

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

CWP No.21608 of 2014
Date of Decision:07.04.2015

Sukhdip Kaur

. . . .Petitioner

Versus

Kurukshetra University, Kurukshetra and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Anuj Balyan, Advocate,
for the petitioner.

Mr.Mohinder Singh, Advocate,
for respondent Nos.1 & 3.

Mr.R.S. Cheema, Advocate,
for respondent No.2.

RAKESH KUMAR JAIN, J.

The petitioner has prayed for the issuance of a writ in the nature of certiorari for quashing order dated 18.9.2014 passed by respondent No.1 and notice dated 26.9.2014 published by respondent No.2 by which her admission in the B.Sc. (Fashion Designing) course has been cancelled and her name has been struck off from the college rolls.

In brief, the petitioner passed her 10+2 examination from the Punjab School Education Board in March 2004 with 41.77% marks. Respondent No.2/College was granted provisional affiliation by respondent No.1/University to start various courses including B.Sc. (Fashion Designing) vide its letter dated 6.7.2012 and

respondent No.2 received the provisional 'No Objection Certificate' for starting the said course from the Department of Higher Education, Haryana on 25.6.2012. Respondent No.2 offered the course of B.Sc. (Fashion Designing) in the session 2013-14 and in its prospectus laid following qualifications: -

*"For B.Sc. (Fashion Designing) Part-I:
(Semester-I)*

a) Senior Secondary Certificate Examination from Board of School Education, Haryana (10+2) in any stream i.e. Arts/Science/ Commerce.

OR

*Any other Examination recognized by the Academic Council as equivalent to
(a)*

b) English as one of the subjects in qualifying examination.

c) At least 40% marks in aggregate in qualifying examination."

The petitioner got the admission as she was having 41.77% marks in 10+2 (qualifying examination). The B.Sc. (Fashion Designing) course is of three academic years' comprising of six semesters. Each academic year is divided into two semesters i.e. July to December and January to May/June. The petitioner passed her 1st and 2nd semesters and got admission in the 3rd semester. During this time, she came to know that her admission has been cancelled by respondent No.1 on 18.9.2014 and a notice in that regard has been published by respondent No.2 on 26.9.2014, therefore, the present writ petition was filed in which the operation of the impugned order was stayed on 17.10.2014.

Respondents No.1 & 3 and respondent No.2 filed their separate replies.

In reply filed by respondents No.1 & 3, it is averred that the petitioner was not legally entitled for admission because she was not fulfilling the required qualification as per the Calendar of Kurukshetra University, Kurukshetra Volume II, which is reproduced as under: -

*“ORDINANCE-BACHELOR OF SCIENCE
(B.Sc.) (FASHION DESIGNING)
EXAMINATION (Semester System)*

1.1 The duration of the course of instruction for award of B.Sc. (Fashion Designing) Degree shall be three academic years, comprising of six Semesters. Each academic year shall be divided into two Semesters i.e. July to December and January to May/ June.

1.2 Examinations for the First, Third and Fifth Semesters shall be held in December/ January and for the second, fourth and sixth semesters in May/ June.

1.3 The dates of examination fixed under above clause shall be notified by the Controller of Examinations to all concerned

2. The last date(s) by which examination forms and fees must reach the Examination Enquiry shall be as per schedule at Appendix-I in K.U. Cal. Volume II

3. A candidate who has passed Senior Secondary Certificate Examination

(10+2 Standard) from any stream from the Board of School Education, Haryana or its equivalent examination with 45% marks in aggregate, shall be eligible to join the First Semester of B.Sc. (Fashion Designing) Course.”

It is further averred that the petitioner was given provisional admission in May, 2013 under Roll No.131754 in the College of respondent No.2, who did not submit all her documents to the University for registration despite the fact that respondents No.1 had asked for attested copy of Detailed Marks Certificate (DMC) vide letter dated 26.11.2013 and thereafter sent various reminders vide letters dated 11.6.2014, 7.7.2014, 8.7.2014 and 26.7.2014. It is further averred that respondent No.2 submitted the required document on 29.8.2014 as per which the petitioner was not qualified to take admission in the B.Sc. (Fashion Designing) course and as a result thereof, respondent No.1 issued the cancellation order dated 18.9.2014. It is further averred that vide letter dated 2.7.2013, the instructions were issued that *“it is the sole responsibility of the Principle/ Chairman of the college/ department concerned to check the percentage of marks before admission in case of such students who are already registered and whose particulars are sent on Regn. Forum RF-6. Entire responsibility for any wrong/ irregular promotion without finalization of eligibility of the lower class and appearance of such ineligible student in the examination of next will rest upon the Principle/ Chairman of the college/ department concerned”*

It is further averred that the admission of the petitioner in the 1st semester was provisional and had not been regularized by the University.

