

Sr.No.213

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

**CWP No. 21102 of 2016
Date of decision:27.04.2017**

Sahil

.....Petitioner

versus

**Maharshi Dayanand University, Rohtak and another
.....Respondents**

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. Rakesh Sobti, Advocate
for the petitioner.

Mr. Amit Rao, Advocate
for respondent NO. 1.

Ms. Tanisha Peshawaria, DAG, Haryana.

Rakesh Kumar Jain, J.(Oral)

The petitioner has prayed for a writ in the nature of mandamus seeking a direction to the respondents to admit the petitioner in the M.Com 1st year course.

In short, the petitioner has been studying in the college of respondent No.2 and topped in all the 5 semesters of B.Com. After having appeared in the 6th semester, he applied on-line for the M.Com Course on 23.06.2016. The respondent University declared the result of 6th semester of B.Com in which he was shown to have a re-appear in one of the subject i.e.C601. The petitioner was sanguine that there has been a mistake on part of respondent No. 1 in declaring his result as re-appear and thus, personally visited the office of respondent No. 1 and also made a representation requesting them to re-examine the paper of the petitioner of 6th semester of subject C601. Petitioner also applied under the Right to Information Act, 2005 about the answer sheet of the said subject but before the petitioner was

given the required information, respondent No. 1 came to know about the error committed by them as the marks of the petitioner were wrongly mentioned as 11 instead of 45. Accordingly, they changed the result of the petitioner on 12.08.2016 as having passed the said subject instead of re-appear in the same. Request made by the petitioner to respondent No. 2 in M.Com Ist year was declined solely on the ground that result in subject C601 was re-appear. The petitioner thus, could not get the admission and the cut off date 31.08.2016 had expired. Hence, the petitioner has approached this Court by way of this writ petition in which by an interim order dated 21.10.2016, the petitioner was allowed to be admitted in M.Com course in the college of respondent No.2.

Counsel for the petitioner has submitted that since then the petitioner has completed 2 semesters. It is also submitted that the petitioner was not at fault rather the entire fault was of the university who had wrongly declared the result of the petitioner. It is further submitted that the petitioner has been a topper in B.Com in the last 5 semesters and in the subject in which he has been shown to have obtained re-appear, had also secured 45 marks instead of 11.

Counsel for the university has been fair in conceding that the fault was on the part of the university as due to inadvertence the marks of the petitioner has been wrongly given as 11 instead of 45 and as soon as it came to the notice of the university, the result of the petitioner was rectified from re-appearance to pass.

Counsel for respondent No. 2 has also been fair enough to submit that the petitioner being a topper in the previous 5 semesters was

declined admission only on the ground that his result was shown as re-appear.

I have heard both the learned counsel for the parties and after examining the available record with their able assistance, am of the considered opinion that it is a case of error of omission and commission on the part of the university for which the petitioner should not be made to suffer who otherwise has been a topper in the previous 5 semesters of B.Com. The petitioner was given provisional admission by this Court and has also completed two semesters successfully. Thus, in the given facts and circumstances of the case, the interim arrangement made by this Court on 21.10.2016 is hereby made absolute and the writ petition is hereby allowed.

27th April, 2017

Shivani Kaushik

**[Rakesh Kumar Jain]
Judge**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No