

Sr.No.209

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

**CWP No. 24829 of 2016(O&M)
Date of decision:28.04.2017**

Gagandeep Kaur

.....Petitioner

versus

Panjab University and others

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. D.K.Tuteja, Advocate
for the petitioner.

Mr. Deepak Agnihotri, Advocate
for the respondents.

Rakesh Kumar Jain, J.(Oral)

The petitioner was admitted in the course of Bachelor of Pharmacy(B.Pharmacy) in the University Institute of Pharmaceutical Sciences(hereinafter referred to as 'UIPS department') Panjab University in the year 2014-15. The course of B.Pharmacy is of 4 years comprising of 2 semesters each, totaling 8 semesters.

The petitioner appeared in the 1st semester exams in December, 2014 and cleared all the practical as well as theory examinations. She was then promoted to 2nd semester in May, 2015 but unfortunately, out of 5 subjects, she could not clear one subject i.e. Pharmaceutical Statistics (PHARM-2071). The petitioner was promoted to 3rd semester and she appeared in the examination in December, 2015. Thereafter, she was promoted to 4th semester and appeared in the examination of 4th semester in May, 2016. At that time, she also appeared in the subject in which she had failed in the subject i.e. Pharmaceutical Statistics. However, she was declared fail in the said subject and she applied for re-evaluation of her

marks in the said subject on 31.08.2016. Result was however, declared on 25.11.2016 and was found to have passed in the said subject. The petitioner thereafter, requested the institute to promote her to the 5th semester which was earlier declined and hence, the present petition has been filed.

Counsel for the petitioner has submitted that the petitioner was allowed to attend the classes of 5 semester by the Chairperson of the Department at her own risk. At the time when notice was issued on 30.11.2016, the following order was passed by this Court:-

“Counsel inter alia submits that petitioner had taken admission in the Bachelor of Pharmacy in the year 2014. She could not clear one subject namely Pharmaceutical Statistics in the second semester in May, 2015 (Annexure P-2). She continued attending the third semester and was promoted to the fourth semester in May, 2016. She gave the fourth semester examinations alongwith the reappear of the above said subject, which she could not clear as per the result dated 31.08.2016. Resultantly, she was not promoted to the fifth semester and thus applied for revaluation. Her revaluation result has now been declared on 25.11.2016 (Annexure P-5). It is submitted that though she was not given admission in the fifth semester, but she was allowed to attend classes which would be clear from the certificate issued by the Chairperson-respondent no. 3 (Annexure P-4). It is accordingly submitted that on account of delay in the revaluation, the petitioner should not be prejudiced and should be allowed to take the practical examinations commencing from tomorrow and the theory examinations commencing from 15.12.2016.

Notice of motion.

Mr. Indresh Goel, Advocate accepts notice on behalf of the respondents and prays for time.

Requisite number of copies of the writ petition be handed over to him during the course of the day.

Adjourned to 13.12.2016.

Mr. Goel shall ensure that the reply is filed on the said date.

Let necessary affidavit be also filed by respondent no. 3 as to on what basis the student was permitted to attend the classes once the regular admission has been denied in the fifth semester.

In the meantime, the petitioner will be allowed to sit in the practical examinations commencing from tomorrow provisionally subject to further orders. However, it is made clear that the order is purely interim and shall not create any right of equity to the petitioner at any subsequent point of time.

Copy of the order be given to counsel for the petitioner under

signatures of Special Secretary of the Court.”

The petitioner thus, under the order of this Court was issued admit card and appeared in the practical and theory examination of 5th semester as well and in this regard, another order passed by this Court on 13.12.2016 is also relevant to be mentioned which is as under:-

“Affidavit of Dr. Bhupinder Singh Bhoop, Professor and Chairperson, University Institute of Pharmaceutical Sciences, Panjab

University, Chandigarh has been filed in compliance with the order dated 30.11.2016.

Mr. Deepak Agnihotri, Advocate for the respondents prays for time to file detailed response.

Adjourned to 17.01.2017.

The instructions dated 11.07.2016 also be placed on record, reference of which has been made in the affidavit filed today.

Keeping in view the fact that theory examinations are commencing from 15.12.2016 which have been noticed in the earlier order, the petitioner will be issued necessary admit card for the said examinations on the same terms and conditions as per the order dated 30.11.2016.

Copy of the order be given to counsel for the parties under signatures of Special Secretary of the Court.”

Counsel for the petitioner has submitted that declaration of re-evaluation result was not in the hands of the petitioner. All that could have been done by the petitioner was to apply in time. She had applied on 31.08.2016 with all required documents etc. and was expecting the result to be declared before the cut off date as provided in the clause 12 of the chapter pertaining to the Re-Evaluation of calendar which reads as under:-

“If as a result of re-evaluation a candidate passes at the Exam., he/she shall be eligible to seek admission to the next higher class within ten working days of the communication of re-evaluation result to him/her. His/her attendance shall be counted from the date of his/her admission. However, no candidate would be granted admission on the basis of re-evaluation

result after 31st December of the academic session. In the case of admission to a course having Semester Exam. the date will be Oct.15.”

It is further submitted by counsel for the petitioner that the entire fault lies on the part of the university and in this regard, he has referred to two decision of this Court rendered in the case of *Abhijeet Partap Singh Chaudhary vs. Panjab University, Chandigarh and others* CWP NO. 18731 of 2007 decided on 14.02.2008 and *Tejinder Singh vs. Punjab University, Chandigarh and others* CWP No. 22307 of 2011 decided on 26.3.2012 in which somewhat similar controversy was involved about the re-evaluation result after cut off date.

Counsel for the respondents has fairly conceded about the law laid down by this Court in the aforesaid cases and has also submitted that the petitioner has otherwise attended the classes of 5th semester and has already appeared in the examination under the order of this Court though provisionally.

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 the order passed by this Court dated 30.11.2016 by which the petitioner was allowed to take examination of 5th semester provisionally is required to be made absolute in view of the decisions rendered by this Court in the case of *Abhijeet Partap Singh Chaudhary* (supra) and *Tejinder Singh*(supra). Since the petitioner has also attended the classes of 5th semester though at her own risk and had appeared in the examination both of theory as well as of practical, therefore, the admission of the petitioner to 5th semester is hereby ordered to be regularised. With

these observations, the present petition is hereby disposed of.

It is needless to mention that since the petitioner was not given admission in the 5th semester, therefore, the petitioner had been unable to avail the facility of hostel etc., therefore, with the passing of this order, the respondent shall also allow the petitioner to avail the facility of hostel etc. also and declare the result of 5th semester if it has not been already declared.

28th April, 2017

Shivani Kaushik

**[Rakesh Kumar Jain]
Judge**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No