

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 13438 of 2015
Date of Decision:- 31.03.2016

Hardwari Lal and another

....Petitioners

Versus

CCS HAU Hisar and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

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

**Present: Mr. C.S. Singh, Advocate
for Mr. Sudhir Mittal, Advocate,
for the petitioners.**

Mr. D.K. Khanna, Advocate, for the respondents.

RITU BAHRI, J. (Oral)

Petitioners by way of present writ petition are seeking directions to quash Condition No.(ii) of memo dated 01.04.2011 (Annexure P-4), set aside the orders dated 19.05.2015 (Annexure P-2) and dated 25.05.2015 (Annexure P-3).

Petitioner No.1 was appointed as Geography teacher in the Campus School, Ch. Charan Singh Haryana Agricultural University (CCSHAU) on 04.08.1988 whereas petitioner No.2 was appointed as Maths & Sciences teacher on 01.08.2011. The campus school is a CBSE

affiliated Senior Secondary School set up within the campus of CCSHAU, Hisar. The said school functions from 7.15 AM to 1.05 PM from April to October and from 8.30 PM to 2.20 PM from November to March as per school prospectus (Annexure P-1). The petitioners, vide applications dated 11.05.2015 (Annexure P-2) and dated 22.05.2015 (Annexure P-3) sought permission to enhance their qualification by doing LLB through evening classes. Both the applications were returned to the petitioners on the ground that the permission for doing LLB evening classes cannot be granted as per instructions dated 01.04.2011 (Annexure P-4). At the time of establishment of CCSHAU in the year 1971, the College of Veterinary and Animal Science was part and parcel of the said University. The College of Veterinary & Animal Sciences has been bifurcated from the University sometime in the year 2010-11 and has been named Lala Lajpat Rai University of Veterinary & Animal Science although it was located in the same campus of CCSHAU. One Sher Singh, Deputy Controller of Lala Lajpat Rai University of Veterinary & Animal Sciences has been given permission to appear in the LLM Examination, vide order dated 15.11.2015 (Annexure P-7). The National Research Centre on Equines given permission to its employees to do the LLB course through evening classes, vide order dated 05.07.2014 (Annexure P-8).

Upon notice, the written statement filed on behalf of respondent Nos.1 and 2 and the stand taken therein that as per instructions contained in order dated 01.04.2011 (Annexure P-4) no faculty members/non-teaching employee can be granted permission for attending evening classes. Prior to 01.04.2011, the faculty members/non-teaching

employees of CCSHAU were permitted to improve their qualifications without any restriction regarding attending of evening classes. Dr. S.B. Mittal, Assistant Director was granted permission to join evening classes, vide order dated 30.06.2008 (Annexure P-5). Similarly, Sh. Sher Singh, Assistant Registrar, was granted permission, vide order dated 09.07.2010 (Annexure P-6). Both officers were granted permission prior to 01.04.2011.

In compliance of order dated 01.02.2016, passed by this Court, the respondents have filed an additional affidavit dated 29.02.2016, in which, it has been stated that the University vide memo dated 01.04.2011 (Annexure P-4) due to inadverttness and omission, the Dean, College of Agriculture Engineering and Technology of the University vide order dated 21.05.2014 had granted permission to Sh. Naveen Kumar, Clerk, for doing Law discipline (LLB) in evening session. In the said letter, it was clearly mentioned that the University will be fully competent to withdraw the permission at any time without notice in the interest of University work (Annexure R-1). When the omission, came to the notice of Dean, College of Agriculture Engineering and Technology, CCS Haryana Agricultural University, Hisar, he vide letter dated 09.01.2015 (Annexure R-2) withdrew the permission granted to Naveen Kumar, vide order dated 21.05.2014 (Annexure R-1). Thereafter, Naveen Kumar filed the civil suit challenging the letter dated 09.01.2015 (Annexure R-2). The Civil Judge (Jr. Div.), Hisar, vide order dated 16.05.2015 (Annexure R-3), allowed the application and permitted him to appear in the second semester of LLB. The appeal filed by the University against the said order is pending before the District Judge, Hisar and no other employee of the CCS Haryana

Agricultural University had been granted permission to join Evening Classes. The categorical stand taken by the respondents that the permission was granted to Naveen Kumar inadvertently, which was withdrawn on 09.01.2015 (Annexure R-2) and the respondents contesting the civil suit and supporting that order.

Learned counsel for the petitioner has placed reliance upon a judgment of the Supreme Court in case Maharshi Mahesh Yogi Vedic Vishwavidyalaya Vs. State of M.P. and others, 2014(6) R.C.R. (Civil) 559 and the same will not be applicable to the present case. In the said case, the Act was enacted to establish and incorporate a University to provide for education and prosecution of research in vedic learnings. By amending Section 4(i) of the Act, restricts on teaching a particular course after establishment of Centres, where many students had taken admissions in various courses of the University and huge amount was spent for establishing the University and centers for providing education. The amendment made in Section 4(i) of the act was held to be ultra-vires and was set aside by which the education was in restricted courses to get knowledge. The Supreme Court in paragraph 110 of the said judgment has made the following observations: -

“It is also necessary to note, as well as mention that after the University was established for its initial establishment and for running the institution, according to the appellant, more than ₹12 crores were spent by way of an investment and that nearly ₹60 crores have been spent for running the University and its various centers throughout the State of Madhya Pradesh. The recurring expenditure was stated to be ₹11 crores. Therefore, when the appellant University has proceeded to establish its institution for the purpose of imparting education by making huge investments, a major part of which would have definitely come by way of fees collected from the students who had joined the institution aspiring for improving their educational

career, in our considered opinion, it is the responsibility of the State to ensure that such high expectation of the students who joined the appellant university is not impaired and that for whatever expenses incurred by the students, appropriate returns should be provided to them by way of imparting education in the respective fields which, they choose to associate themselves by getting themselves admitted in the appellant University. Therefore, on this ground as well, it will have to be held that such expectations of the students, as well as their parents cannot be dealt with so very lightly by the State, while considering for any change to be brought about in the Constitution and functioning of the appellant University. It can therefore be validly held that such expectations of the students and their parents, as well as that of the appellant University, can validly be held to be a legitimate expectation and considering the challenge made to the amendment introduced on various grounds raised at the instance of the appellant, the legitimate expectation of the appellant University, as well as the student community, would also equally support the contentions of the appellant University, while challenging the amendments in particular the amendment introduced to Section 4(1), as well as the addition of a proviso to the said Section.”

The above-said judgment cannot be applied in the present case as in the present case the petitioners are employees of the University and they are governed by the terms and conditions of their employment and the policy decision has been taken on 01.04.2011 (Annexure P-4) that not to grant permission to any faculty and non-teaching employees for attending evening classes. However, there is a provision in the policy to get education through distance course from approved University and for this purpose leave will be granted for examination and further condition that the education qualification being improved/acquired during service are in relevant field/nature of duties performed by the employees. Even if the permission granted to do distance education can be withdrawn at any time without notice in the interest of University's work. There is no bar to get education but the only bar is that the permission to do for evening classes shall not be granted. This is a reasonable restriction imposed by the

University and as per the additional affidavit filed by Registrar, Chaudhary Charan Singh, Haryana Agricultural University, Hisar (respondent No.1) none has been given permission to do evening classes apart from Naveen Kumar, whose permission has already been withdrawn, vide letter dated 09.01.2015 (Annexure R-2).

In view of the above, the present writ petition is without any merit and the same stands dismissed.

March 31, 2016
naresh.k

(**RITU BAHRI**)
JUDGE