

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

**CWP No.23212 of 2015
Reserved on:16.11.2016
Decided on : 09.12.2016**

Harsh Yadav & others

... Petitioners

Versus

Panjab University & others

... Respondents

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

Present: Mr.Aalok Jagga, Advocate,
for petitioners No.1 to 72, 74 to 79 & 81 to 85.

None for petitioners No.73 & 80.

Mr.Suvir Sidhu, Advocate
and Ms.Nidhi Garg, Advocate,
for respondents No.1, 2 & 4-University.

Mr.Vaibhav Gupta, Advocate, for
Mr.K.K.Gupta, Advocate, for respondent No.3-AICTE.

G.S. Sandhawal, J.

Present writ petition has been filed by 85 petitioners who are students of respondent No.2-Dr.S.S.Bhatnagar, University Institute of Chemical Engineering & Technology (UICET) (formerly known as Department of Chemical Engineering & Technology), Punjab University, seeking 'Exit Option' from the Integrated B.E.(Chemical) with MBA-dual degree course after completion of 4 years. They seek the grant of degree of B.E. (Chemical) on the ground that similar benefit had been granted to another set of students of the University Institute of Engineering & Technology (UIET)-respondent No.4, of the respondent-University by the Syndicate on 26.10.2014 (Annexure P2), which was approved by the Senate on 14.12.2014 (Annexure P3).

It is the case of the petitioners that in respondents No.2 & 4

which are the constituent institutes of the respondent-University, an integrated course of B.E. + MBA of 5 years duration is being carried out. The admissions had been made by way of common information brochure in the year 2013 by the Joint Admission Committee, as per information brochure (Annexure P1). It is the case of the petitioners that respondent No.4 is offering the B.E. Course in 6 different disciplines and an integrated course of B.E.+ MBA and similarly, respondent No.2 is offering the B.E. Course in Chemical Engineering and Food Technology and the second course was of 5 ½ years integrated B.E. (Chemical) + MBA. The fee charged of the course in question was more than 5 times than the B.E. Course. The students of respondent No.4, in the year 2014, had demanded an 'Exit Option' on completion of their 4 years on the ground that it did not have the approval of the All India Council for Technical Education (AICTE) and that the programme was not being managed properly, which was a common programme. A request had been made on 22.09.2014 by the Director of respondent No.4, which was considered by the Syndicate on 26.10.2014 and the 'Exit Option' had been allowed. The students were permitted to complete the B.E. Degree by the 4th year. It is the case of the petitioners that they are similarly situated as the students of respondent No.4 and the same was part of the discussion which had taken place before the University authorities. Accordingly, they had given representations dated 09.09.2015 and 10.09.2015 (Annexures P4 and P5). Thus, it is their case that similar benefits had been granted in other Universities, as such, and therefore, the same should be granted to them also. Resultantly,

violation of Article 14 of the Constitution of India, was alleged that there was no difference. Resultantly, this Court was approached alleging that the 'Exit Option' was restricted only to the students of respondent No.4 and was not justified.

Respondent-University, in its reply, pleaded that respondent No.2 had applied for MBA accreditation of B.E. (Chemical), B.E. (Food Technology) and M.E. (Chemical) and only after accreditation of the courses, MBA integrated course was sent for approval from AICTE, as per the AICTE approval process of extension. It was denied that the integrated course was not being managed properly due to lack of competent faculty. The factum of respondent No.4 also running the B.E + MBA course was admitted. The students along with the Director, UIET had brought the matter before the Vice-Chancellor and the same was forwarded to the Syndicate for discussion and the 'Exit Option' had been given. The course of B.E. + MBA was closed at the UIET and no admissions had been made since the year 2014. Respondent No.2-Institute was running the course of the integrated B.E. (Chemical) + MBA since 2008-09. Initially, if the students would leave after 4 years, he would be awarded degree in Engineering and on the completion of 5 years Integrated course, the integrated B.E. (Chemical) with MBA would be awarded. On a memorandum which was submitted, a dual degree was sought, i.e., separate degrees for B.E. & M.B.A. A Committee was constituted for awarding of dual degrees and recommended that those students admitted during 2008 to 2012 be given 2 certificates only after completion of 10

years of the integrated programme. However, students admitted from 2013 onwards would be given 2 certificates only after completion of 11 semesters of the integrated programme (Five year Integrated B.E. (Chemical) with MBA changed to 5 ½ years Integrated B.E. (Chemical) with MBA).

