

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

RSA No.4592 of 2014(O&M)
Date of Decision: 10.02.2015

InduAppellant

Vs.

State of Haryana & Ors.Respondent

CORAM: HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN.

Present:- Mr.Surinder Saini, Advocate for the appellant.

MAHAVIR S. CHAUHAN, J. (ORAL)

Challenge in this plaintiff's regular second appeal is to the judgment/decreed dated 05.02.2013, passed by learned Additional District Judge, Sonapat ('first appellate Court' for short) affirming judgment/decreed dated 30.05.2011 of learned Civil Judge (Senior Division) Sonapat ('trial Court' for short) dismissing plaintiff/appellant's suit for mandatory and permanent injunction.

Though the appeal is barred by time as regards filing/refiling but I have heard learned counsel for the appellant on merits.

It is vehemently argued by learned counsel that the plaintiff/appellant did appear for counselling and it was so mentioned in the list of candidates but the Courts below have wrongly recorded that she did not appear in the counselling.

Plaintiff's case before the courts below was that she had applied to the Principal Tika Ram College of Education, Sonapat for her admission to B-Ed degree course for the academic session 2009-10 and she appeared in the counselling in the premises of

that college on 11.10.2009. She was selected for her admission to B-Ed degree and her name was put at serial No.12 in the list of the selected candidates. She deposited the requisite fee as per direction of the defendant No.2 vide receipts dated 15.10.2009, 20.10.2009, 15.01.2010 and also deposited subsequent fee on 25.04.2010. She was called upon to deposit some documents vide letter dated 01.11.2009 and I-Card was also issued to her on 14.10.2009. However, on 12.03.2010, defendant No.3, Registrar, Maharishi Dayanand University, sent a letter to defendant No.2 saying that the appellant and another student named Sneh Lata were not eligible. The letter was duly replied to by defendant No.2 but inspite of that nothing was done by the defendants as regards appellant's admission in the B-Ed course.

In the written statements filed on behalf of respondents it was stated that while examining eligibility of the candidates name of plaintiff/appellant was not found to figure in the counselling list prepared on the basis of counselling which was conducted on line manually and at the college campus and lateron she was not found eligible to be admitted but was inadvertently issued the letter of admission.

From the pleadings of the parties learned trial Court framed following issues:

- Whether the plaintiff is entitled to the relief of permanent injunction as prayed for? OPP.
- Whether the plaintiff has no cause of action or locus standi to file the present suit? OPD
- Whether the civil Court has no jurisdiction to entertain and try the present suit? OPD.
- Whether the suit is bad for non-joinder of necessary parties? OPD.
- Relief.

On appraisal of the evidence in the light of the submissions made at the bar, learned trial Court reached a definite conclusion that the appellant did not appear for counseling and as such, she was not entitled to be admitted. Her suit accordingly was dismissed vide judgment/decreed dated 30.05.2011. As aforesaid, findings recorded by the learned trial Court were affirmed by the learned first Appellate Court vide judgment/decreed dated 05.02.2013.

Record of the case from the courts below was sent for and has been received.

A perusal of findings recorded by the learned trial Court and learned First Appellate Court reveals that appellant has not been able to bring any evidence whatsoever to prove that she did appear in the counselling. It is not the case of the plaintiff/appellant that her appearance in the counselling was not necessary for admission. A perusal of the record reveals that except for appearing herself as PW-1, plaintiff/appellant did not examine any other witness. Even the person who, according to the appellant, had marked her presence in the counselling has not been examined. DW-1 Vinod Kumar, the official of Maharishi Dayanand University, Rohtak, had very specifically stated that the plaintiff/appellant did not attend the counselling and as such, her admission was cancelled vide letter Exhibit D-1. He is not shown to have been confronted with any document containing name of plaintiff in the list of the candidates who attended the counselling.

In view of the above, coupled with the fact that this appeal is not shown to involve any question of law, much less a

substantial one, I regret my disinclination to interfere with the concurrent and pure findings of fact recorded by the Courts below.

Dismissed.

No costs.

(MAHAVIR S. CHAUHAN)
JUDGE

10.02.2015

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