the petitioner was issued roll number for the first year examination and she took the aforesaid examinations but the result of the same was not declared. Thereafter, she was promoted to second year and was permitted to attend the classes. Admittedly in the second year, her attendance was 86% which was more than the prescribed requirement. Thereafter, when she applied for the second year examinations, she was refused issuance of roll number on the ground that her attendance was short in the first year despite the fact that the petitioner had rather taken the examinations of first year after attending the classes of first year in which her attendance was short. Thereafter, the petitioner filed a writ petition before this Court vide CWP No.17962-2019 which was disposed of on 23.09.2019. However, vide order dated 08.07.2019, she was provisionally permitted to appear in 2nd year examination vide Annexure P-5. Since in the aforesaid petition i.e.CWP-17962-2019, the petitioner did not challenge the cancellation of her result for the first year which was subsequently cancelled, she was granted permission by Coordinate Bench of this Court to withdraw the aforesaid petition with a liberty to file a fresh writ petition with better particulars and to challenge the cancellation of result of the first year of the aforesaid Diploma course. Thereafter, the present writ petition was filed by the petitioner challenging the impugned order (Annexure P-9) by which the result of first year of the petitioner has been cancelled on the ground of shortage of attendance.

3. Learned counsel appearing on behalf of the petitioner submitted that



when the petitioner was in the first year, she was suffering from mental depression and was facing adverse family circumstances and because of the same reason she could not attend the requisite lectures for the first year and her attendance was only 44.95% whereas as per the requirement which is so prescribed under the Board of School Education Haryana, D.El.Ed. Examination Regulations (hereinafter to be referred as 'Regulations'), as per Clause 4-A of aforesaid Regulations, the minimum attendance requirement was 80%. He further submitted that there is another provision under Clause 5-(a) regarding 'Condonation of Shortage in Attendance' which provides that the Head of the College/Institution for the reasons to be recorded in writing may condone upto 10% of shortage of attendance and the Secretary/Chairperson of the Board can condone further shortage of attendance to the extent of 10%. He further submitted that there is a special provision under Clause 36 of aforesaid Regulations in the nature of non-obstante clause giving powers to the Chairperson to relax the requirement of attendance but the same was not adhered to by the respondent-Board.

4. Learned counsel further referred to the order passed by this Court in the present case on 18.12.2019 whereby the respondent No.1-Board was directed to reconsider the case of the petitioner in view of the peculiar facts and circumstances, and pass an order taking sympathetic consideration, keeping in view the valuable two years of the petitioner. He asserted that thereafter an order was passed by the respondent-Board which was never placed on record by the respondents but during the course of arguments, a vernacular copy of the same has been supplied by learned counsel for respondents and in which at item No.16 it has been so decided by the



respondent-Board that after consideration, the request of the petitioner was rejected because there is no provision in the Regulations._

5. Since the aforesaid decision which is in the vernacular form has been supplied to the Court during the course of hearing, the same is taken on record as Mark 'X'.

6. Learned counsel for the petitioner further submitted that the respondent-Board has not even complied with the directions passed by this court on 18.12.2019 because the provision of Clause 36 of the Regulations in which special power is conferred upon the Chairperson has not been referred to what to talk of invoking and considering the aforesaid provision in accordance with law and therefore the action of the respondent-Board to whom the direction was issued by this Court vide order dated 18.12.2019 was contemptuous in nature. He further submitted that the petitioner was permitted to participate in the classes for first year and rather the respondent-Board had permitted her to take the examinations for the first year and even after that the petitioner was permitted to attend the classes for the second year as well in which her attendance was recorded as 86%. Now because of the aforesaid technical reason, the career of the petitioner is being jeopardized by the respondent-board. He also referred to a judgment of Hon'ble Supreme Court in *Shri Krishan vs. The Kurukshetra University, Kurukshetra, 1976(1) SCC 311* to contend that once the candidate was permitted to take the examinations then on the ground of non-fulfilment of required attendance of lectures for the first year, the result of the petitioner for first year could not have been cancelled and particularly in view of the fact that there is no provision under the Regulations.



7. On the other hand, learned counsel appearing on behalf of respondent No.2 submitted that the petitioner has already passed some other courses from other universities and CTET and now she is employed at a particular place and therefore no interference is called for because the petitioner is seeking the declaration of the result of Diploma.

