

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 929 of 2015 (O&M)

Date of decision : 29.06.2015

Sharad Kumar

.....Appellant

Versus

Pandit Bhagwat Dayal Sharma, University of Health Science, Rohtak and
others

....Respondents

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

Present: Mr. Mukul Goyal, Advocate
for the appellant.

HEMANT GUPTA, J.

The present letters patent appeal has been filed without producing copy of the impugned order. Learned counsel for the appellant points out that BAMS (Prof.) 3rd year examination is to commence from 30.06.2015 and, therefore, interest of the appellant would be seriously prejudiced, if he is not permitted to appear in the Third Professional year examination without producing the copy of the order impugned in appeal.

After hearing arguments for some time, we find that no case for interference is made in the present appeal.

BAMS (Prof.) 1st year examination consists of six subjects. The appellant could not qualify subject B-13 i.e. the subject of Padarth Vigyan in six attempts. As per regulation 8 (iii), a candidate who fails in one or more

subjects is allowed to keep term in Second Professional course but allowed to take Second Professional examination only if he passes all the subject of First Professional examination. The regulation further contemplates that a student shall be allowed to clear all the subjects of First Professional examination in six consecutive attempts including the first attempt, failing which a candidate shall have to appear in all the subjects of First Professional examination. The relevant regulation reads as under:-

“ A candidate who fails in one or more subjects of First Professional examination may be allowed to keep term in Second Professional course. Only those students who pass in all subjects of 1st prof BAMS examination shall be allowed to take Second Professional Examination.

The student shall be allowed to clear all the subjects of First Professional BAMS examination in six consecutive attempts including the first attempt in which they were eligible to appear, failing which they shall have to appear in all the subjects of the First Professional BAMS Examinations.”

Such regulation was amended on 14.01.2012 vide item No. 52 in the meeting of Academic Council. Such resolution reads as under:-

“ It was resolved that if the prescribed norms of the concerned regulatory body/council are not restrictive, the same procedure will be applied in all the courses run by the University regarding number of attempts and limitation of periods of the course and subjects already passed by the candidate where he/she will not be required to appear again.”

Argument of learned counsel for the appellant is that condition of six attempts, as mentioned in regulation 8 (iii), stands superseded by the resolution dated 14.01.2012 and that the appellant need not appear in all the

subjects of First Professional examination again. Consequently, he is entitled to appear in the Second/Third Professional examination. We do not find any merit in the argument raised.

Resolution dated 14.01.2012 is in two parts. Firstly, to give preference to the norms of the concerned regulatory body. The regulatory body in the case of Bachelor of Ayurvedic Medicine and Sciences, is Central Council of Indian Medicine constituted under the Indian Medical Council Act, 1970. The appellant has not produced the norms of conduct of examination by the Council, the regulatory body.

Assuming the same is not restrictive in the matter of number of attempts available to a candidate to qualify a professional examination then the second part of the regulation would be applicable which states that same procedure shall be applied in all the courses run by the University regarding number of attempts and limitation of periods of the course already passed by the candidates. It means that parity would be maintained in similar courses in respect of number of attempts available to a candidate of BAMS courses. It could not be pointed out that in any other Professional examinations have parity with BAMS course, where the number of attempts are un-restricted. In the absence of unrestricted attempts in any other professional examination of similar nature, the appellant could not seek un-restricted attempts to qualify First Professional examination of BAMS course. Therefore, resolution dated 14.01.2012 does not provide any assistance to the arguments raised by learned counsel for the appellant.

We find that unrestricted attempts to clear a professional examination would be not conducive for maintaining standards of medical

education as well. Thus, we do not find that the appellant is entitled to appear in the next Professional examination without qualifying the First Professional examination in six attempts. In view thereof, we do not find any merit in the present letters patent appeal. Therefore, the same is dismissed.

(Hemant Gupta)
Judge

June 29, 2015
rts

(Lisa Gill)
Judge