

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

CWP No.23885 of 2014
Date of Decision:01.04.2015

Yogender

. . . .Petitioner

Versus

Board of School Education Haryana and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Ashish Pannu, Advocate,
for the petitioner.

Mr.D.K. Khanna, Advocate,
for the respondents.

RAKESH KUMAR JAIN, J.

The petitioner has prayed for a writ in the nature of mandamus, seeking a direction to the respondents to allow him to appear in the 2nd Semester of Diploma in Education [D.Ed.] and to declare his overall result of Diploma in Education course, in case he successfully clear the examination of 2nd semester.

In brief, the petitioner took admission in Diploma in Education [D.Ed.] in the year 2010 in respondent No.2/college. The respondent No.1/Board controls the examination process. The petitioner appeared in the 1st semester examination in April 2011 in which he secured 856 marks out of total 1100 marks and was declared pass in July, 2011. He was promoted to 2nd semester and while he was appearing in the examination of 2nd semester in October, 2011 under Roll No.5210180703, he was caught using

unfair means in the last paper of the said semester and was disqualified for one year. The petitioner has alleged that he took admission in 3rd semester in December, 2011 but was not allowed to sit in the examination as he was disqualified for one year. In July, 2012 he took admission in the 4th semester and attended classes. He also applied for teaching practice session (20 days during 4th semester) and internship (180 days after commencement of 4th semester examination) and was allotted Government Public School Gannaur (Sonapat). The petitioner appeared in 3rd semester in October, 2012 as a re-appear student under Roll No.5310180703 and secured 817 marks out of 1100 marks. He also appeared in the 4th semester examination under Roll No.5410180703 and secured 1044 marks out of 1300 marks. It is alleged that he had cleared 1st, 3rd and 4th semesters and also completed his internship. The petitioner alleged to have qualified Central Teacher Eligibility Test (CTET) and Haryana Teacher Eligibility Test (HTET) in the month of July, 2013. Since, he did not qualify the 2nd semester, therefore, he applied for it in September, 2013 for the re-appear examination which was to be held in October, 2013 but surprised to receive the roll number to appear in 3rd Semester instead of 2nd semester. He approached the Board/respondent No.1 in January, 2014 and also served detailed representation but not allowed to appear in the examination which was to be held in September, 2014, therefore, the present writ petition has been filed with the prayers mentioned in the beginning of this order.

After notice, respondent No.1 has filed its reply, in which it is alleged that the petitioner was disqualified for a period of one year i.e. upto October, 2012 for using unfair means in the 2nd

semester examination held in October, 2011. It is further alleged that the petitioner did not take his examination of the 2nd semester in the two chances immediately after 2012, therefore, he was not entitled to appear in 2nd semester and in this regard it is averred that as per Section 19 of the Board of School Education, Act, 1969 [for short 'the Act'], the Board has framed Diploma in Education Regulations [for short 'the Regulations'] and Regulation 24(B)(iv) of the Regulations contains that *"such pupil teacher after having promoted provisionally framed 1st Semester to 2nd Semester and 2nd semester to 3rd semester without qualifying the examination of lower semester shall have to qualify those courses in which he/she has earned re-appear, within immediate next consecutive two chances in the subsequent examination failing which he/she will be declared unfit to pursue the Diploma in Education"*. It is further averred that since the petitioner did not clear 2nd semester examination in terms of the above Regulations, therefore, he was not eligible to take 3rd and 4th semester examinations but respondent No.2 not only allowed the petitioner to continue his studies in 3rd and 4th semester but also irregularly forwarded his admission form for the said semester examinations to the Board though the Regulation 4(B)(ii)(b) of the Regulations requires that while sending admission form of the student to the Board, the Head of the Institution is required to record a certificate *"that the Pupil Teacher is eligible to appear in the examination under the Regulations prescribed for the examination concerned"*. It is also averred that though the School fully knew that the petitioner had not passed the 2nd semester and was not eligible to take the examination of 3rd and 4th semester, forwarded his admission form for these semester examinations after recording a

certificate of eligibility. Respondent No.1/Board in routine accepted the certificate of the School/respondent No.2 about the eligibility of the petitioner and allowed him to appear in 3rd and 4th semester examinations. It is also averred that it was the entire responsibility of respondent No.2 to ensure the eligibility of the candidate while sending admission form which is accepted in routine on the basis of its certificate and the candidate is allowed to appear in the semester examination. Respondent No.2 alleged to have misled the Board/respondent No.1 by sending the admission form of 3rd and 4th semesters but when the irregularity came into the notice of the Board, the result of the petitioner for 3rd and 4th semesters was quashed vide notification dated 4.6.2014 and before that an opportunity of personal hearing was given to both the petitioner and respondent No.2.

I have heard both the learned counsel for the parties and perused the record.

The facts are not in dispute that the result of the petitioner for 3rd and 4th semesters has already been quashed on 4.6.2014 but the petitioner while filing this petition on 20.11.2014, concealed this fact and as a matter of fact did not challenge the order of quashing his result of 3rd and 4th semester and has only sought a mandamus. Moreover, the petitioner was also not entitled to appear in 3rd and 4th semesters examinations as he had not cleared the examination of 2nd semester and cleared 3rd and 4th semester with the connivance of respondent No.2, who was fully aware that the petitioner had not cleared the 2nd semester but still certified his eligibility.

In these facts and circumstances, the equity does not lie with the petitioner. The petitioner should have cleared the 2nd semester examination in the year 2013 after the disqualification period was over in October 2012 but he has tried to appear in the 2nd semester examination in September 2014 in violation of Regulation 24(D)(iv).

Thus, in view of the above, I do not find any merit in the present writ petition and the same is thus hereby dismissed.

01.04.2015*Vivek***(RAKESH KUMAR JAIN)
JUDGE**