8. Mr. Himanshu Raj, learned counsel appearing on behalf of respondent No.1-Board submitted that it has been specifically provided in Clause 4 of the aforesaid Rules and Regulations that the attendance has to be 80% and as per Clause 5, the condonation can be done to the maximum extent of 20% but the petitioner had attended lectures to the extent of 44.95%. Learned counsel for the respondent-Board has submitted that maximum of 20% of attendance under Clause 5 could be given to the petitioner but still the petitioner cannot reach till the level of 80% of attendance. He also referred to Annexure A-1 which was filed with CM-3990-CWP-2020 and the same is reproduced as under:-

“Board of School Education Haryana, Bhiwani

No. 63/Spl.exam Dated: 10-02-2020

ORDER

CWP 30135/2019, Subham v/s Board, D.El.Ed Exam March-2017

Vide order dated 18.12.2019, the Hon'ble Punjab and Haryana High Court, Chandigarh has passed the order wherein respondent No.1 was directed to re-consider the case of the petitioner and passed order taking sympathetic consideration keeping in view the valuable two year of the petitioner. The order is to be passed within four weeks from date of decision, wherein, the request of the petitioner was to condone the shortage of lectures in the Ist year. The petitioner



had to submit a comprehensive representation to respondent No.1 within one week from date of decision and within four week thereafter respondent No.1 should be accorded sympathetic consideration keeping in view the particular facts and circumstances of the present case.

In pursuance of the Hon'ble High Court order of the case was taken up by this office for sympathetic consideration to consider the shortfall of attendance of the petitioner i.e. 44.95% whose attendance was short by 35.05%. Whereas the rule 5(a) is as follows:-

“5(a) The Head of the College/Institution for the reasons to be recorded in writing may condone up to 10% of shortage of attendance. The Secretary/Chairperson of the Board can condone further shortage of attendance to the extent of 10%.”

As per above rules, the condonation is allowed only upto 20% (10% at the level of Institute and 10% at the level of Board) despite given the benefit of condonation, the petitioner is still short of attendance which disqualify her to appear in the examination.

It is pertinent to mention that the rules are governed by the decision of the Board of Directors. Secretary has no power to take decision against to the Board decision. The case of the petitioner would be put before Board of Directors for decision in next meeting. The decision will be accordingly intimated.

*Sd/-
Secretary “*

9. He also submitted that even if the petitioner had appeared in the first year examinations, there can be no estoppel against the Regulations. He also submitted that so far as the petitioner appearing in the examinations for the first year is concerned, the roll number was issued to the petitioner by mistake and therefore the petitioner is not entitled for the relief as sought for



in view of the facts that the roll number had been issued to her mistakenly and despite being granted the benefit of 20% of attendance to her, she has not obtained the level of 80% of attendance.

10. I have heard learned counsels for the parties.

11. It is a case where the petitioner has filed the present writ petition in the year 2019 when she was of the age of 20 years and had raised a grievance before this Court that after getting admission in the respondent No.2-College for pursuing Diploma in Elementary Education and when she was pursuing first year of the Diploma course, there were some adverse family circumstances and she was suffering from mental depression and due to this, she could not attend the classes to the minimum requirement of 80% as envisaged under Clause 4 (A) (i) of Regulations and thereafter she had requested the respondents to permit her to take the examinations in view of the aforesaid reason. The respondent-Board issued roll number to the petitioner for first year examinations and she took the examinations and thereafter she was permitted to attend the classes for second year and as such she attended 86% lectures in the second year but thereafter at the time of examinations for the second year, she was not permitted to take the examinations on the ground that in the first year her attendance for the lectures was short.

12. When the petition was filed by the petitioner she specifically averred in para 3 of the petition that the attendance of the petitioner in the first year was short because of the mental depression and other family circumstances. However, there is no reply filed by the respondents to the aforesaid averment made by the petitioner in para No.3 and further detailed



reply to other paragraphs has also not been filed. In this way, it can be easily inferred that in the absence of denial of the same, the petitioner was presumed to have been suffering from mental depression and other adverse family circumstances.

13. The petitioner has been denied the declaration of result for the first year and for taking the second year examinations on the ground of shortage of attendance. Clauses 4(A), 5 and 36 of the Regulations which deal with the aforesaid shortage of attendance which have been supplied to this Court by learned counsel for respondents during the course of proceedings are reproduced as under:-

4. Eligibility Conditions for the examination

4(A) Regular Pupil Teacher:

4 (A) (i) Such candidates/Pupil-Teachers shall be eligible to take examination who have completed not less than 80% of the total attendance in the year concerned in recognized/affiliated college/institute and bear good character to be certified by the Head of College/Institution.

