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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 08.07.2016

+ **W.P.(C) 5742/2016**

DEEPAK DHANKHAR

..... Petitioner

versus

THE VICE CHANCELLOR, GURU GOBIND SINGH
INDRAPRASTHA UNIVERSITY & ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Hemant Singh, Advocate.

For the Respondents : Mr Vaibhav Kalra, Advocate.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

W.P.(C) 5742/2015 & CM No.23679/2016 (leave to appear in exam)

1. Petitioner has filed the present petition seeking a writ of mandamus for directing the respondents to set the question paper of Sanskrit as prescribed in examination regulation 10 (i) of the Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) (Amendment) Regulations, 2012 dated 26.04.2012 (hereinafter referred to as the Regulations) and further for a writ of certiorari for quashing the communication dated 16.05.2016 and a mandamus for permitting the respondents to allow the petitioner in the Second Professional Examination (B.A.M.S.) scheduled to commence from 11.07.2016.

2. The petitioner, as a student of first professional session (B.A.M.S.) in the Academic Session 2014-2015, appeared in the first professional examination held in July, 2015, but failed in two subjects, i.e., Sanskrit and Anatomy. The petitioner appeared in the supplementary professional examination in December, 2015-January, 2016 and cleared the Anatomy paper, however, once again failed in Sanskrit. The respondents relying on Rule 6.1 of the Regulations debarred the petitioner from appearing in the second professional course, which is to commence from 11.07.2016.

3. Regulation 6.1 reads as under:-

“6.1 FIRST PROFESSIONAL EXAMINATION:

i) The first professional examination shall be at the end of one academic year of First Professional session. The First Professional session will ordinarily start in July.

ii) The first Professional examination shall be held in the following subjects:-

1. Padarth Vigyan avam Ayurved Itihas
2. Sanskrit
3. Kriya Sharir (Physiology)
4. Rachna Sharir (Anatomy)
5. Maulik Siddhant avam Ashtang Hridaya (Sutra Sthan).

iii) A student failed in not more than two subjects shall be held eligible to keep the terms for the second professional Course, however he/she will not be allowed to appear for second professional examination unless he/she passes in all the subjects of the first professional.”

4. As per Regulation 6.1, a student, who has failed in not more than

two subjects, would be eligible to keep the terms for the second professional course, however, would not be allowed for the second professional examination unless the student passes in all the subjects of the first professional examination.

5. The admitted position is that the petitioner has not passed in all the subjects of the first professional examination. The grievance of the petitioner is that the question paper of Sanskrit set for the First Professional Annual Examination, 2015 and the supplementary examination did not conform with Regulation 10 of the Regulations.

6. The petitioner had approached this Court by way of a writ petition being W.P.(C) No.3414/2016 impugning the pattern of the question paper of Sanskrit. The petition was disposed of on 25.04.2016 permitting the petitioner to raise the grievance before the respondent - University and directing the respondents to dispose of the representation, if filed by the petitioner.

7. The representation filed by the petitioner has been disposed of by the impugned order dated 14.05.2016. The reasons for rejection of the representation are as under:-

Kindly refer to your representation dt. 29th April, 2016 regarding the patter of question paper in the Sanskrit subject during July, 2015 1st Prof BAMS Examination and December 2015-January 2016 1st Prof BAMS Supplementary Examination. Your representation has been considered at the appropriate level and it is regretted to inform you that your request dated 29th April, 2015 could not be acceded for the following

reasons:-

1. The pattern of Sanskrit question paper for BAMS July 2015 1st Prof Annual Examinations and December 2015-January 2016 Supplementary Examinations is similar to that of question papers of previous years.
2. The petitioner Mr. Deepak Dhankar has not put forth his grievance at an appropriate stage for consideration of Students' Grievance Committee even though such opportunity is afforded by the University as per the University Rules. As per the rules, any examination related grievance has to be submitted within seven days of completion of examination and the same shall be considered by Students' Grievance Committee for appropriate recommendations to the Hon'ble Vice Chancellor. Our records do not suggest that any such grievance has been put forth by the petitioner Mr. Deepak Dhankar or any other examinees.
3. The petitioner Mr. Deepak Dhankar Choose to raise the issue only after the declaration of results of Supplementary examination and that too after having realized that he has failed in one of the two subjects he had appeared in the Supplementary examination held in Dec 2015-Jan 2016.
4. The question paper is set by the experts to test the level of proficiency achieved by the examinees and the standard as well as pattern was uniform for all examinees that have appeared for the examinations along with the petitioner. The principle of parity is adhered to and any special treatment to the petitioner will only disturb parity.
5. The proportion of marks allotted to short answer and essay type questions should not be that significant, particularly in a language subject i.e. Sanskrit, as long

as the objective of testing the examinees levels of proficiency vis-a-vis the standards of evaluation is achieved. To imagine that the test is vitiated only due to difference in proportion of marks allocated to different types of questions is bit too far-fetched.

However the issue raised by you is taken note of and an appropriate course of action is initiated to make necessary changes in the pattern of question papers.”

8. Perusal of the reasons cited in the impugned order show that the petitioner did not raise the grievance at an appropriate time. The impugned order records that the rules prescribe that the petitioner could raise a grievance qua any examination within seven days of the completion of the examination and the grievance would be considered by a Students’ Grievance Committee for appropriate recommendation to the Vice Chancellor.

9. Admittedly, no such grievance was raised by the petitioner. The petitioner waited for the results to be declared and it is only after the result were declared that the petitioner filed the writ petition. The respondents have stated that the same format of question paper was set for last several years and no student has raised the grievance qua the said question paper before the Students’ Grievance Committee.

10. The petitioner cannot be permitted to challenge the pattern of the question paper at this late a stage. If the petitioner is permitted to challenge the question paper at this stage, then the entire result of the Sanskrit paper for the first annual examination 2015 as well as the supplementary examination 2015 – 2016 of all the students would come

under a cloud, which certainly cannot be permitted. The petitioner has not impugned Regulation 6.1, which stipulates that prior to allowing a student to appear in the second professional examination, the student has to pass in all the subjects of the first professional examination. Admittedly, the petitioner has not cleared all the subjects of first professional examination and thus falls foul of Regulation 6.1. The petitioner cannot be permitted to appear in the second professional examination.

11. In view of the above, I find no merit in the Writ Petition. The writ petition is dismissed leaving the parties to bear their own costs.

SANJEEV SACHDEVA, J

JULY 08, 2016
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