

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

**CWP No.24395 of 2015
Reserved on : 23.09.2016
Decided on : 28.09.2016**

Diksha Bhardwaj

... Petitioner

Versus

Guru Nanak Dev University, Amritsar and another

... Respondents

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

Present : Mr. S.K. Rattan, Advocate
for the petitioner.

Mr. Amrit Paul, Advocate
for the respondents.

G.S. Sandhawal, J.

The petitioner seeks a writ in the nature of mandamus directing the respondents to grant the petitioner special chance to clear supplementary paper of the 5th semester in Business Studies-II of Bachelor of Design (Graphics) (B.Tech) in the examination which was to commence from first week of December, 2015. The relief claimed is on the ground that the similarly situated students in the previous years had been given chance by the respondents and, accordingly, chance be granted to save her career and future.

The pleaded case of the petitioner is that she had taken admission in the abovesaid course in July, 2009 and was studying at Apeejay Institute of Design, New Delhi-respondent No.2 affiliated to Guru Nanak Dev University, Amritsar-respondent No.1. The same is a 4 years degree course having 8 semesters. She had completed her course in July, 2013, but was having supplementary in the 5th semester, in which

she had appeared in March, 2015, but could not clear the same as per Annexure P-5. Therefore, legal notice dated 20.10.2015 (Annexure P-9) had also been served by placing reliance upon the decision of the University dated 03.01.2012 (Annexure P-6) regarding giving special chances to clear supplementary examination. Reliance was placed upon the judgment passed in ***CWP No.12069 of 2010 'Anudeep Randhawa and others Vs. Guru Nanak Dev University and others'*** decided on 13.09.2010 (Annexure P-7), which was followed by the directions in ***CWP No.9109 of 2013 'Pallav Sharma Vs. Guru Nanak Dev University' decided on 30.04.2013*** (Annexure P-8).

In the reply filed by the respondents, it is clarified that the course of Bachelor of Design (Graphics) belongs to the Faculty of Visual Arts & Performing Arts and does not belong to the Engineering & Technology Faculties. The ordinances relied upon were not applicable and the applicable ordinances were referred to and attached as (Annexure R-2). It has been averred that the petitioner had to complete the course of 4 years in a total of 6 years ending in May, 2015, as per Ordinance 3 (f) of the Carry on System. The time for petitioner ran out in May, 2015. It is a matter of record the petitioner had approached this Court only in November, 2015. It has been further clarified that the petitioner first attempted the said paper in November/December, 2011, which she could not clear. Thereafter, she could not clear the said paper in November/December, 2012 and 2013. Last chance she had taken in November/December, 2014. As per respondents decision dated

14.10.2014 (Annexure R-4), no further chance was to be given. Reliance was, accordingly, placed upon the Division Bench judgment passed in **'Gurpreet Kaur Vs. Punjab Technical University' 2004 (2) RSJ 238** to submit that mercy chance once granted cannot be allowed for future examinations, as it would amount to the violation of the regulations.

An additional affidavit was also filed that the public notice dated 03.01.2012 (Annexure P-6) relied upon whereby only a concession was granted by way of an extra special chance at that point of time. The petitioner had still two more years by availing her permissible special chances to complete her course upto the examination of May, 2015 and, therefore, the petitioner was not similarly placed who could be given one extra special chance. Resultantly, there was no vested enforceable right, which could be enforced as such.

Counsel for the respondents has relied upon decision passed in **CWP No.24179 of 2015 'Amandeep Singh Vs. Guru Nanak Dev University'** decided on 04.04.2016, wherein identical issues had been decided against a student and counsel for the petitioner had also appeared in the said case.

In the above said case, the issue was also pertaining to 4 years Degree Course having 8 semesters of 6 months duration each and the supplementary had been obtained in the 7th semester in the subject of Confectionary Technology in the course of Sugar & Alcohol Technology. Keeping in view the ordinance 3 (f) and the note provided, the plea was rejected by noticing that the said concession dated 03.01.2012 was only

for the year 2012 and could not stretch for future examinations. The relevant portion reads as under:-

“It is submitted by counsel for the respondent that one extra special chance was given to the afore-mentioned type of students in the examinations of November/December 2011 and April/May 2012 by way of a concession over and above the normal special chance available under the applicable statutory Ordinances. It is further submitted that the petitioner, who had completed his course of studies and appeared in his last 8th semester examination in May 2013 and still had two more years by availing permissible special chances to complete his course upto the Examination of May 2015, is not similarly placed with the aforementioned students, who were given the said concession of one extra special chance in the academic year 2011-12, for the purpose of claiming parity with them in the academic year 2015-16.

It is also submitted that presently, even because of the respondent-University Syndicate's latest decision taken vide para No.68 of its meeting dated 14.10.2014, no further special chance over and above the period prescribed under Ordinance 3(f) read with Note-I below it, can be granted to the petitioner by the respondent-University in the examination of November/December 2015, to clear his said re-appear paper of odd, i.e. 7th Semester (Confectionary Technology) of the B.Tech. (Sugar & Alcohol) course in order to complete his degree during the period falling beyond May, 2015. It is also stated that the University examinations have already been over.

*In this regard, he has relied upon a decision of this Court in the case of **Gurpreet Kaur vs. Punjab Technical University**, 2004(2) RSJ 238 in which it has been held that one time decision taken by Academic Council to give mercy chance to appear in semester examination to the students over and above maximum chances cannot be allowed/granted to the future examinations/students.*

I have heard learned counsel for the parties and perused the available record.

The petitioner has basically relied upon a decision of the

Syndicate of the respondent-University dated 22.12.2011 notified on 03.01.2012 but the said concession was only for the year 2012 and cannot be stretched further for the purpose of future examinations much-less in the year 2015. The prayer made by the petitioner has also become infructuous because the examination of December 2015, in which the petitioner wanted to appear by availing one extra special chance, is also over.

Consequently, no relief can be granted to the petitioner, in the present petition and hence, the same is hereby dismissed.”

The ordinance 3 (f) which has been appended as Annexure

R-2 reads as under:-

“Courses having Eight semester duration

f. The student shall be promoted to eighth semester only if he has passed all the courses/papers of the first three semesters. After a period of eight semesters the student shall be given a period of two consecutive years more to pass failing which he shall have to start the course afresh from the first semester. However such a student will not be required to qualify the entrance test again.

XXXXXXXXXX

Note: 1 *No special chance or examination shall be allowed beyond what is stated in the above ordinances.”*

From the above reading of the relevant ordinances, it would be clear that the petitioner was entitled for 2 consecutive years more to pass failing which she shall have to start the course from the first semester without qualifying the entrance test.

As noticed above, the petitioner's tenure of normal course was upto 2013 and, thereafter, she had attempted to re-appear in the said examination in December, 2014 for the 4th time, but was unsuccessful. As per rules and regulations and in the absence of any special provision a writ of mandamus cannot be issued in favour of the petitioner which

would violate the regulations, which would govern the University. It is settled principle of law that a writ of mandamus can only be issued to enforce a legal right, which the petitioner's counsel was not be able to demonstrate. The writ claimed is on the basis of decision dated 03.01.2016, which has already been held not applicable in the case of *Amandeep Singh (supra)*.

Resultantly, no relief can be granted to the petitioner, and the writ petition is accordingly dismissed.

SEPTEMBER 28, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No