4(A) (ii) Attendances shall be counted from the date of starting classes as decided by the Authority admitting the students to the D.El.Ed. course.

4 (A) (iii) If a pupil-teacher's attendances at the college/institution up to the date of submission of names to the Board for examination falls short of the required attendances, the Head of the College/Institution should submit his/her name for examination to the Board provisionally. If the pupil-teacher has not completed the required percentage by the 14th day preceding the first day of the examination, the Head of the College/Institution should report to the Board authorities with regard to his/her admission in the examination being disallowed.

To determine the 14th day before the examination, 14 will be subtracted from the figure representing the date on which the examination commences. For instance, if the examination commences on March 17, March 3 will be considered as the 14th day before the examination.



4 (A)(iv) A pupil-teacher whose name is struck off the roll of a college/ institution after sending up his/her examination form ceases to be eligible for the examination. If, however, he/she is readmitted up to the 14th day before the commencement of the examination, he/she shall automatically become eligible to appear in the examination, provided he/she has completed the required percentage of attendances.

4 (A) (v) In the case of a pupil-teacher for any examination conducted by the Govt. for public services, the days spent in the examination (i.e. from the 1st to the last paper of the pupil-teacher concerned and the traveling connected therewith) shall be counted on production of a satisfactory evidence towards attendance.

4 (A)(vi) A pupil-teacher who has already passed an examination of this Board or an equivalent examination of any other Board shall not be permitted to reappear in that or a corresponding examination.

4 (A) (vii) A pupil-teacher appearing in any of the Board's examination with full subjects cannot simultaneously appear in another examination of this Board or of another University/Board, in the same academic year except for improvement. The bar shall not apply to a pupil-teacher appearing under compartment/re-appear category of a lower examination of the Board to clear the compartment/re-appear.

xxxxxx xxxxx xxxxxx

5. Condonation of Shortage in Attendance.

5 (a) The Head of the College/Institution for the reasons to be recorded in writing may condone up to 10% of shortage of attendance. The Secretary/Chairperson of the Board can condone further shortage of attendance to the extent of 10%.

The Head of Institution shall refer every case of shortage within the above prescribed limit of condonation in shortage of attendance to the Board, either with his/her recommendation or with valid reasons for not recommending the case.

5 (b) to allow maximum three months maternity leave in a single stretch with prior permission of the Director, S.C.E.R.T. Haryana for first 30 days and of Secretary/Chairperson, Board of School Education Haryana, Bhiwani for further 60 days on production of valid medical certificate



duly attested by concerned Chief Medical Officer to female pupil teachers studying in various DIET/BIET/GETTI/Self Financing College/Institution affiliated by this Board. The leave period shall be excluded from the total lectures delivered during whole course. But the concerned pupil teacher has to appear in all minor/major examinations as per schedule notified by the Board of School Education Haryana, Bhiwani/S.C.E.R.T. Haryana/D.I.E.T./College/Institution. Provided that all such cases must be sent through concerned District Institution of Education and Training after Principal's recommendation.

5 (c) The following may be considered valid reasons for recommending a case:-

Prolonged illness. (ii) Loss of father/mother or some other such incident leading to absence from the college/institution. (iii) Any other reasons of similar serious nature.

5 (d) Cases of shortage of attendance falling below 60% shall not be considered and should not be referred to the Board.

Note: Authorised participation in recognized tournaments and sports meets or other co-curricular activities organized by College/Institutions/State may be counted towards attendance.

xxxx xxxx xxxx

36. Special Provision:-

36 (A) Notwithstanding anything contained in these regulation, the Chairperson shall exercise such powers as may be necessary for the purposes of conduct of examination including creation of centres, remuneration, examination fee, date of receipt of admission form etc. Provided further that the Chairperson may relax the requirement of the foregoing clauses of regulations in case of emergency and in exceptional circumstances, as a whole or for a specific pupil-teacher, to be recorded in writing.

36 (B) Subject to these regulations, rules framed by the Board under these regulations, policies laid down by the Board/Chairperson and also instructions issued by the Chairperson under (A) above, the Secretary shall be responsible for all arrangements connected with the conduct of examinations and all matters connected therewith. “



14. On 18.12.2019, the following order was passed.

“The present writ petition has been filed by the petitioner/Shubham inter alia with the prayer to quash the letter dated 14.11.2018 (Annexure P-9), vide which, the result of 1st year of 'Diploma in Elementary Education' (D.El.Ed.) of the petitioner was cancelled.

