

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

CWP No.6968 of 2015
Date of Decision: 16.07.2015

Bimla Devi

. . . .Petitioner

Versus

Board of school Education, Haryana and another

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Ashok Kaushik, Advocate,
for the petitioner.

Mr.D.K. Khanna, Advocate,
for respondent No.1.

Mr.Ramandeep Singh, Advocate,
for respondent No.2.

RAKESH KUMAR JAIN, J.

The petitioner got admission in the respondent No.2/college in 2 year D.Ed. Course in the session 2012-2014. The petitioner failed in the subject Hindi (code 102) in the 1st semester. She failed to reappear in 2nd semester and 3rd semester in the said subject though she passed 2nd and 3rd semester. It is alleged that she has not been allowed to appear in the 4th semester as well as re-exam of 1st semester. She has approached this Court for direction to the respondents to allow her to appear in Hindi Subject (Code 102) of the 1st semester and all the examinations of the 4th semester.

At the time of notice of motion, the petitioner was allowed provisionally to appear in the re-exam of 1st semester and exam of 4th semester subject to the final out come of the writ petition.

In the reply filed by the Board/respondent No.1, it is alleged that Diploma in Education is governed by the 'D.Ed. Examination Regulation'. The petitioner appeared in the 1st semester examination in Feb, 2013 and was placed in the category of 'Re-appear'. According to the Regulation No.24(B)(iv) of the D.Ed. Examination Regulation [for short 'the Regulations'], the petitioner was required to clear re-appear in the next consecutive two chances. She appeared in the re-appear exam in August 2013 but failed and in the second chance of the re-appear examination held in Feb. 2014, the petitioner did not appear and remained absent, therefore, she had exhausted both the chances of re-appear. It is also averred that as per Regulation No.24(B)(v) of the Regulations, the chairperson of the Board is competent to grant an extra chance to such a student, in exceptional circumstances, but the said chance can be given immediately next to the two chances availed by such a student. Since, the second chance was given to the petitioner in Feb. 2014 which she did not avail, the mercy chance was available to the petitioner in July, 2014 but the said chance was also not availed by the petitioner as she never submitted any application. It is also averred that the petitioner has otherwise sent a representation on 19.12.2014 through her father in which it was prayed that the petitioner may be allowed to re-appear in the 1st semester and other examinations of the 4th semester but the said application was considered and rejected without being of any merit.

In reply filed by respondent No.2, it is averred that the Code DE-102 has been wrongly claimed as the petitioner had appeared in the two subjects of the 1st semester in Feb. 2013 i.e. DE-102 (Education, Society, Curriculum and Learners) and DE-103 (Contemporary Indian Society). She passed DE-103 (Contemporary Indian Society) in August, 2013 but was either failed or absent in DE-102 (Education, Society, Curriculum and Learners). It was alleged that the allegation that her roll number was not issued in time was baseless. She appeared in the 2nd semester examination and got a re-appear which she cleared in April, 2014 along with 3rd semester. After that she never filled the examination for DE-102 (Education, Society, Curriculum and Learners) and hence her chance had lapsed as per rules of Board of School Education Haryana, due to her own negligence.

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

The petitioner has relied upon Regulation No. 24(b)(iv) of the Regulations for claiming extra chance in exceptional circumstance but before that it would be relevant to refer to Regulation 24(B)(iv) and 24(B)(v) of the Regulations, which are reproduced as under: -

“Regulation No.24(B)(iv) – *Such pupil teacher having promoted provisionally from 1st semester to 2nd semester and 2nd to 3rd semester without qualifying the examination of lower semester, shall have to qualify these 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.”

“Regulation No.24(B)(v) – *Such pupil teacher whose backlog of re-appear of 1st or / and 2nd semesters remained of only one course even after availing two chances admissible to him/her, the chairperson of the Board may grant an extra chance to such pupil-teacher in exceptional circumstances to be recorded in writing. However, such extra chance will be immediately next to the aforesaid two chances availed by such pupil-teacher. Such pupil-teacher shall be deemed to be unfit for Diploma-in-Education if he/she still does not qualify in that once course of 1st or / and 2nd semester in the extra chance.”*

There is no dispute that the petitioner had re-appeared in the 1st semester in Code DE-102. As per Regulation No.24(B)(iv) of the Regulations, the student, who is promoted from 1st semester to 2nd semester and 2nd semester to 3rd semester without qualifying the examination of lower semester has to qualify these courses in which he or she has earned re-appear within immediate next consecutive two chances in the subsequent examination. The petitioner failed in Feb-2013 and was placed in ‘re-appear’. The 1st chance was availed by her in the examination held in August, 2013 in which she failed and the 2nd chance was availed in Feb. 2014 in

which she remained absent. Thus, the petitioner had exhausted both the chances and could not clear re-appear examination.

Now comes the turn of mercy chance, which is provided in Regulation 24(B)(v) of the Regulations, which is to be provided by the Chairperson of the Board in exceptional circumstances to be recorded in writing but the said extra chance can be provided by the Chairperson of the Board immediately next to the two chances availed by the students.

There is no dispute that the extra chance was available to the petitioner in July, 2014 but she did not make any application to the Chairman of the Board for seeking the extra chance after exhausting her two chances provided in Regulation 24(B)(iv) of the Regulations and lost her chance to clear the Course.

Thus, in view of the aforesaid facts and circumstances, there is no fault on the part of the respondents and hence, the prayer made by the petitioner in this case cannot be allowed.

Dismissed.

16.07.2015

Vivek

(RAKESH KUMAR JAIN)
JUDGE