

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

CWP No.21615 of 2016

Gurmeet Singh

... Petitioner

Versus

Sant Longowal Institute of Engineering & Technology and others

... Respondents

(2)

CWP No.22756 of 2016

Ankita Jain

... Petitioner

Versus

Sant Longowal Institute of Engineering & Technology and others

... Respondents

(3)

CWP No.22912 of 2016

Renuka Joshi

... Petitioner

Versus

Sant Longowal Institute of Engineering & Technology and others

... Respondents

Reserved on: 16.11.2016

Decided on : 21.11.2016

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

Present : Mr. Tribhawan Singla, Advocate for the petitioner (s)
in CWP Nos.21615 and 22912 of 2016.

Mr. L.S. Sidhu, Advocate for the petitioner
in CWP No.22756 of 2016.

Mr. K.S. Sandhu, Advocate
for respondents No.1 to 3.

G.S. Sandhawalia, J.

The present order shall dispose of three writ petitions i.e. *CWP Nos.21615, 22756 and 22912 of 2016*, as common questions of law and fact are involved.

The petitioners are aggrieved against the order dated 07.10.2016, whereby being students of the Postgraduate Programmes and having not fulfilled the requirement for admission as per the date provided i.e. 15.09.2016 the admission of the petitioners stood cancelled, in view of the reports submitted by the Scrutiny Committee.

The petitioner-Gurmeet Singh had taken admission in the course of M.Tech. (Welding & Fabrication), whereas, petitioner-Ankita Jain had taken admission in M.Sc (Maths) and petitioner-Renuka Joshi with M.Sc. (Chemistry) with the respondent-Institute.

The issue which arises for consideration is that once having been given admission whether the respondent-Institute is estopped from permitting the petitioners to continue in the courses in question.

Counsel for the petitioners have submitted that the petitioners had applied in pursuance of the advertisement for the said courses and, thereafter, qualified for the test. The admission had been granted, after scrutinizing the papers and counselling was held on 29.07.2016. Resultantly, the fees had been deposited on the said date and the petitioner-Gurmeet Singh had also resigned from his job to pursue his M.Tech. Course.

It is not disputed that on 29.09.2016, a notice had been put

up on account of the fact that various students had not submitted the proof of qualifying examination, as per the guidelines of the information brochure. The necessary proof had not also been attached, which would reflect percentage of marks and fresh verification was sought from the students who were deficient, failing which their admissions were liable to be cancelled. The petitioners had, thereafter, submitted the required documents which led to the passing of the impugned order.

It is in such circumstances, reliance has been placed upon the judgment of the Apex Court in '*Shri Krishan Vs. The Kurukshetra University, Kurukshetra 1976 (1) SCC 311*, '*Ashok Chand Singhvi Vs. University of Jodhpur and others*' 1989 (1) SCC 399 and '*Sanatan Gauda Vs. Berhampur University and others*' 1990 (3) SCC 23.

Counsel for the respondents on the other hand submitted that as per the requirement of the information brochure, the eligibility was 60% in the qualifying degree under Clause 5.1 of the Chapter-5 for admission in M.Tech. The petitioner did not have the required marks in the qualifying test and, therefore on scrutiny of his file, his provisional admission was cancelled. It is submitted that opportunity of hearing was also granted and notice had been put on 01.07.2016 (Annexure R-2) that candidates who did not have the possession of the qualifying examination result, on the dates of documents verification, would have to submit the proof of qualifying of online examination on or before the 15.09.2016. On account of failing of to do so, their admission was to stand cancelled.

The eligibility clause reads as under:-

“Eligibility:

1) Holds a B.Tech./B.E./B.Sc. (Engg.) Degree of recognized University/Institute in the appropriate branch.

OR

has passed Section 'B' of the Institution of Engineers (India) in appropriate branch or Grade IETE and has three years of professional experience in reputed organization. The candidates must have secured at least 60% marks (55% in case of candidates belonging to reserved categories) in aggregate in qualifying degree.”

The notice put up on 01.07.2016 (Annexure R-2) by the Institute reads as under:-

“NOTICE

It is hereby notified for the information of the candidates that the candidates who will not in possession of qualifying examination result on the date of document verification will be considered for provisional admission against the allotted seat. Such candidates have to submit the proof the qualifying examination on or before 15.09.2016, failing which their admission shall stand cancelled.”