The pleaded case of the petitioner is that the petitioner being eligible for two year course of 'Diploma in Elementary Education', was admitted by respondent No.2/College in August 2017. It is the case of the petitioner that she attended the classes of 1st year during the academic session. She is alleged to be suffering from mental depression and because of other family circumstances, she fell short of attendance. She submitted request/explanation in this regard. It is the case of the petitioner that based on the said explanation, roll number was issued by the respondents to appear in the examination conducted for 1st year of the said course. The further pleaded case of the petitioner is that she appeared in the examination of the 1st year as per examination schedule. Thereafter, the petitioner was duly promoted to the 2nd year and she was admitted in the 2nd year in August 2018. She attended her classes for 2nd year also. But, when she was to take the examination of 2nd year w.e.f. July 2019, roll number was not issued to her. In the 2nd year, she was certified to have taken 86% attendance in the Session 2018-19. It later transpired that roll number for the 2nd year was not issued because of alleged shortage of attendance in the 1st year. This necessitated the filing of CWP-17962-2019. Vide order dated 08.07.2019 (Annexure P-5), she was permitted to take her examination provisionally. Thereafter, the said writ petition was disposed of vide order dated 23.09.2019, with the permission to withdraw the writ petition with liberty to the petitioner to file afresh so as to make a challenge to order dated 14.11.2018, cancelling the result of the petitioner.

Thereafter, the petitioner on 14.10.2019, filed the present writ petition. On 18.10.2019, notice of motion was issued in this case.

In view of the peculiar facts and circumstances of the above case, respondent No.1 is directed to re-consider the case of the petitioner and pass an order taking sympathetic consideration, keeping in view the valuable two years of the petitioner. Let the order be passed within four



weeks from today, wherein, the request of the petitioner was to condone the shortage of lectures in the 1st year. The petitioner may submit a comprehensive representation now to respondent No.1 within one week from today and within four weeks thereafter, respondent No.1 shall accord a sympathetic consideration keeping in view the peculiar facts and circumstances of the present case, which of course shall not be treated as precedent in future.

Post for further hearing on 12.02.2020.”

15. By way of the aforesaid order, the respondent No.1-Board was directed to reconsider the case of the petitioner and to pass an order taking sympathetic consideration, keeping in view the valuable two years of the petitioner. However, in pursuance of the aforesaid order when the matter went to the respondent-Board and vide Item No.16 of Mark 'X', the respondent-Board with one stroke of a pen rejected the grievance of the petitioner by stating that because of the Regulations it cannot be done. This Court is of the considered view that once this Court specifically vide order dated 18.12.2019 directed the respondent-Board to consider the case of the petitioner sympathetically in view of the peculiar facts and circumstances of the present case then it was obligatory upon the respondent-Board to have considered it by giving sympathetic consideration by considering special provision of Regulation 36 particularly when the aforesaid order was never challenged by the respondent-Board. After considering it sympathetically, the respondent-Board may have by due application of mind and by referring to the aforesaid provisions of law, in its wisdom could have passed any order by recording reasons. Although there is a specific provision with regard to the minimum number of lectures to be attended which is fixed at 80% under



Clause 4 which can be further condoned to the maximum extent of 20% under Clause 5 but at the same time there is a power which has been vested with the Board under Clause 36 as reproduced above which provides for a non-obstante clause and it is in nature of a special provision which provides that the Chairperson may relax the requirement of the clauses of the Regulations in case of an emergency and in exceptional circumstances as a whole or for a specific pupil-teacher, to be recorded in writing. Once this Court had directed the respondent-Board vide order dated 18.12.2019 then it was incumbent upon the respondent-Board to have considered the aforesaid special provision and ought to have passed an order in accordance with law. But by non-consideration of aforesaid special provision which specifically provides that in exceptional circumstances and even for a specific pupil-teacher, the requirement of aforesaid clauses of Regulations may be relaxed, the respondent-Board, has failed in discharging its duties and *prima facie* acted in violation of orders of this Court.

