

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16308 of 2014
Reserved on: 24.10.2016
Decided on :09.11.2016

Nupur Arora ... Petitioner

Versus

Panjabi University, Patiala & others ... Respondents

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

Present : Mr.G.L.Bajaj, Advocate, for the petitioner.

Mr.Vikrant Sharma, Advocate, for respondents No.1 & 2.

Mr.Kashish Garg, Advocate, for
Mr. Tarun Singla, Advocate, for respondent No.3.

G.S. Sandhawalia, J.

The petitioner seek issuance of a writ in the nature of certiorari, quashing the letter dated 21.06.2013 (Annexure P9), issued by the Controller of Examinations, Punjabi University, Patiala (COE) and the corresponding letter dated 12.07.2013 (Annexure P10) issued by respondent No.3-College whereby, while taking action on the directions of the COE, the candidature of the petitioner has been cancelled for the BBA course. Directions are, accordingly, prayed for issuing the original mark-card for the 1st and 2nd years, to make the petitioner eligible for admission to the higher classes.

A perusal of the impugned order would go on to show that the said action has been taken in pursuance of the fact that the petitioner had passed his +2 examination from the Board of Higher Secondary Education, Delhi (BOHSE), which was found to be fake by the University. Accordingly, on account of being ineligible, the admission which had been granted, had been cancelled.

Counsel for the petitioner has, accordingly, submitted that the petitioner had passed her +2 examination in the year 2011 and had been granted admission on 20.07.2011 and the migration certificate had also been issued by the said Board on 09.07.2011 (Annexure P3). Accordingly, thereafter, she had appeared in the BBA 1st semester in December, 011 and her result had been declared 'Pass, RL-R' (Result later on due to non confirmation of eligibility by the Registration Branch). Thereafter, she had taken admission in the 2nd semester and had also passed in September, 2012, regarding the examination held in May, 2012 and certificate had been issued as 'Pass, RL-R'.

In December, 2012, she had given her 3rd semester examination, result of which was declared on 05.04.2013 in which she had again been declared 'Pass, RL-R'. Thereafter, the impugned order was passed which was followed up by the letter of the College dated 12.07.2013, cancelling her admission on the ground that the Board at Delhi had been declared fake. A legal notice had been served on 12.07.2013 (Annexure P10) which had been replied on 05.08.2013 (Annexure P12) taking the plea that provisional admission had been given, subject to verification. On verification, the Board at Delhi had been found neither to be in existence nor recognized, either by the Central or by the State Government and resultantly, the decision was reiterated.

Counsel for the petitioner has vehemently submitted that no opportunity of hearing has been given on the basis of which the Board at

Delhi had been declared fake. The petitioner had been consistently appearing in the examinations and therefore, the decision was not justified. Reliance was placed upon the recognition letter dated 29.06.2009 (Annexure P15), issued by the Ministry of Human Resource Development, addressed to one Sunil Kumar that the Board was recognized for employment under Central/State Government/Union Territory Government/Administration and for Education/Higher Education in Indian Boards/Universities and also on the communication dated 27.02.2013 (Annexure P16) of the Board that it had not received any information regarding the verification of the documents.

The respondent-University, in its reply, took the plea that inspite of the order being communicated in the year 2013, the writ petition was filed at a belated stage and a similar petition being CWP-7015-2013 had been withdrawn on 10.12.2013 (Annexure R1), pertaining to one Puneet Gupta. The verification of the Board at Delhi had been got done by deputing the officials to personally examine the matter and on verification, it was found that the Board did not exist. The report dated 04.02.2012 was appended as Annexure R4. After receiving the report, all the colleges including respondent No.3 were informed that no candidate who had passed +2 from the Board of Higher Secondary Education, Delhi, was to be given admission, as per communication dated 18.04.2012. The Council of Board School Education in India had also confirmed vide its letter dated 11.07.2013 (Annexure R6) that BOHSE, Delhi was neither recognized by the Central or the State Government.

The petitioner had deliberately not impleaded the said Board as party and therefore, the admission being provisional and subject to verification of the +2 examination certificate, had rightly been cancelled.

Counsel for the petitioner has vehemently relied upon the judgments of this Court in **Rajeshwar Verma Vs. Maharshi Dayanand University, Rohtak & another 2016 (1) SCT 127** to submit that once admission had been taken and there is no fraud or misrepresentation on the part of the student, the admission could not be cancelled and the principles of natural justice have been violated.

Counsel for the respondent-University, Mr. Vikrant Sharma, on the other hand, submitted that it was a policy decision, as such, and therefore, there was no requirement of personal hearing. The authenticity of the Board at Delhi had been duly got confirmed and it had been found not to be recognized and therefore, the admission granted to the petitioner had rightly been cancelled.

