

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.1463 of 2015 (O&M)

Date of Decision: July 22, 2016

Union of India and others

.....Appellants

versus

Akshit Jindal and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE DARSHAN SINGH.**

Present: Mr.Chetal Mittal, Assistant Solicitor General of India with
Mr.Vivek Singla, Advocate, for the appellants.
Mr.Rahul Rampal, Advocate, for respondent No.1.

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1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Surya Kant, J. (Oral)

The instant letters patent appeal assails the order dated 10.08.2015 whereby learned Single Judge allowed the 1st respondent to appear in the examination on provisional basis and thereafter has issued a final direction to declare his result.

The necessity to issue these directions arose in the following facts and circumstances.

The 1st respondent joined the course of Bachelor of Science in Hospitality & Hotel Administration on 01.08.2012 in appellant No.3-Institute. It was a three years' course. As per his academic performance, the 1st respondent was surely a meritorious student. He unfortunately met with a motor vehicular accident on 24.01.2015 and remained hospitalized. He

remained immobilized for three months and even thereafter he could attend

the classes on wheel-chair only. Because of shortage of lectures he was not issued roll number to appear in the examination.

Learned Single Judge firstly passed an interim order to allow the 1st respondent to appear in the exam and thereafter has directed to declare his result.

His learned counsel informs that the 1st respondent has already qualified the examination and after successfully obtaining the degree, he has got employment as well. In this view of the matter, we are satisfied that the issues raised in this appeal have become purely academic and need not be gone into at this stage. Leaving those questions of law open, we are inclined to dispose of this appeal as infructuous.

Learned counsel for the appellants nevertheless has cited a decision of this Court in Shayana Kanotra versus Guru Nanak Devi University, 2014(4) SCT 502, in which it was held that when the rule does not permit condonation of lectures beyond 15%, the High Court in exercise of powers under Article 226 of the Constitution cannot condone shortage in classes. Learned counsel for the appellants nevertheless has very fairly pointed-out that a Division Bench to which one of us (Surya Kant, J.), was a member, in LPA No.1528 of 2014 decided on 15.01.2015 reversed the above-cited decision of the learned Single Judge, observing as follows:-

“.....[14]. The short question that weighed in the mind of this Court while issuing the interim directions or at present is whether, in the back-drop of the unfortunate fact situation where the appellant suffered the shortage in lectures for the reasons beyond her control, should the writ Court not rescue her from irretrievable loss of an academic year? The other facet of the question is as to whether

exceptional circumstances require exceptional measures to undo the extreme hardship, failing which the appellant will have to revert back to the second semester?

[15]. Having given our thoughtful consideration, it appears to us to be too iniquitous and unfair to revert the appellant back to the second semester at this stage when she is otherwise eligible for admission to the Fourth and the last semester. The fact of the matter is that despite severe injuries, the appellant worked hard and passed her 2nd Semester examination. Not only this, the appellant attended more than the requisite lectures in the third semester and has qualified that semester as well. It emerges that but for her ill-luck that caused the accident, rendering her immobile, the appellant was a conscientious student who has been pursuing her course diligently. Her spirit, thus, deserves applaud.

[16]. The University Calendar empowering the Head of Department or the Vice-Chancellor is couched in affirmative language and it need not be construed to hold that shortage in lectures beyond 15% can not be condoned in any circumstances. The aforesaid provision nonetheless is not an embargo on a writ Court for invoking its discretionary jurisdiction and do complete justice in a case where the authorities have been helpless for want of an untraceable explicit power in the Rules. In the absence of any head-on-collision between the University Calendar and

Equitable considerations, it appears justified to invoke the later and bail out the appellant in such a manner that the spirit and object of the former also remains intact. We attempt to do so....”

(emphasis applied)

The Special Leave to Appeal (Civil) No.3417 of 2015, preferred against the above-cited decision was dismissed by the Hon'ble Supreme Court on 09.02.2015 though the question of law was left open.

The fact situation in the instant case so as to press in-aid the equitable principles is similar. Rather, the first respondent has since completed the degree course and has got employment also.

For the reasons stated above, we dispose of this appeal as infructuous though the question of law is kept open.

Ordered accordingly.

**[SURYA KANT]
JUDGE**

July 22, 2016
mohinder

**[DARSHAN SINGH]
JUDGE**

CM No.3136 of 2015 in
LPA No.1463 of 2015.

Union of India and others vs. Akshit Jindal and others

Present: Mr.Chetan Mittal, Assistant Solicitor General of India with
Mr.Vivek Singla, Advocate, for the applicant-appellants.
Mr.Rashul Rampal, Advocate, for respondent No.1.

Since we have decided the appeal on merits, no separate order
is required to be passed on the application for condonation of delay of 15
days in filing the appeal.

[SURYA KANT]
JUDGE

July 22, 2016
mohinder

[DARSHAN SINGH]
JUDGE