

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.8381 of 2015 (O&M)
Date of decision: 09.12.2015

Naresh Kumar ... Petitioner
Vs.

Maharishi Dayanand University, Rohtak ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Sunil Kumar Nehra, Advocate, for
Mr. Rakesh Nehra, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner-plaintiff is aggrieved of the concurrent findings of both the Courts below, whereby, the application under Order 39 Rule 1 and 2 of the Code of Civil Procedure, seeking interim relief *vis-a-vis* appearance in examination, has been dismissed.

Mr. Sunil Kumar Nehra, learned counsel appearing on behalf of the petitioner-plaintiff submits that the petitioner-plaintiff was constrained to file a civil suit for declaration and permanent injunction challenging the order dated 01.10.2015 with consequential relief of permanent injunction to implement the letter and mandatory

injunction directing the respondent-defendants to allow the plaintiff to continue to attend classes and appear in the examination and declaration of result. Along with aforementioned suit, application seeking interim relief was filed. He further submits that Registrar was not competent to pass a rustication order. It is the Vice Chancellor of the University, who was competent. Even otherwise, the findings have been rendered by both the Courts below that the petitioner was not employee of the University while seeking the admission resultantly, order of rustication has erroneously been passed. He had not concealed information while seeking admission. Since the examination of the LLB is on, in case, the interim relief is not granted, he would be non-suited in not attending the examination and his valuable time would be wasted.

I have heard learned counsel for the petitioner-plaintiff and appraised the paper book.

In my view, the relief sought tantamounts to decreetal of suit. At the best, the petitioner-plaintiff will be entitled to claim damages as per provisions of Section 41(h) of the Specific Relief Act. In case, he succeeds in setting aside order of rustication, but, not in the manner and mode sought before the Courts below and before this Court. Both the Courts below held that nothing observed in the orders shall be construed as an expression of opinion on the merits of the case.

In view of the aforementioned observations, I do not

intend to differ with the impugned order declining the interim injunction cannot be said to have been passed without jurisdiction.

There is no merit in the revision petition.

Accordingly, the revision petition is dismissed.

(AMIT RAWAL)
JUDGE

December 09, 2015
savita