A perusal of the +2 certificate, on the basis of which the petitioner has taken admission, would go on to show that she had been studying in one Ashima Senior Secondary School, Ajmer and the certificate was issued at Banga in Punjab. The BOHSE is stated to be located at Delhi. On the basis of the said certificate, it is apparent that the petitioner has been given provisional admission and the result had not been declared, which would be clear from the result cards also wherein 'Pass RL-R' had been shown. Thus, the argument raised that she had been allowed to pass her examination and therefore, the University is

estopped, as such, is of no basis. The University was in the process of confirming the eligibility, as such, of the admission made in the year 2011. A perusal of the communication dated 05.01.2012 (Annexure R2) would go on to show that verification was being done of a school at Ajmer and similar communication was also addressed to the COE of the Board at Delhi, for the verification of the result given by the Board. The University deputed 2 officials for the checking of the Board at Delhi and it was found that the addresses given at Kadkaddumma and Gopalpur Gaon on 02-03.02.2012 had been found locked. On verification, it was found that the establishments were lying locked for the last 7-8 months and the police had also visited the place several times. It was, in such circumstances, the University took the action that the Institution was fake, as such.

An effort was also made to confirm the status of the Board at Delhi as to whether it was recognized or not and the Council of Boards of School Education in India (COBSE), vide its communication dated 11.07.2013 (Annexure R6) also addressed a letter to the COE of the respondent-University that on verification, it had been confirmed that the BOHSE, Delhi was neither recognized nor established by the Central or the State Governments. The certificate issued, thus, could not be given equivalence for employment, as mentioned in the earlier letter dated 13.08.2009. It has also been mentioned in the said communication that vide letter dated 07.09.2012, the COBSE had been given the duty of verifying the status and was responsible for verifying the genuineness

and recognition of the Boards in India, since it grants membership to such Boards/Institutions. In such circumstances, associating the petitioner with the process of verification, as such, would not arise in the peculiar facts and circumstances of the case.

It is also to be noticed that in CWP-15204-2015 titled *Desh Raj Vs. State of Haryana & others*, decided on 22.04.2016, it was noticed that the said Board at Delhi was not recognized by the Ministry of Human Resources Development, Government of India and the termination of the services of the Driver who had claimed that he had done his matriculation from the said Board, was upheld. Reliance had been placed upon the affidavit of the Union of India and it had been held that once the Board had no statutory backing, having not been established by any statutory authority and it was found operating on the basis of fake and forged letters of recognition, the writ petition had been dismissed. The said view was followed in CWP-907-2015 titled *Mahavir Singh & others Vs. State of Haryana & others*, decided on 24.05.2016 and similar writ petitions were also dismissed, accordingly.

Resultantly, this Court is of the opinion that the argument which has been raised, as such, by counsel for the petitioner, does not merit consideration. The judgment which has been relied upon in **Rajeshwar Verma (supra)** has no application in the facts and circumstances of the present case. In the said case, the student had been given admission on the ground that he had studied from the Board of Secondary Education, Madhya Bharat, Gwalior and had figured in the list

of affiliated Colleges and the University. Due to the wrong inclusion by the service provider, the University took more than 2 years to decide as to whether the student's admission was to be regularized or not. Keeping in view the above facts and circumstances, the said student was allowed to continue in the B.Tech course since he had already studied for the last 2 years. In the present case, as noticed, the Board at Delhi itself has been held to be fraudulent. In such circumstances, no relief can be granted to the petitioner.

The Apex Court in **Central Board of Secondary Education Vs. Nikhil Gulati and another, 1998 (2) RSJ 153**, while declining to interfere under Article 136 of the Constitution, however, noticed that ineligible students were being promoted under Court orders which were instances of aberrations which should not be treated as precedents in future. That the Rule of Law was being put to mockery and the Rule of Man was being promoted, was put forth.

In similar circumstances, the Supreme Court in **Mahatma Gandhi University and another Vs. Gis Jose and others, 2009 (1) RSJ 438** set aside the order of the High Court wherein, the student had secured only 53.3% marks in a qualifying examination against the minimum requirement of the cut off marks as 55%. The submission that the student had never misrepresented was rejected. It was held that once an irregular admission had been given in breach of Rules, she should not be allowed to complete the course and to write the

examination and the same would be illegal. It was held that misplaced sympathy should not be shown in total breach of rules. The relevant observations read thus:-

"9. The misplaced sympathies should not have been shown in total breach of the Rules. In our opinion, that is precisely what has happened. Such a course was disapproved by this Court in [Regional Officer, CBSE vs. Ku. Sheena Peethambaran and Others](#) [(2003) 7 SCC 719]. In paragraph 6 of the Judgment, this Court observed as follows :

"6. This Court has on several occasions earlier deprecated the practice of permitting the students to pursue their studies and to appear in the examination under the interim orders passed in the petitions. In most of such cases, it is ultimately pleaded that since the course was over or the result had been declared, the matter deserves to be considered sympathetically. It results in very awkward and difficult situations. Rules stare straight into the face of the plea of sympathy and concessions, against the legal provisions....".

10. In the present case, the college where the student was admitted, in breach of all possible rules allowed her not only to complete the course but also to write the examination which was totally illegal."

Reliance can also be placed upon the judgment of the Apex Court in [The Registrar, Rajiv Gandhi University of Health Sciences, Bangalore Vs. G. Hemlatha and others, 2012 \(8\) SCC 268](#), where it had been held that once the eligibility criteria is prescribed, it must be strictly adhered to and any dilution or tampering with it will work injustice on other candidates.

A Division Bench of this Court in **Manmeet Sharma vs. State of Haryana and others, 2008 (4) SLR 498**, also held that admission could not be regularized where the eligibility itself was not there.

Accordingly, there is no merit in the present writ petition and the same is dismissed.

NOVEMBER 9th, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No