16. When the petitioner filed the petition, she made a specific averment that the petitioner was suffering from mental depression and adverse family circumstances due to which she could not attend the classes and the same has not been controverted by respondent No.1 then the aforesaid ground of mental depression and adverse family circumstances was required to be considered as to whether it constitutes an 'exceptional circumstance' or not and for that purpose there had to be an application of mind by the Chairperson of the Board and particularly in view of the fact that there was an express direction issued by this Court for re-consideration. The respondent-Board has failed to discharge its duties by non-consideration of the circumstances of the petitioner



and has not even considered the aforesaid Clause 36 of the Regulations. The very purpose and rationale of the aforesaid special provision was only to consider such like circumstances. When the respondent-Board failed to consider grievance of the petitioner on its own then this Court had passed a direction but still the respondent-Board failed to consider the same and rather no reference was made to the aforesaid Clause 36. This Court is of the considered view that the respondent-Board has failed to exercise its jurisdiction and has also *prima facie* violated the orders of this Court.

17. Learned counsel for the petitioner has also referred to a judgment of Hon'ble Supreme Court in ***Shri Krishna vs. Kurukshetra University Kurukshetra (supra)***. In the present case Clause 4-A (iii) provides that if a pupil-teacher's attendance at the college/Institution up to the date of submission of names to the Board for examination falls short of the required attendance, the Head of the College/Institution should submit his/her name for examination to the Board provisionally. If the pupil-teacher has not completed the required percentage by the 14th day preceding the first day of the examination, the Head of the College/Institution should report to the Board authorities with regard to his/her admission in the examination being disallowed. It is further provided that to determine the 14th day before the examination, 14 will be subtracted from the figure representing the date on which the examination commences. It is further provided in Clause 4-A (iv) that if a pupil-teacher whose name is struck off the roll of a college/institution after sending up his/her examination form ceases to be eligible for the examination. In the present case, the aforesaid report was sent by the college to the respondent-Board but still the Board issued the roll number and the



stand taken by the respondent-Board here is that it was a mistake of the respondent-Board. Therefore once a roll number had been issued to the petitioner and she took the examination then the argument of shortage of attendance has to be outrightly rejected. Apart from the above rather the petitioner was permitted to attend the classes for second year which she attended to the extent of 86%.

18. Para Nos. 6 and 7 of the aforesaid judgment in ***Shri Krishna vs. Kurukshetra University Kurukshetra (supra)*** are reproduced as under:-

“6. Mr. Sibal, learned Counsel for the appellant submitted two points before us. In the first place it was argued that once appellant was allowed to appear at LL.B. Part II examination held on May 19, 1973 his candidature could not be withdrawn for any reason whatsoever in view of the mandatory provisions of Clause 2(b) of the Kurukshetra University Calender Vol. I, Ordinance X under which the candidature could be withdrawn before the candidate took the examination. Secondly it was argued that the order of the University was mala fide because the real reason for cancelling the candidature of the appellant was the insistence of the District Education Officer that the appellant should not have been admitted to the Law Faculty unless he had obtained the permission of his superior officers. In order to appreciate the first contention it may be necessary to extract the relevant portions of the statute contained in Kurukshetra University Calender Volume I, Ordinance X. Clause 2 of this Ordinance runs as follows:

2. The following certificates, signed by the Principal of the College/Head of the Department concerned, shall be required from each applicant:

(a) that the candidate has satisfied him by the production of the certificate of a competent authority that he has passed the examinations which qualified him for admission to the examination; and



(b) that he has attended a regular course of study for the prescribed number of academic years.

Certificate (b) will be provisional and can be withdrawn at any time before the examination if the applicant fails to attend the prescribed course of lectures before the end of his term.

The last part of this statute clearly shows that the University could withdraw the certificate if the applicant had failed to attend the prescribed course of lectures. But this could be done only before the examination. It is, therefore, manifest that once the appellant was allowed to take the examination, rightly or wrongly, then the statute which empowers the University to withdraw the candidature of the applicant has worked itself out and the applicant cannot be refused admission subsequently for any infirmity which should have been looked into before giving the applicant permission to appear. It was, however, submitted by Mr. Nandy learned Counsel for the respondent that the names of the candidates who were short of percentage were displayed on the notice board of the college and the appellant was fully aware of the same and yet he did not draw the attention of the university authorities when he applied for admission to appear in LL.B Part II Examination, Thus the appellant was guilty of committing serious fraud and was not entitled to any indulgence from this Court.