To reconsider the exit policy after 4 years, which was applicable from 2008, a meeting was held on 26.12.2013 under the Chairmanship of the Dean University Instruction and it had recommended to withdraw the decision of the Senate regarding the exit policy in the 5 years integrated course. The decision of the Committee was further ratified by the Senate in its meeting held on 22.02.2014. At the time of the release of the admission brochure also, there was no mention regarding the exit policy after 4 years but faculty had been appointed in May, 2014. The Institute had earlier appointed guest faculty, as per UGC regulations as well as regular faculty from UIAMS of the University to teach the management subjects to the students of the 5 years integrated B.E. (Chemical) with MBA course. Respondent No.2 had never recommended to the University for the discontinuance of the course and the Institute was working hard for placement of the students. It was further pleaded that the petitioners could not be allowed to exit after 4 years as they had taken admission in the 5 years integrated course and they were those students who did not get admission due to high merit in the 4 years course. They had taken admission in the 5 years course and could not be allowed to exit after 4 years. The matter was to be taken up with AICTE after MBA

accreditation, as per the guidelines.

During the course of the proceedings, vide order dated 11.07.2016, keeping in view the fact that the students of respondent No.r4 had been permitted to exit, directions were issued to counsel for the University to seek appropriate instructions as to whether the matter could be put up before the Syndicate, afresh. Eventually, a decision was again taken that the earlier decision of the Syndicate with regard to the exit policy be reiterated. One of the views was that the merit was different between the 4 and 5 ½ years courses and by exiting early, the students will get the same degree in spite of being lower in merit.

Mr. Aalok Jagga was at pains to point out from the prospectus that admissions were made to the 6 institutes out of which, respondents No.2 and 4 were both part. There was an online registration process and the fee for both the courses was also similar with a minimal difference. The students were only to sit in the engineering subjects till the 8th semester. And in the 9th and 10th semester and along with the subsequent semesters only MBA subjects were to be taught. Even on reconsideration on 31.07.2016, it was noticed that the students should be allowed to exit. Accordingly, it was pleaded that there was no proper faculty for MBA and this lack of faculty had been noticed and specific averments were also made in a subsequent application bearing CM-13291-CWP-2016. Reference was also made to the proceedings of the Syndicate dated 26.10.2014, to submit that it was discussed earlier that the faculty was not there with respondent No.2 for management. Effort was also made further

to argue that for various other courses of management in the University itself, a large number of faculty were appointed whereas with respondent No.2, there were only 2 faculty members.

It is to be noticed that the issue of respondent No.2 offering the integrated course and the option of exiting had been put up before the Committee under the Chairmanship of the DUI and the decision taken, as such, on 26.12.2013, reads as under:

“Minutes of the meeting held on December 26, 2013 in the VCCR to resolve the issue of awarding degree of Engineering in B.E. (Chemical) after 4-years under exit policy.

Present:

1. Dean University InstructionChairperson
2. Dean Faculty of Engineering & Technology
3. Dr. Meenakshi (on behalf on Chairperson, UICET)
4. Prof. R.K. Chhabra

Professor A.K. Bhandari initiated the meeting and discussed the issue of awarding degree of Engineering to the students of B.E. (Chemical Engg.) with MBA (5-year integrated course) after 4-years under the exit policy as approved by Senate in its meeting held on 6.12.2008 vide para XLII (page C-6).

It was observed that the Engineering Faculty in its meeting held on 03.04.2010 (copy enclosed) recommended to withdraw the decision of the Senate regarding exit policy in 5-year integrated B.E. (Chemical Engineering) with MBA course so as to keep the very concept of the course undiluted.

It was also observed that, as pointed out by the General Branch, the decision of the Engineering Faculty could not be taken to the Syndicate and Senate.

Some students of B.E (Chemical) with MBA for the session 2010-2011 have requested to award of degree in Chemical Engineering with MBA after 4-years under exit policy implemented by the Senate on 6.12.2008.

However, the members unanimously resolved in the meeting as under:-

- i) That the students of B.E. Chemical Engg. with MBA (5 year integrated course) of batch 2008 and 2009 may be permitted to obtain Engineering degree under exit policy. But the students of subsequent batches may not be considered under the said policy.
- ii) That the award of Engineering degree under exit policy may be restricted to 5 year integrated B.E. (Chemical Engineering) with MBA course only.

