

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.12531 of 2015
Decided on : 05.10.2015**

Sumit Sehgal

... Petitioner

Versus

Guru Ravidas Ayurved University and another

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Padamkant Dwivedi, Advocate
for the petitioner.

Mr. T.S. Chauhan, Advocate and
Mr. Satnam Chauhan, Advocate
for respondent-university.

G.S. Sandhawalia , J. (Oral)

The petitioner seeks quashing of the letter dated 24.04.2015 (Annexure P-3), whereby the petitioner was denied the mercy chance by the respondent No.1-University, on the ground that being a student of BAMS 2nd Prof. he has a re-appear in more than one subject was not entitled for the said benefit.

Counsel for the petitioner specifically submitted that the un-amended provisions of the ordinance would be applicable to him and not the amended provisions which came into force from 'May-June 2015 Examinations' as per the decision dated 27.03.2015 (Annexure P-2) in which even students of all professionals have been provided for a right of mercy chance, subject to certain conditions. The un-amended provisions reads as under:-

“9. First Professional Examination (shall be held on such dates so that the examination is completed by the end of one year and six months).

(i) (a) The 1st Professional period shall be 18 months duration and the examination shall ordinarily be completed by the end of December. The supplementary examination of 1st Professional shall be held every six months.

(b) Any candidate who fails to clear all the subjects of First Professional examination in four consecutive attempts including the first attempt in which he/she was eligible to appear shall not be allowed to continue his/her studies in BAMS course. However, a mercy chance may be allowed by the Vice Chancellor at his discretion.

(c) Any candidate who fails in one or more subjects in his/her first attempt shall be permitted to attend classes in Second Professional BAMS Course but he/she shall not be entitled to appear in 2nd Prof. Examination unless he has completed 18 months of study in 2nd Profession and has passed the first professional examination at least 6 months before.”

A perusal of the above would go on to show that as per Clause (b) only a student of the First Professional examination is entitled for a mercy chance at the discretion of the Vice-Chancellor. The said issue was examined by the Division Bench of this Court in **LPA No.769 of 2015** titled as **'Keshav Bajaj Vs. Guru Ravidas Ayurved University and another'** decided on **26.05.2015**, which was against the judgment dated 19.12.2014 (Annexure P-7), wherein a bunch of case has been decided and one of the writ petition was dismissed. The relief had been

declined on the ground that a second mercy chance was being asked for. The Division Bench came to the conclusion that the University cannot be directed to grant mercy chance to the appellant of the 2nd Professional in the absence of any regulation on the ground of equity. The relevant portion reads as under:-

“We find that in the absence of any Regulation granting mercy chance to the students of 2nd or 3rd Professional examination, the action of the University in granting mercy chance may be a beneficial act without any support of statutory provision. The University cannot be directed to grant mercy chance to the appellant in the absence of any Regulation on the ground of equity.

It is well settled that there cannot be any parity in the illegality. Reference may be made to judgment of Hon’ble Supreme Court reported as (1995) 1 SCC 745 titled Chandigarh Administration and another v. Jagjit Singh and another.

In view thereof, we do not find any merit in the present Letters Patent Appeal.

Dismissed.”

It is further pointed out by the counsel for the University that the order has been upheld by the Apex Court on 23.06.2015.

In such circumstances, no writ of mandamus can be for direction that a mercy chance be provided in the absence of any specific provision. Accordingly, present writ petition is dismissed.

OCTOBER 05, 2015
Naveen

(G.S. SANDHAWALIA)
JUDGE