

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

**CWP NO. 24027 OF 2014
Date of decision: 19.05.2015**

Robin Bhatti

.....Petitioner

versus

Guru Nanak Dev University and others

.....Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Manmeet Singh Rana, Advocate
for the petitioner.

Mr. Amrit Paul, Advocate

for respondent Nos. 1 and 2.

Mr. Vaibhav Sehgal, Advocate
for respondent No. 3.

Rakesh Kumar Jain, J.(Oral)

The petitioner has prayed for a writ in the nature of mandamus directing respondent Nos. 1 to 3 to issue Roll No. to appear in the B.Com (Regular) Ist semester which was to commence on 28.11.2014, denied by respondent Nos. 1 to 3 on the ground that the certificate of 10+2 class issued by respondent No. 4 was not equivalent to the certificate issued by Punjab School Education Board(PSEB)/Central Board of Secondary Education(CBSE).

The brief facts of the case are that petitioner had passed 10+2 from respondent No. 4 in March, 2014. Thereafter, he got admission in Bachelor of Commerce (Regular) in DAV, College, Jalandhar/respondent No. 3 in July 2014. The petitioner deposited fee of ₹ 10,000/- on 7.07.2014 and ₹ 19,200/- on 21.10.2014. After that he was given admission and issued enrollment no. 22131 and college Roll No. 4382. Since the petitioner

was not issued Roll No. by respondent Nos. 1 and 3 for his appearance in the Ist semester examination which was scheduled to be held from 28.11.2014, the present petition was filed in which notice was issued on 25.11.2014 and he was provisionally allowed to take the examination, making it clear to him that it will not secure to him a vested right to have his marks declared without proof of the equivalence which he seeks for his education.

It is also submitted that the petitioner has also deposited ₹10,000/- towards tuition fee for the IInd semester and was quite sanguine and he would be issued Roll No. by respondent Nos. 1 and 2 for appearing in the test which was scheduled to be held on 28.11.2014 and for the purpose of appearing in the IInd semester test which was scheduled to be held on 18.05.2015. It is thus, argued that the action of the respondent is totally arbitrary, illegal and unreasonable because the valuable right of the petitioner has been infringed. In the reply, respondent Nos. 1 and 2 have averred that respondent No. 4 is not a recognised board and in this regard, instructions were issued on 6.06.214 to all the affiliated colleges including respondent No. 3 not to give admission to the students who have cleared 10+2 examination from respondent No. 4. Despite that, respondent No. 3 granted admission to the petitioner for which the answering respondent Nos. 1 and 2 can not be blamed.

Counsel for the respondent has further drew attention of the Court to an order passed by this Court in **CWP No. 20150 of 2011** which reads as follows:-

“Meanwhile, it shall be ensured as an interim

measure that the professional and educational

institutions located in the State of Punjab or Haryana do not admit the students who have completed the alleged 10+2 qualification from respondent No. 4-Council. These directions are being issued in the interest of vulnerable young students who are likely to be allured by respondent No. 4 though ex-facie it does not have statutory recognition or approval from the appropriate Government(s).

Let a copy of this order be sent to the Advocate Generals of the States of Punjab and Haryana as well as their respective Chief Secretaries for information and necessary compliance.”

The aforesaid order was upheld by a Division Bench of this Court in **LPA No. 2289 of 2011** decided on 15.12.2011. It is further submitted by counsel for the respondent that The Punjab School Education Board (Amendment) Ordinance, 2013 (Punjab Ordinance No.7 of 2013) vide notification dated 30.08.2013 has also provided that:-

“(1-A) No other authority (by whatever name it may be called), except the Board, shall be competent to perform the functions, as mentioned in clause (iii) of sub-section (1) of section 17 of this Act:

Provided that an authority, approved and authorized by the Government of India to which institutions situated in the State of Punjab are affiliated, shall also be competent to perform the said functions.”

The vires of this provision were challenged in the writ petition bearing **CWP No. 24349 of 2013** titled as **Counsel of Secondary Education (a registered Society), SCF 61-62, Industrial Area, Phase-VII, SAS Nagar versus State of Punjab and others 2014(2) S.C.T. 403**, which was dismissed by this Court on 8.11.2013 while upholding the ordinance observing thus:-

“It has been admitted by the petitioner in the writ petition that as per the information supplied by the respondent-Board, it recognizes and grants equivalence only to those boards which fulfil the main criteria of it being formed/constituted by an Act and/or must be recognized and be a member of COBSE. It is further an admission on the part of the petitioner-Council that the condition for recognizing a Board as a member of CBSE stands prescribed and in pursuance thereto, petitioner-Council had approached the said entity which has rejected the application, vide letter dated 28.3.2012, which decision stands challenged in Civil Writ Petition No. 8353 of 2013, which is still pending. We thus, are refraining from commenting upon the submissions of the learned senior counsel for the petitioner with regard to seeking and claiming parity with CBSE and ICSE being a society similarly registered under the Societies Registration Act, 1860 except that CBSE and ICSE stand recognized and thus finds mention in the list

posted on the website of the Union of India list of all recognized boards and this is so because they have been listed as bodies conducting public examination in the Delhi School Education Act, 1973 and therefore, have statutory backing and for this reason would stand on a different footing than the petitioner-Council.”

I have heard counsel for the parties and after examining the record, am of the considered opinion that certificate obtained by the petitioner of 10+2 from respondent No. 4 is not equivalent to the certificate issued by the PSEB/CBSE as per the ordinance, referred to above. No relief can be granted to the petitioner in this petition for the purpose of issuance of Roll No. and since the examination has been taken by the petitioner under the order of this Court in which it was already made clear that it will not secure him a vested right to have his marks declared without proof of the equivalence, the said examination taken by the petitioner has also become redundant.

In view thereof, this petition is hereby dismissed. While parting, counsel for the petitioner has submitted that since there was no fault on the part of the petitioner who has been cheated by respondent No. 4 without disclosing that it is not a recognised body for the purpose of imparting education like that of PSEB/CBSE, therefore, respondent No. 4 may be directed to refund his fee. Since the petitioner is not at fault as respondent No. 2/University had already informed all the colleges affiliated with it, not to give admission to such students who have obtained certificate of 10+2 from respondent No. 4, yet respondent No. 3 ventured to

give admission to the petitioner and spoiled one year of his education besides the fee he had paid. Therefore, in these facts and circumstances, respondent No. 3 is directed to refund the entire tuition fee of the petitioner of Ist and IInd semester both within a period of one month from the date of production of a certified copy of this order, alongwith a cost of ₹ 15,000/-, as well.

19th May, 2015**Shivani Kaushik****[Rakesh Kumar Jain]
Judge**