The Vice-Chancellor is requested to approve the above decision (i & ii) in anticipation of the approval of the Syndicate/Senate and the item may be taken to the earliest possible Syndicate.

(Prof. Renu Vig) (Prof. Meenakshi) (Prof. R.K. Chhabra)

(A.K. Bhandari)

Dean University Instruction

The said decision was further ratified by the Syndicate in its meeting dated 22.02.2014. A perusal of the above would go on to show that apart from the 2008-09 batch, with a 5 years integrated course, other students of the subsequent batches were not to be considered, under the exit policy. There was no representation, as such, on behalf of the Director/ Head of the Department of respondent No.2 regarding the exit policy, rather as noticed the representative of the UICET was part of the Committee recommendation otherwise. The only representation which has been addressed by the Chairman of the respondent No.2 dated 15.04.2015 (Annexure P16) was addressed to respondent No.3 regarding whether the students could be allowed to exit after completing 4 ½ years. Nothing was even mentioned by the Chairman that the faculty of management, as such, was not available or the students were at any disadvantage. The Syndicate had earlier considered the request dated 22.09.2014 of respondent No.4. It

is pertinent to notice that prior to that also, on 18.05.2014, it had resolved that the said institute did not have the management faculty and no admission could be made in the integrated course and the sanctioned seats be converted to the B.E. Course at the UIET. This would be clear from the subsequent proceedings held on 26.10.2014, which had noticed this fact.

The same reads as under:

“NOTE: The Syndicate in its meeting held on 18.05.2014 (Para 18) (Appendix-XXIII) has resolved that since UIET does not have Management faculty, no admission be made in BE+MBA Courses from the session 2014-15 and their sanctioned seats be converted to BE Courses at UIET.”

In such circumstances, eventually the Syndicate permitted the students of respondent No.4-Institute to exit out of the MBA programme, subject to their covering their deficiency of Engineering subjects of the 4th year. The petitioners only emboldened by this decision, started representing later on, in September, 2015 for the similar relief though, admittedly, they had taken admission in the 5 ½ years course of the B.E. (Chemical) integrated course with open eye.

Counsel for the respondent-University is well justified to submit that apart from the difference in the fee, merit would also be an issue in question, since most of the students of Engineering would prefer the 4 years B.E. Course initially and the merit would go higher for the said course rather than the 5 ½ years integrated course. The petitioners have, thus, taken their chance, as such, on account of their low merit also, to opt for the integrated course and at this stage, now, cannot turn around and say that they should be given the same benefits, as such. The meeting of the

Syndicate regarding the lack of faculty and they having agreed to grant benefit in favour of the students of respondent No.4, was taken after discussion, as such, keeping in view the lack of faculty in the Engineering Institute of UIET. Merely because in said discussion, reference has also been made with respondent No.2, would not enable them to take similar ground. If the petitioners were, as such, aggrieved against the lack of faculty, it was always open to them to approach the relevant authorities for the necessary grievances.

The argument of counsel for the petitioners, who tried to demonstrate that the faculty is not upto the mark, though attractive, cannot be accepted. Even a perusal of Annexures P4 and P5 would go on to show that this was never the case of the petitioners before the authorities regarding the non-availability of the trained faculty for the subject of management. If that was the case, the University could have examined it from that angle and taken appropriate steps to put in place the said faculty. Even if that is the case, now, the University can always take redressal measures. It is also been noticed by the academic experts in discussion that even in the case of respondent No.4, since they were embedded in a University system, it could be taken advantage of and faculty thus can be borrowed as such from the management side.

It has been time and again held by this Court that it is not for the Courts to substitute its views regarding academic matters and students cannot permitted courses of their choice either for their convenience, if that was done it will lead to chaos in education and deterioration in standards

of education. The such matters are policy matters, which cannot as such interfered with. Even otherwise as noticed above, the petitioners are bound by the principle of estoppel having entered the course with open eyes. The rule of prudence has necessarily to be maintained and the preference is to be given to the decision of the academic experts. The interference by the Courts is thus to be done only when there is any violation of any law, malafides or arbitrariness, which in the present case is missing.