7. *It appears from the averments made in the counter-affidavit that according to the procedure prevalent in the College the admission forms are forwarded by the Head of the Department in December preceding the year when the Examination is held. In the instant case the admission form of the appellant must have been forwarded in December 1971 whereas the examination was to take place in April/May 1972. It is obvious that during this period of four to five months it was the duty of the University authorities to scrutinise the form in order to find out whether it was in order. Equally it was the duty of the Head of the Department of Law*



before submitting the form to the University to see that the form complied with all the requirements of law. If neither the Head of the Department nor the University authorities took care to scrutinise the admission form, then the question of the appellant committing a fraud did not arise. It is well settled that where a person on whom fraud is committed is in a position to discover the truth by due diligence, fraud is not proved. It was neither a case of suggestio falsi, or suppressio veri. The appellant never wrote to the University authorities that he had attended the prescribed number of lectures. There was ample time and opportunity for the University authorities to have found out the defect. In these circumstances, therefore, if the University authorities acquiesced in the infirmities which the admission form contained and allowed the appellant to appear in part I Examination in April, 1972, then by force of the University Statute the University had no power to withdraw the candidature of the appellant. A somewhat similar situation arose in Premji Bhai Ganesh Bhai Kshatriya v. Vice Chancellor, Ravishankar University, Raipur, where a Division Bench of the High Court of Madhya Pradesh observed as follows:

From the provisions of Ordinance Nos.19 and 48 it is clear that the scrutiny as to the requisite attendance of the candidates is required to be made before the admission cards are issued. Once the admission cards are issued permitting the candidates to take their examination, there is no provision in Ordinance No. 19 or Ordinance No. 48 which, would enable the Vice-Chancellor to withdraw the permission. The discretion having been clearly exercised in favour of the petitioner by permitting him to appear at the examination, it was not open to the Vice-Chancellor to withdraw that permission subsequently and to withhold his result.

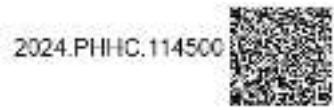
We find ourselves in complete agreement with the reasons given by the Madhya Pradesh High Court and the view of law taken by the learned Judges. In these circumstances, therefore, once the



appellant was allowed to appear at the Examination in May 1973, the respondents had no jurisdiction to cancel his candidature for that examination. This was not a case where on the undertaking given by a candidate for fulfilment of a specified condition a provisional admission was given by the University to appear at the examination which could be withdrawn at any moment on the non-fulfilment of the aforesaid condition. If this was the situation then the candidate himself would have contracted out of the statute which was for his benefit and the statute therefore would not have stood in the way of the University authorities in cancelling the candidature of the appellant.”

19. Not only this, there is no provision under the aforesaid Regulations as pointed out by learned counsel for the parties, whereby once the petitioner has been permitted to take examination and promoted to the next class then on the ground of shortage of attendance, the result of the petitioner can be cancelled. In the absence of any such provision, the action of the respondent-Board now to have passed Annexure P-9 is absolutely without the authority of law.

20. In view of the aforesaid facts and circumstances of the present case, the present petition is allowed. Impugned order (Annexure P-9) is hereby set aside and quashed. The respondent-Board is directed to declare the result of the petitioner pertaining to first year and also of the second year and thereafter in case petitioner passes the examinations then to confer her Diploma in accordance with law. However, in case of any reappear etc., then the petitioner shall be entitled for reappearing without raising of any technical objections pertaining to shortage of lectures or delay in applying by lapse of time etc.



21. Considering the peculiar facts and circumstances of the present case whereby the present is the second round of litigation by which the petitioner has knocked the doors of this Court for redressal of her grievances and despite directions issued by this Court when the respondent-Board had taken up the matter for decision vide Mark ‘X’, the respondent-Board had not passed the order in accordance with the directions issued by this Court on 18.12.2019 by not even referring to Clause 36 of the Regulations and in this way although the action of the Board was *prima facie* contemptuous in nature but considering the facts and circumstances of the present case and by taking a lenient view, instead of initiating contempt proceedings against the respondent-Board, this Court deems it fit and proper to impose exemplary costs upon the respondent-board which are assessed as Rs.1,00,000/- (Rupees one lac only) which shall be paid by the respondent-Board to the petitioner within a period of four months from today. In case the aforesaid costs are not paid to the petitioner within the aforesaid stipulated time frame, then the petitioner shall be entitled for interest on the same @6% per annum (simple).

(JASGURPREET SINGH PURI)
JUDGE

29.08.2024
shweta

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No