It is, accordingly, submitted that the Committee had scrutinized the files on 07.10.2016 (Annexure R-7) and found that three candidates had 'Less %/CGPA' and did not fulfill the requirement of admission. Resultantly, the impugned order has been passed.

Accordingly, it is submitted that the judgments relied upon are not applicable as no examinations had been conducted and the admission had been cancelled at the earliest on scrutiny of documents after giving proper opportunity of hearing. It is further submitted that incorrect information had been supplied by the petitioners who are themselves at fault.

In the case of ***Gurmeet Singh-petitioner in CWP No.21615 of 2016***, it is not disputed that his marks were 59.4% against the requirement of 60%. He had passed his Bachelor of Engineering in the discipline of Mechanical Engineering (specialization in Manufacturing Engineering) from the respondent-Institute in the second division itself in December, 2007 (Annexure P-4). The detailed marks certificate dated 02.05.2008 is appended as Annexure P-4 colly. However, while filling up his application form (Annexure R-4), while showing his educational qualifications for the qualifying examinations, he had mentioned the result status as 'appearing'. He was, thus, well aware that he has already passed from the institute and not appended the correct information, which has now been appended as Annexure P-4. Thus, there was apparent concealment on his part and now he cannot turn around and say that there would be estoppel on the part of the institute in question.

Similarly, in the case of Ankita Jain-petitioner in CWP No.22756 of 2016 and Renuka Joshi-petitioner in CWP No.22912 of 2016, the eligibility clause of 55%. The same reads as under:-

“Eligibility:

The minimum eligibility for admission to Master of Science (M.Sc.) Programmes will be at least 55% marks (50% in case of candidates belonging to reserved categories) in the aggregate in qualifying examination as mentioned hereunder:-

(i) M.Sc. (Physics): Recognized B.Sc. Degree with Physics as one of the subject.

(ii) M.Sc. (Chemistry): Recognized B.Sc. Degree with Chemistry as one of the subject.

(iii) M.Sc. (Mathematics): Recognized B.Sc. Degree

with Mathematics as one of the subject.”

The petitioner-Ankita Jain had only obtained 52.09% marks in her B.Sc qualifying examination. While filling up her application form on 29.07.2016, the result status has been mentioned as 'appearing'. She had undertaken that she would submit the documents by 15.09.2016, which was the requirement. As per Annexure R-10, her result was declared. Since, she had re-appears in her qualifying examinations and specifically when her result was declared she did not get the requisite percentage. Resultantly, she has also been declared ineligible and, therefore, can have not grouse as such, as she would be bound by terms and conditions of the information brochure.

Similarly, in the case of Renuka Joshi-petitioner in CWP No.22912 of 2016 she had also secured 52.4% marks in her B.Sc. qualifying examination and in spite of being giving the opportunity to submit the required documents, failed to do so, leading to the cancellation of admission.

The weight of the precedents by the Apex Court in the favour of the university in cases where the basic qualifications are missing is far heavier which this Court is bound to follow. Reliance can be placed upon the judgment of the Apex Court in '**Regional Officer, CBSE vs. Kumari Sheena Peethambaran**', 2003 (7) SCC 719. In the said case, it was held that condoning lapses and overlooking legal requirements on the question of sympathy was not permissible. In the said case, reliance was placed upon the earlier judgment in '**Guru Nanak Dev**

University vs. Parminder Kumar Bansal, 1993 (4) SCC 401 that the lack of discipline was leading to serious impasse in academic life. Reliance was also placed upon the earlier judgment in '*A.P. Christians Medical Educational Society vs. Government of Andhra Pradesh*', 1986 (2) SCC 667 wherein, it has been held that the university cannot be directed to disobey the Statute to which it owes existence.

Similarly, in '*Central Airmen Selection Board vs. Surender Kumar Das*', 2003 (1) SCC 152, which was followed by a Division Bench of this Court in '*Manmeet Sharma vs. State of Haryana and others*', 2008 (4) SLR 498, the judgment in '*Ashu Singla vs. Punjabi University, Patiala and another*', 2004 (2) RSJ 720 was noticed and it was held that the principle of promissory estoppel cannot be invoked in such cases as it is based on equitable principles. Where there is misrepresentation and the authority has been misled, benefit cannot be given.

