

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

358

CWP No. 24912 of 2012
Date of Decision: 7.11.2017

SAHIL LAL

....PETITIONER

VS

PT. B.D.SHARMA UNIVERSITY OF HEALTH SCIENCES, ROHTAK
AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Hemant Bassi, Advocate
for the petitioner.

Mr. Ramesh Hooda, Advocate
for the respondents.

AJAY TEWARI, J.(Oral)

On 19.9.2017 the following order was passed:

“In this petition, on 14.12.2012, the following order was passed:

“The petitioner has filed this writ petition to make a limited prayer that the investigation or the enquiry, which is in progress on the basis of an anonymous complaint received against the petitioner for use of unfair means, either was required to be investigated by Unfair Means Committee constituted as per the regulations, but not by the Vigilance Cell. The petitioner apprehends that the manner in which the enquiry is being conducted on the basis of an anonymous complaint would prejudice the cause of the petitioner as respondent No.3-Vice Chancellor is carrying a personal grudge against the father of the petitioner, who is a member of Medical Council of India. Some instances have been referred to in the petition, which give rise to this apprehension in the mind of the petitioner to allege that he will not get a fair treatment in case enquiry, which is in progress,

is conducted under the supervision or the jurisdiction of the respondent- University.

Counsel for the petitioner, however, candidly submits that the petitioner has no objection for holding any enquiry but such enquiry may be conducted by some independent body, which is not under the control and influence of Vice Chancellor of the University respondent No.3. The counsel submits that the petitioner is ready to face enquiry as such.

Since the request is for getting an enquiry conducted by some independent agency and is based on grounds which may give reasonable apprehension to a reasonable person, a case for consideration is made out.”

Notice of motion for 25.1.2013.

At this stage, Mr. Ramesh Hooda, Advocate appears on behalf of the respondents and prays for time to have instructions. In the meantime, further enquiry shall remain stayed.”

Thereafter, on 10.8.2016 the following order was passed:-

“Counsel for the petitioner prays for time to seek latest status of the petitioner whether he has passed from the course in question or not.

Adjourned to 21.9.2016”

Today, learned counsel for the petitioner states that the petitioner migrated from the respondent No.1 and joined another medical college and has now completed his MBBS course. Moreover, the enquiry was lodged not only against the petitioner but against certain teachers also who were alleged to help the petitioner. Counsel has argued that even if all the facts are admitted the defalcation of the teachers is definitely more serious than that of the petitioner and in the enquiry lodged against them those teachers have been let off.

Counsel for the University states that though he has no personal knowledge but the assertion that those teachers have been let off may not be correct and seeks a short adjournment to file an affidavit about the action which was taken against those teachers on the basis of the same complaint.

Adjourned to 10.10.2017.”

Thereafter, counsel for the respondents had filed a short affidavit of Dr. H.K.Aggarwal, Registrar, Pt.B.D.Sharma University of Health Sciences, Rohtak and has placed on record the punishment orders passed against two teachers who were accused of helping the petitioner as Annexures R1/1 and R1/2. A perusal of these orders reveal that punishment of censure has been imposed upon them.

Counsel for the petitioner has argued that once the action of the teachers was taken to be a minor infraction and that is why the least punishment of censure was imposed upon them, further action against the petitioner should not be taken. He has relied upon the judgment of this Court in the matter of “Lalit Sachdeva vs. State of Punjab and others” in CWP-12930-2011 decided on 8.9.2017 wherein this Court held as follows :

“That, however, is not the end of the matter. The issue before me now is whether I should go so far as to render the entire medical course undertaken by the petitioner to have been cancelled. Counsel for respondents No.2 and 3 has further argued that that various interim orders passed in the favour of the party would not create any equity and once this Court has held that condition, sub-clause (viii) is not an independent stand alone provision and is inter-linked with sub-clause (vi), the petition must fail.

Counsel for the petitioner has, however, relied upon the judgment of the Supreme Court in the case of State of Maharashtra and others Vs. D. Y. Patil Vidyapeeth and others, reported as 2016 (9) SCC 401 , to contend that in that case the High Court had allowed certain institutions to make admissions on their own by way of an interim order and that was challenged by the State of Maharashtra and it was held that admissions could be made only by way of centralized counselling. The Supreme Court also vacated those interim orders but specifically held

that this would not disturb the admissions already made since they were done under the directions of the High Court. As per the learned counsel, in the present case also the petitioner was granted interim order after hearing all the parties and there is no allegation of any mis-statement or any other attempt to overreach the Court and in the circumstances, the petitioner should not be now put in a position where the entire six years of his life are wiped out and he is divested of the decree of MBBS. There is another angle to this. It cannot be lost sight of that there is a great shortage of doctors; the petitioner has now cleared the MBBS course and the interim orders were passed after hearing the parties. Consequently, even though the claim set up by the petitioner has to be rejected in law yet the degree obtained by him shall continue to be operative and he would not be divested of the benefit of education he had received in the past six years.”

Counsel for respondent is not in a position to justify how now a more serious action can be taken against the petitioner who was a student when the teachers who were alleged to be helped to cheat were given the minimum penalty of censure. He is also not able to cite any judgment contrary to judgment “Lalit Sachdeva vs. State of Punjab and others”.

In the circumstances, without returning a finding that the petitioner is innocent, I yet allow this petition and permanently restrain the respondent from further raising these issues in any manner and direct that the benefits of the degree which has been obtained by the petitioner shall be given to him and cannot be taken away.

7.11.2017
anuradha

(AJAY TEWARI)
JUDGE

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Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No