

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

Civil Writ Petition No.13488 of 2016

Date of decision: 16.8.2016

Abhishek Dogra

...Petitioner

Versus

I.K.Gujral Punjab Technical University and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Naveen Batra, Advocate for the petitioner.

Mr. Tribhawan Singla, Advocate for respondents no.1 and 2.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks setting aside of order passed by the U.M.C. Committee, disqualifying him for a period of two semesters. Challenge has also been raised to the order dated 13.5.2015 (Annexure P/2) whereby the Appellate Committee maintained the order of the UMC Committee. Resultantly, the petitioner has sought the issuance of writ in the nature of mandamus directing the respondent-university to consider his representation dated 3.4.2016 (Annexure P/3) by way of setting aside the order passed by the UMC Committee and the Appellate Committee in the interest of justice.

It is not disputed that on account of using unfair means in the subject of 'BTME-306 Engineering Materials and Metallurgy' of 3rd semester examination held on 3.12.2014 of the B.Tech. Mechanical Course, the petitioner was held guilty. He was accordingly barred from appearing in the examination of the University for a period of two semesters on 31.1.2015 in view of the fact that he had pleaded guilty and made confession of copying from the material written on the left hand palm

relevant to subject of exam.

Keeping in view the above punishment, the petitioner filed an appeal before the Vice-Chancellor of the respondent-University that the punishment be reduced. This fact would be clear from the original file which had been produced today by the counsel for the respondent-University. It is the petitioner's specific case that the decision of the UMC in January, 2015 was never communicated to him and thereafter he continued attending his course and appeared for 4th and 5th Semester. Now also he has deposited fee for the 7th Semester with respondent no.3-college on 31.3.2016.

Counsel for the respondent-University very fairly has conceded to this position that the impugned order was not communicated to the petitioner but only sent to the concerned college. Endorsement on the communication would also go on to show that the said order was to be put in the file of the student concerned. It is thus apparent that the petitioner's stand that he has not been communicated the said order is justified and he has further pursued his academic studies for higher classes.

Counsel for the petitioner has referred to the punishment provided under Clause 10(II)(a) of the Regulations concerning unfair means under which his case falls. He accordingly submits that cancellation of candidate's concerned paper could have been done in the case of the petitioner by the Appellate Committee. Relevant portion of the punishment provided under Clause 10(II) (a) reads as under:-

“Cancellation of candidate's concerned paper or debarred from appearing in University examination up to next two semesters depending upon gravity/repetition of the case.”

From the above, it is apparent that the petitioner has now been

given admission in 7th Semester and has paid the fee of 2 years. The Appellate Committee has not considered this aspect of non communication. The aspect of cancellation of the concerned paper in which the petitioner was caught while using unfair means is also liable to be examined by the Appellate Committee and the quantum of punishment can thus be reduced from the period of disqualification of 2 years.

Counsel for the petitioner was justified in placing reliance upon the judgment **Sarthak Garg Vs. Rajiv Gandhi National University of Law, Punjab and another** 2013(2) Service Cases Today 356.

Accordingly, impugned order dated 13.5.2015 (Annexure P/2) passed by Appellate Committee is quashed. Respondent no.1-University shall re-decide the appeal of the petitioner keeping in view the changed circumstances especially the fact that the petitioner has been allowed to continue his studies subsequently and regarding quantum of punishment which is liable to be imposed upon the petitioner in view of the above reproduced regulation.

Let the needful be done within four weeks from the receipt of certified copy of this order.

Accordingly, the present writ petition is disposed of.

August 16, 2016
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No