In *Central Airman's case (supra)*, the person had been selected on the ground that he had possessed 10+2 qualification but was not eligible as on account of the upper age limit. Relaxation had been given as per the rules but it was found that he had failed in his Chemistry subject in his 10+2 examination and was not justified in claiming the exemption. The Apex Court set aside the judgment of the Division Bench of the High Court which was based on the principle of promissory estoppel by holding as under:-

“7. The question, therefore, is whether in a case of this nature

the principle of promissory estoppel should be invoked. It is well known that the principle of promissory estoppel is based on equitable principles. A person who has himself misled the authority by making a fake statement, cannot invoke this principle, if his misrepresentation misled the authority into taking a decision which on discovery of the misrepresentation is sought to be cancelled. The High Court has proceeded on the basis that the petitioner had not made any misrepresentation in his application to the effect that he had passed the Intermediate examination. As we have found above, this finding of the High Court is erroneous, contrary to record and therefore must be set aside. In his application, the respondent had claimed that he had passed the Secondary examination as well as the Higher Secondary +2 examination, and it is clear from the counter affidavit filed on behalf of the appellants that his candidature was considered on the basis that he had passed the Higher Secondary +2 examination, as in that case he was entitled to claim relaxation in the matter of age. However, the mark sheet annexed to the application disclosed that the respondent had failed in the subject Chemistry and therefore, his claim in the application, that he had passed the Higher Secondary +2 examination, was factually incorrect and a clear misrepresentation. In these circumstances we are satisfied that the respondent could not be permitted to invoke the principle of promissory estoppel, and the High Court was clearly erred in law in invoking the said principle in the facts of this case. The judgment and order of the High Court therefore cannot be sustained.”

The Apex Court in '**Mahatma Gandhi University and another vs. Gis Jose and others**', 2009 (1) RSJ 438 held that once the basic qualification is missing, there could be no misplaced sympathy.

Recently, the Apex Court in '**Priyadarshini College of Computer Science and another vs. Manish Kumar and others**', 2013 (11) SCC 802 held that every candidate is required to go through the

terms of advertisement thoroughly failing which he/she cannot claim any benefit for his/her own wrong. The relevant observations read thus:-

“10 It has to be kept in mind that every candidate applying for a particular course in any College is expected to go through the advertisement thoroughly including the eligibility criteria prescribed for each course and after fulfillment of the required conditions, state the correct particulars in the application form failing which he/she cannot claim any benefit for his/her own wrong.”

Thus, keeping in view the settled position, this Court is of the opinion that in the absence of the basic eligibility requirement by the petitioners, the decision of the Institute cannot be faulted with. If the plea of the petitioner is to be accepted, then admissions of all such ineligible candidates will have to be accepted amounting to persons who do not have the basic qualifying skills to get higher degrees and colleges would get licenses to violate such mandatory eligibility conditions for financial gains and only would amount to lowering the academic standards.

In ***Shri Krishna's case (supra)***, reference was made to the Statute in question and it was factually noticed that the student had never written to the university that he had attended the prescribed number of lectures and in spite of shortage, he had been allowed to attend classes and there was ample time and opportunity for the university authorities to find out the defect and they had permitted him to give the examination and then could not deny him the benefit of the result. It was recorded that no fraud was proved in that case.

In ***Sanatan Gauda's case (supra)***, the issue was regarding

the admission to the final law classes when the result of pre-law examination and inter-law examination were not declared. The appellant had secured less than 39.5% marks in M.A. Degree and his admission was being denied as 40% was the requirement. An interim order had been passed by the Apex Court whereby, the petitioner had been permitted to continue his final law course and Apex Court finally held that the requirement of 39.5% marks was only for Graduates of Bachelor of Arts and not to the higher degree examination, taking into consideration the rules and accordingly, keeping in view that the student had studied, the appeal was allowed. Further directions were also issued that it was the bounden duty of the university to scrutinize the matter thoroughly before permitting the appellant to appear in the examination. It was not a case where the petitioner did not have the requisite eligibility right from day one.

The judgment of this Court in *Giyarshi's case (supra)* also pertains to the fact that the candidate did not have the requisite number of marks which were 45% and on account of ineligibility and the failure of the university who had ample time, the writ petition was allowed.

Resultantly, in view of the above discussion, once the petitioners themselves failed to fulfill the basic qualifications and their papers were scrutinized at the earliest before they sat in any examinations, they are not entitled for applying the principle of estoppel as such in the peculiar facts and circumstances of the case as has been contended by the counsels.

Accordingly, the present writ petitions are dismissed.

NOVEMBER 21, 2016	(G.S. SANDHAWALIA)
<i>Naveen</i>	JUDGE
<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes</i>