In reply filed by respondent No.2, it is averred that the eligibility condition of 40% at 10+2 level has been mentioned by them in the prospectus for the year 2013-14 because no eligibility conditions/guidelines were sent by respondent No.3 for more than one year and the respondent No.2, after considering the prospectus of another college, namely, DAV College for Girls, Yamuna Nagar, where this course was already there, prescribed the minimum qualification of 40%. In this regard, the relevant portion of prospectus of DAV College for Girls, Yamuna Nagar, mentioned in the reply filed by respondent No.2, is reproduced as under: -

“B.Sc. (Fashion Designing)

A candidate who has passed Senior Secondary Certificate Examination (10+2 standard) of Board of School Education, Haryana (any stream-Arts, Science, Commerce)/ B.Sc.-I Home Science examination holder old scheme of Kurukshetra University or any other examination recognized by the Academic Council as equivalent thereto with at least 40% marks in the aggregate and with English as one of the subjects, shall be eligible to join the first year (Part-I) of this course.”

It is also averred that respondent No.2 is a grant-in-aid college, charging fee, permitted by the State Government and the University, would not commit the mistake deliberately to make

money by charging hefty fees from the students and has alleged that it was the case of oversight and inadvertence on their part.

Learned counsel for the petitioner has submitted that the petitioner did not mislead or conceal anything at the time of seeking admission as she was duly eligible having more than the qualifying marks and was not aware of the minimum percentage prescribed by the University in its regulations. The admission was sought by the petitioner on the basis of the qualification prescribed in the prospectus of the college. It is also submitted that if there is any fault, it is on the part of the College, who did not submit her attested/photocopy of the DMC of 10+2 examination despite various reminders by the University as alleged and in the meantime, she had cleared two semesters out of 6 semesters and cancellation of her admission at this stage is totally unreasonable and arbitrary.

On the other hand, learned counsel for respondents No.1 & 3 has argued that the petitioner was not eligible for seeking admission in the course because she was not having qualifying marks of 45% in aggregate when she took the admission in May, 2013. It is also submitted that instructions were issued on 2.7.2013 to the College that it would be its sole responsibility to check the percentage marks before the admission in case of such students, who are already registered and whose particulars are not sent on registration form. It is further argued that the college was asked to send the attested copy of DMC of the petitioner on 26.11.2013 and despite various reminders, the document was sent by the college on 9.8.2014, therefore, it is submitted that the University is not at fault and the entire fault lies with the college. While justifying the cancellation of admission of the petitioner, it is also submitted that

the petitioner was given provisional admission subject to verification of the documents and even if she had passed two semesters as alleged, it would not give her a right to continue the course.

Learned counsel for respondent No.2 has submitted that respondents No.1 & 3 did not provide them the eligibility criteria, therefore, they had to bank upon the eligibility criteria which was already there in the prospectus of DAV College for Girls, Yamuna Nagar, where the said course is also there and has alleged that it was a case of unintentional error on their part.

After hearing learned counsel for the parties and examining the record, I am of the considered opinion that no fault can be attributed to the petitioner, who had taken admission on the basis of qualification prescribed in the prospectus of the college in which the minimum qualification was 40% marks in aggregate in the qualifying examination and the petitioner, who was having 41.77% marks in her qualifying examination, candidly brought it to the notice of the college, when she was granted admission and it was the fault of the college, who did not submit her attested copy of the DMC to the University despite various reminders by the University to the college, not published the prospectus as per the guidelines of the University and during that period the petitioner had completed 1st year of the course.

In these circumstances, the equity is in favour of the petitioner, who deserves to be helped, in the peculiar facts and circumstances of the case, as she neither concealed nor misrepresented any fact, at the time of taking admission.

Thus, in view of the aforesaid facts and circumstances, I am of the considered opinion that the impugned orders are arbitrary

and unreasonable and as such the letter dated 18.9.2014 (Annexure P-5) and notice dated 26.9.2014 (Annexure P-6) are hereby quashed and the admission of the petitioner is ordered to be regularized.

07.04.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**