

In the High Court of Punjab and Haryana at Chandigarh

LPA No. 1379 of 2015 (O&M)

Date of Decision: 19.9.2015

**Shaheed Captain D.K.Khola Education and Charitable Trust and
another**

---Appellants

versus

The Maharishi Dayanand University and another

---Respondents

**Coram: Hon'ble Mr. Justice S.S.Saron
Hon'ble Mrs. Justice Rekha Mittal**

**Present: Mr.Pankaj Maini, Advocate
for the appellants**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

S.S.Saron, J.

The Letters Patent Appeal has been filed against the interim order dated 3.9.2015 passed by the learned Single Judge in Civil Writ Petition No. 18543 of 2015.

The appellants filed a writ petition seeking quashing of the minutes of the 247th meeting of the Maharishi Dyanand University- ('University'-for short) respondent No. 1 held on 3.8.2015 (Annexures P-13 and P-22) in terms of which punishment of reduction of seats to half for the Session 2015-2016 had been imposed on both the appellants along with imposition of ₹ 2,00,000/- as fine to each of the appellants.

According to the appellants, the respondent-University has no

right to impose any punishment on the appellants as it is only an affiliating body and imposition of punishment is available with the NCTE as provided for by Section 14 (6) of the National Council for Teacher Education Act, 1993. Therefore, it was prayed that the agenda of the Executive Council's meeting dated 3.8.2015 (Annexures P-13 and P-22) be set aside as against the appellants.

The learned Single Judge vide impugned order declined grant of stay holding that in the present case, reply to the show cause notice had been duly considered.

We have gone through the consideration (Annexure P-13) of the reply to the show cause notice in respect of the appellants and other colleges. Insofar as, the appellants are concerned, the reply to the show cause notice, we may say for the present case, is wholly untenable and does not in any manner answer the irregularities and deficiencies pointed out by the respondent-University. In the circumstances, it was resolved to recommend to the Executive Council that provisional affiliation granted to the appellants-Colleges be withdrawn and the Colleges be put under no admission category from the Session 2015-16.

The Executive Council in respect of Shaheed Captain D.K.Khola Education and Charitable Trust, Zainabad (Rewari)-appellant No. 1 resolved that the college be given opportunity to recruit teaching and non-teaching staff up to 30.9.2015 as per the norms to be revised and to make up other deficiencies up to 31.10.2015. An affidavit for ₹ 100/- duly attested by a Ist class Magistrate was asked to be obtained from appellant No. 1 College to the effect that if they failed to do the needful, the College

would be disaffiliated without giving any notice and the students would be shifted to other colleges and the number of seats in the College for Session 2015-16 would be reduced to half and that a penalty of ₹2,00,000/- would also be imposed on the College.

Insofar as Krishna Adarsh College of Education, Village Bhatwas, Post Office Jatusana, District Rewari-appellant No. 2 is concerned, it was recommended on the basis of the enquiry report and the reply that the provisional affiliation granted to appellant No. 2-College be withdrawn and the College be put under no admission category from the Session 2015-16. The Executive Council vide its resolution dated 3.8.2015 (Annexure P-22) resolved that the College be given opportunity to recruit teaching and non-teaching staff up to 30.9.2015 as per the norms to be revised and to make up other deficiencies up to 31.10.2015. The meeting of the selection committee be convened in the University itself and an affidavit on stamp paper worth ₹ 100/- duly attested by the Ist class Magistrate was asked to be obtained from appellant No. 2 College to the effect that if they failed to do the needful, the college would be disaffiliated without giving any notice and the students would be shifted to other colleges and the number of seats in the College for Session 2015-16 would be reduced to half and that a penalty of ₹2,00,000/- would also be imposed on the College.

Learned counsel for the appellants submits that similar punishments have been imposed on other colleges as well but those colleges have been granted stay by this Court. A reference has been made to the order passed in other cases in which stay has been granted. Learned counsel has taken us through the shortcomings pointed in respect of respondent

No. 1-University and its remarks in some of the cases.

We find that each case is to be considered on its own merits and circumstances as also the irregularities and deficiencies that have been pointed out, besides, the replies given. These cannot be generalized by holding that if stay is granted in one case it is necessarily to be granted in other cases as well. This indeed would depend from case to case. In **Chandigarh Administration and another vs. Jagjit Singh and another** AIR 1995 Supreme Court 705, it was held as follows:-

“Generally speaking, the mere fact that the respondent-authority has passed a particular order in the case of another person similarly situated can never be the ground for issuing a writ in favour of the petitioner on the plea of discrimination. The order in favour of the other person might be legal and valid or it might not be. That has to be investigated first before it can be directed to be followed in the case of the petitioner. If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the respondent-authority to repeat the illegality or to pass another unwarranted order. The extra-ordinary and discretionary power of the High Court cannot be exercised for such a purpose.”

The writ petition is pending before the learned Single Judge and the contentions as raised are to be gone into by the learned Single Judge.

In the circumstances, we find no merit in the appeal and the same is accordingly dismissed. However, nothing stated herein shall be construed as an expression of opinion on the merits of the consideration of the reply (Annexures P-13 and P-22) and the learned Single Judge would consider the same on the basis of material and documents on record independently.

(S.S.Saron)
Judge

(Rekha Mittal)
Judge

19.9.2015

PARAMJIT