

Sr. No.104

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

CWP No. 27419 of 2016

Date of decision:18.01.2017

Sahil Suri

.....Petitioner

versus

Guru Ravi Dass Ayurved University and another

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. Abhishek Sanghi, Advocate for
Mr. Akshay Bhan, Advocate
for the petitioners.

Mr. T.S.Chauhan, Advocate and
Mr. Satnam Chauhan, Advocate
for the respondents.

Rakesh Kumar Jain, J.(Oral)

The petitioner has prayed for the issuance of a writ in the nature of mandamus, seeking a direction to the respondents, to allow the petitioner to appear in final professional examination of BAMS 4th Prof. which is to be held with effect from 19.01.2017.

In short, the petitioner got admission in Bachelor of Ayurvedic Medicine and Surgery(BAMS) for Ist Prof. In May-June, 2012 in the college of respondent No. 2, affiliated to respondent No.1. The petitioner cleared the Ist Prof. and 2nd Prof. examination. The 3rd Prof. year started in the month of May-June, 2014. The examinations were held in May-June, 2015 but the petitioner got re-appear in three papers i.e. Prasuti & Striroga, Roga Nidan, Swastha Vritta. The petitioner re-appeared in the examination in December, 2015 and cleared two papers i.e. Prasuti & Striroga and Swastha Varitta. He re-appeared in the paper of Roga Nidan in May-June,

2016 and cleared the same. The petitioner was however, allowed to continue studies of the 4th Prof.. He has allegedly paid the fee of the final year to the tune of ₹1,81,000/- in April, 2015, November 2015 and October 2016. The college authorities sent the admission form on 13.10.2016 for the 4th Prof. and charged the admission fee of ₹3,500/- which was paid by the petitioner. However, the petitioner has not been issued Roll No. by the University in order to take the examination of the 4th Prof. examination which is to be held on 19.01.2017. Therefore, the present petition has been filed.

Counsel for the respondent has filed reply today in Court and its copy is given to counsel for the petitioner and submitted that the University has adopted Indian Medicine Central Council(Minimum Standards of Education in Indian Medicine)(Amendment) Regulations, 2012(in short, 'the Regulations') as per which the duration of the course of BAMS is 5½ years comprising Ist to 3rd Prof. of 12 months each and Final Prof. of 18 months besides Compulsory Rotary Internship of 12 months. The 3rd Prof. session starts every year in the month of July following completion of 2nd Prof. examination. As per clause 6.3(iii) if a student fails in not more than two subjects than he is eligible to keep the term for the final professional examination but he would not be allowed to appear for the final Prof. examination unless he clears all the exams of the 3rd Prof. examination. It is also provided that final Prof. examination would be of the duration of 1½ years and shall start every year in the month of July following completion of 3rd Prof. examination.

It is contended by Shri Chauhan, that the completion of 18 months studies of 4th Prof. along with passing of all the papers of 3rd Prof. is compulsory in order to appear in the examination of 4th Prof. course of

BAMS because it involves theory, practical and clinical work. It is further submitted that the student who has reappeared in two or less than two subjects would be eligible to be promoted to the 4th Prof. course of BAMS but he can be eligible to appear in the examination of 4th Prof. only after clearing all the subjects of 3rd Prof. A student who is having reappears in more than two subjects of 3rd Prof. is not eligible even to be promoted to 4th Prof. Since the petitioner got three supplementaries/reappear in three subjects i.e. Prasuti & Striroga, Roga Nidan and Swastha Vritta i.e. more than two subjects in 3rd Prof. in May-June 2015, therefore, under the above provisions, he was not eligible to keep the terms for the final Prof. examination. He had appeared to clear the re-appear subjects in December 2015 and cleared two subjects and was eligible to attend the classes of 4th Prof. examination although re-appear in one subject remained which he cleared only in May-June 2016 when the result was declared on 28.08.2016. therefore, he will be eligible to sit in the 4th Prof. in May-June, 2017 after completion of 1 and ½ year study.

In support of his contention he has relied upon an order passed by this Court in CWP No. 20456 of 2015 titled as Monika Thakur and others vs. Shri Dhanwantry Ayurvedic College and another decided on 7.12.2015 and an order passed in CWP No. 21062 of 2015 titled as Kamal Kumar and others vs. Guru Nanak Ayurvedic Medical College & Hospital and another decided on 7.12.2015 in which similar controversy was involved.

On the other hand, counsel for the petitioner has submitted that once the petitioner has been promoted to the 4th Prof. and the examination form was sent by the college to the University charging examination fee and

that he had been attending the classes, he should not be denied permission/Roll No. to appear in the examination which is to be held on 19.01.2017.

I have heard both the learned counsel for the parties and after examining the available record, am of the considered opinion that the prayer made by the petitioner cannot be accepted as the petitioner has to complete 1 ½ years study of 4th Prof. which would be over in May-June 2017. Therefore, the petitioner still has to wait for another six months to appear in the examination of the 4th Prof. after completion of the duration mentioned for the final Prof. in clause 3 of the Regulations which are mandatory in nature and has to be followed. Consequently, the prayer made by the petitioner is hereby declined and the writ petition is hereby dismissed.

18th January, 2017

Shivani Kaushik

**[Rakesh Kumar Jain]
Judge**

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No