

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP No.13810 of 2017 (O&M)

Date of Decision : 04.08.2017

Sonu and others

..... Petitioners

Versus

The Board of School Education, Haryana and another Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Pankaj Maini, Advocate
for the petitioners.

Mr. K.K. Gupta, Advocate
for the respondents.

AJAY TEWARI, J. (Oral)

On 27.07.2017 the following order was passed:-

“In this case the dispute is with regard to the requirement of the Board whereby the benefit of compartment was given only in case the student failed in one exam and was denied if the student failed in two exams. It is not disputed that when semester system was in place, the rules envisaged that students who failed in two exams would be permitted to be provisionally promoted to the next class and would have to clear the re-appear examination within two chances in the two subjects in which they may have failed. It is also not in dispute that with effect from the academic session 2016-2017, the semester system was changed to annual system. The case of the petitioners is that in the guidelines issued for the academic session 2016-2017, the Board of School Education, Haryana had stipulated that the system of the examination would become annual from that year and had specifically mentioned

that the benefit of compartment/re-appear would be available to those students who have failed in up to two papers.

On the other hand, the stand of the counsel for the Board is that though this instruction is not disputed, yet it was obviously a mistake since even otherwise once the examination system had changed from semester system to annual system the rules applicable would have necessarily have to be changed. As per him, the rule was in fact changed on 05.12.2016 and it was specified that because the system of examination had changed from semester to annual, the benefit of compartment/re-appear would be given only to those students who had failed in not more than one subject.

Learned counsel for the petitioners countered by arguing that the instructions issued by the Board in March, 2016 would have the force of a prospectus and has cited certain judgments to contend that the prospectus cannot be changed and has the force of law. Mr. Gupta has countered by arguing that those judgments operate only in the field where the process of admission is sought to be changed after publication of the prospectus and cannot apply to the whole course. As per him, today a student may get admission in M.B.B.S and the prospectus would only cover that admission process but cannot cover the further process of syllabus and requirement of studies and pass percentages etc. Mr. Maini states that in the first place the rule which was stated to be amended on 05.12.2016 was never notified and before addressing the point raised by Mr. Gupta, it would be necessary to ascertain if and when amended rules were notified. I find favour in this argument and consequently adjourn the matter to 31.07.2017 to enable Mr. Gupta to file an affidavit as to the date when the rules were notified/put into the public domain.”

Today the affidavit of Mr. Anil Nagar, HCS, Secretary, Board

R-1 on behalf of the respondents and the same is taken on record. Copy has been supplied. In that affidavit it has been mentioned that the decision about the regulations was taken on 05/06th December, 2016 and immediately thereafter it was put on the website of the Board.

In the circumstances, it cannot be held that the petitioners were taken by surprise since 3-4 months before their examination it was in the public domain that in the final examination to be held in the month of March/April, 2017, only those students who failed in upto one paper, would be given the benefit of reappearing/compartment. Consequently, no relief can be granted to the petitioners.

Petition is dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

August 04, 2017
ashish

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No