The authorities in the present case as noticed had not opined in the favour of the petitioners as per the report of the Committee, which had been accepted. Reference can be made to the judgments of the Apex Court in '**Maharashtra State Board of Secondary and Higher Secondary Education Vs. Paritosh Bhupesh Kumar Sheth' 1984 (4) SCC 27**, wherein it was observed as under:-

“the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them.”

The said view was, thereafter, followed in **All India Council for Technical Education Vs. Surinder Kumar Dhawan 2009 (11) SCC 726**.

The Apex Court in **Basavaiah (Dr.) Vs. Dr. H.L. Ramesh and others (2010) 8 SCC 372** noticed that the experts opinions in the absence of the malafides are not liable to be interfered with and Courts

should not substitute its judgments for that of academicians. Due regard has to be shown to the opinion expressed by the experts and the interference with the decision of the educational authorities should normally be not resorted to. The relevant observations read as under:-

“20. It is abundantly clear from the affidavit filed by the University that the Expert Committee had carefully examined and scrutinized the qualification, experience and published work of the appellants before selecting them for the posts of Readers in Sericulture. In our considered opinion, the Division Bench was not justified in sitting in appeal over the unanimous recommendations of the Expert Committee consisting of five experts. The Expert Committee had in fact scrutinized the merits and de-merits of each candidate including qualification and the equivalent published work and its recommendations were sent to the University for appointment which were accepted by the University.

21. It is the settled legal position that the courts have to show deference and consideration to the recommendation of an Expert Committee consisting of distinguished experts in the field. In the instant case, experts had evaluated the qualification, experience and published work of the appellants and thereafter recommendations for their appointments were made. The Division Bench of the High Court ought not to have sat as an appellate court on the recommendations made by the country's leading experts in the field of Sericulture.”

Similarly in the case of ***Sanchit Bansal and another Vs. Joint Admission Board (JAB) and others 2011 (15) SCR 1057***, the issue which arose was regarding the cut-off marks of JEE-2006. The Division Bench considered the reports of the experts and declined to interfere. Resultantly, the matter was taken to the Apex Court which followed the

abovesaid principle and eventually held that interference is only to be there if there is any violation of any enactment, statutory rules and regulations. The relevant paragraph reads as under:-

“19. Thus, the process of evaluation, the process of ranking and selection of candidates for admission with reference to their performance, the process of achieving the objective of selecting candidates who will be better equipped to suit the specialised courses, are all technical matters in academic field and courts will not interfere in such processes. Courts will interfere only if they find all or any of the following : (i) violation of any enactment, statutory Rules and Regulations; (ii) mala fides or ulterior motives to assist or enable private gain to someone or cause prejudice to anyone; or where the procedure adopted is arbitrary and capricious. An action is said to be arbitrary and capricious, where a person, in particular, a person in authority does any action based on individual discretion by ignoring prescribed rules, procedure or law and the action or decision is founded on prejudice or preference rather than reason or fact. To be termed as arbitrary and capricious, the action must be illogical and whimsical, something without any reasonable explanation. When an action or procedure seeks to achieve a specific objective in furtherance of education in a bona fide manner, by adopting a process which is uniform and non- discriminatory, it cannot be described as arbitrary or capricious or mala fide.”

Thus, it is to be noticed in the case of educational policy or issues involved, it is not for this Court to substitute the experts opinion and convert the 5 ½ years integrated course and permit students to exit after four years with only a B.E. Degree and destroy the basic foundation of the department. Other students who would have also taken admission and would want to continue to their course for the MBA Degree for which they had taken admission would be left high and dry, in the

absence of large number of students taking advantage of the exit policy.

This Court is thus not to sit over the expert opinion of the academicians.

In such circumstances, only on account of the discrimination which has been faced by the students on account of benefits granted to the other institute, the relief is not liable to be granted. It is to be noticed in the present case that the authorities as such never consented with the exit policy in the favour of the institute, and, therefore, they cannot claim any parity as such with the students of respondent No.4.

Resultantly, keeping in view the above discussion, this Court is of the opinion that there is no merit in the present petition and same is, accordingly, dismissed.

Liberty is, however, given to the petitioners to file a representation before the competent authority for improvement of the management faculty. It is expected that the University shall look into the grievances and take appropriate measures in case, it is found that the demand is justified.

DECEMBER 09, 2016

sailesh/naveen

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: Yes