

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 23.03.2015

L.P.A.No.2114 of 2014

Sohan Lal

...Appellant

Versus

Kurukshetra University, Kurukshetra & another

...Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Sanjeev Kumar Birla, Advocate, for the appellant.

Mr. A.S.Virk, Advocate, for the respondents.

HEMANT GUPTA, J.

Challenge in the present appeal under Clause X of the Letters Patent is to an order passed by the learned Single Judge of this Court on 12.11.2014, whereby the writ petition filed by the appellant was dismissed.

The appellant as a regular student of Kurukshetra University, Kurukshetra (for short 'the University') passed 1st Semester of M.Com in the examination held in the month of December, 2011; passed 2nd Semester in the examination held in the month of May, 2012 & passed 3rd Semester in the examination held in the month of December, 2012. However, the result of 4th Semester was not declared though the appellant appeared in the examination held in the month of May, 2013.

The stand of the appellant is that he appeared in UGC – National Eligibility Test (NET) held in December, 2012 and cleared the same. Thereafter, when the appellant sought certificate from UGC regarding qualifying the NET, he was asked to submit his Detailed Marks Certificates (DMC) of the M.Com. At that stage, the University refused to issue his DMC

on the pretext that the subjects taken by the appellant are not as per the options given by the University. The stand of the appellant is that he has taken the same subjects in the 4th Semester, as are taken by him in 3rd Semester, therefore, the result of the appellant for 4th Semester is liable to be declared.

In the written statement filed, the stand of the University was that the petitioner earlier filed a suit for mandatory injunction, which was dismissed in default under Order 9 Rule 8 of the Code of Civil Procedure on 15.05.2014. Therefore, the fresh writ petition filed thereafter is liable to be dismissed. It was pointed out that in the Scheme of Examination for M.Com, it is clearly mentioned that a student will take six papers in all including both the compulsory papers and at least two papers from each of the two Optional Groups. Optional Group - I contains seven papers, whereas Optional Group – II contains eight papers. The student cannot opt more than two papers from each of the Optional Group. The appellant has opted three papers from Optional Group - I and only one paper from Optional Group – II, therefore, his option is against the Scheme of Examination.

To such stand of the University, the appellant has not filed any rejoinder. Meaning thereby, that he does not dispute the fact that as per the Scheme of Examination, only two subjects from each Optional Group could be taken, whereas he has taken three subjects from Optional Group – I and one from Group -II.

The learned Single Judge has dismissed the writ petition noticing the fact that the appellant was given an opportunity, who was present in Court, to make an election of the two subjects, which he would retain and give up one subject and take one more subject in Optional Group – II. The appellant was unable to give any such option, but insisted that since he had been issued roll numbers and allowed to take the examination, he cannot be

asked to give up on any one subjects in Optional Group - I. Learned Single Judge observed that the appellant cannot be allowed for such a violation of the regulation. After holding so, an opportunity was given to the appellant to exercise his option of the two subjects, which he would retain in Optional Group – I and communicate the same to the University within one week from the date of receipt of copy of the order. It was also ordered that the University will not compel the appellant to attend classes over again and it shall be sufficient if he pays the examination fee and take the optional paper in Optional Group – II at the next immediate examination date.

Learned counsel for the appellant relies upon a judgment of the Hon'ble Supreme Court reported as Shri Krishan Vs. The Kurukshetra University, Kurukshetra (1976) 1 SCC 311, wherein the appellant was facing a criminal trial, but he stood acquitted, when he applied for his roll number to clear the subjects. The petitioner sought that his candidature has been wrongly rejected. Since he was acquitted of the criminal charges on the day, when he applied for roll number, the action of the University is not sustainable. In reply, the stand of the University was that the appellant had been involved in a criminal case, therefore, the Head of Institution could not give the certificate in the prescribed form that the appellant bore a good moral character. It was also alleged that the petitioner was short of the requisite percentage of attendance in LL.B. Part I, therefore, he could not insist on his being admitted to Part II Examination. The Hon'ble Supreme Court held that the University could withdraw the certificate if the applicant had failed to attend the prescribed course of lectures, but this could be done only before the examination. It was found that since the appellant was allowed to take the examination, rightly or wrongly, then the statute which empowers the University to withdraw the candidature of the applicant has worked itself out and the applicant cannot be refused, admission subsequently for any infirmity

which should have been looked into before giving the appellant permission to appear. It was found that the University authorities acquiesced in the infirmities which the admission form contained and allowed the appellant to appear in Part I examination held in April, 1972, then by force of the University Statute, the University had no power to withdraw the candidature of the appellant. Consequently, the University was directed to declare the result of LL.B. Part II examination in which the appellant had appeared earlier.

Having heard learned counsel for the parties, we find that the reliance of the appellant on the said judgment is not tenable. The Scheme of Examination has remained uncontroverted that the petitioner could take only two subjects from Optional Group – I, whereas he has taken three subjects. He was given option to choose another subject from Optional Group – II, but he has declined the same before the University and even before the learned Single Judge. The University cannot be permitted to act against its regulations. May be the University was remiss in not pointing out the defect in the options given by the appellant, but an illegality committed at one stage cannot be permitted to be perpetuated. Therefore, we do not find that the University can be directed to permit the appellant to take three optional subjects from one Optional Group against its regulations.

Consequently, we do not find any patent illegality or irregularity in the order passed by the learned Single Judge, which may warrant any interference by this Court in the present appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

23.03.2015
Vimal

(LISA GILL)
JUDGE