

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

CWP No.8434 of 2015
Date of Decision: 05.05.2015

Gurshahbaz Singh

. . . .Petitioner

Versus

State of Punjab and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Saurav Verma, Advocate,
for the petitioner.

Mr.Anant Kataria, AAG, Punjab.

Mr.Siddharth Sharma, Advocate,
for respondent No.2.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner is the student of MBBS in Shri Guru Ram Das Institute of Medical Science and Research, Mehta Road, Vallah Sri Amritsar, affiliated to Baba Farid University of Health Sciences, Sadiq Road, Faridkot. In his 2nd professional examination, held in the month of May/June, 2014, in the subjects of Pathology, Microbiology, Pharmacology and Forensic Medicine, he appeared to have failed in the subject of Pharmacology. Out of 110 marks of theory, he was supposed to secure 55 marks and out of 40 marks of practical he was to secure 20 marks but he could secured 51 marks in theory and 24 marks in practical of Pharmacology. Thus he

passed the practical exam but failed in theory paper by 4 marks, therefore, while invoking the Regulation 11.3.9(i) of the Medical Council of India Regulations on Graduate Medical Education, 2012 [for short 'the Regulations'], it is prayed that a mandamus be issued to the respondents to grant 4 grace marks out of 5 grace marks which can be granted at the discretion of the University to a student who has failed only in one subject.

Counsel for the University has argued that the petitioner has already been granted 3 grace marks in the subject of Microbiology, therefore, he cannot be granted 2 grace marks in the subject of Pharmacology and even if those 2 grace marks are given to the petitioner, he cannot clear the paper.

Respondents have placed on record a letter from the Examination Branch of Baba Farid University of health Sciences, Faridkot, which reads as under: -

“Subject: Reg: Gurshahbaz Singh (CWP No.8434 of 2015)

It is subjected that:

- 1. The aforesaid student Gurshahbaz Singh is a student of SGRD Instt. Of Med. Sci. & Res., Amritsar.*
- 2. The aforesaid student first time appeared in MBBS First Prof. in May/June 2012 and passed with 331/600 marks.*
- 3. The details of appearances in MBBS Second Prof. examination of Gurshahabaz Singh are as under: -*

Roll No.	Session	Result <i>D= Detain</i> <i>R= Reappear</i>	Remarks	Grace Marks <i>awarded/</i> <i>not awarded</i>	Standing <i>Balance</i> <i>Grace</i>
12340234	Nov/Dec 2013	D-MIC, PHA, FOR, R-PAT, May-15	Failed in Pathology by 12 marks in theory	No grace marks awarded	05
12430211	May/June 2014	R-PHA, May-15	1. Failed in Pharmacology by 04 marks in theory. 2. Failed in Microbiology by 03 marks in theory.	03 grace marks awarded in Microbiology to clear the subject	05-03=02
12440300	Nov/Dec 2014	R-PHA, May-15	Failed in Pharmacology by 07 marks in theory	No grace marks awarded	02

4. As per decision of Board of Management vide meeting held on 17.03.2009 “the grace marks upto 05 (five) be given to the best advantage of the student irrespective of Theory or Practical examination in all faculties whereas grace marks are allowed”

It is for your information and necessary action please.

SD/- DEO (Exam)

Sd/- Supdt. (Exams)”

According to the aforesaid letter, the petitioner has failed not only in Pharmacology but also in Microbiology and has already been granted 3 grace marks in Microbiology and cannot be granted any further grace marks in another subject as provided in Regulation 11.3.9(i) of the Regulations which provides that “the grace marks upto a maximum of five marks may be awarded at the discretion of the University to a student who has failed only in one subject but has passed in all other subjects”.

Learned counsel for the petitioner has argued that if the petitioner could be granted grace marks in only one subject then why they have not disclosed it to him earlier despite his application filed under the Right to Information Act, 2005. Had it been done so, he would not have approached this Court and because of the fault on the part of the respondents, the petitioner has been burdened with unnecessary litigation expenses.

After hearing learned counsel for the parties and keeping in view the facts as emerged from the pleadings and the arguments raised before me, I am of the considered opinion that no relief can be given to the petitioner for the purpose of grant of grace marks because the grace marks have already been granted in the subject of Microbiology and as per regulation 11.3.9(i) of the Regulations, grace marks can be granted to a student who has failed only in one subject and passed the other subjects but the petitioner is entitled to litigation expenses because this kind of litigation could have been easily avoided by the respondent, had the information been supplied to the petitioner in advance by the respondents/University, on the application filed by him under the Right to Information Act and his representation.

In view of the above, the present writ petition is hereby dismissed but the respondent/University is saddled with cost of ₹25,000/- to be paid to the petitioner by way of demand draft within a period of one month.

05.05.2015*Vivek***(RAKESH KUMAR JAIN)
JUDGE**