

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

CWP No.6422 of 2014

Date of Decision:19.01.2017

Bhawna Mahajan

.....Petitioner

Vs.

Guru Nanak Dev University, Amritsar and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Gagandeep Singh, Advocate for the petitioner.

Mr. Amrit Paul, Advocate for respondents No.1 and 2.

Mr. Vikrant Sharma, Advocate for respondent No.3.

Mr. R.S. Cheema, Advocate for respondent No.4.

RAKESH KUMAR JAIN, J.(Oral)

This petition is filed for quashing the order dated 10.3.2014 (Annexure P.3) passed by Guru Nanak Dev University, Amritsar (for short, 'the University'), cancelling the admission of the petitioner and striking off her name from the College rolls on the ground that she has passed her B.Sc. (Graduation) from Eastern Institute for Integrated Learning in Management (EIILM) University, Jorethan, Sikkim (hereinafter referred to as 'the private University') under the Distance Education mode which has not been given equivalence by the University.

The brief facts are that the admission to B.Ed Course for the Session 2013-2014 in the Colleges of Education affiliated to (i) Panjab University, Chandigarh, (ii) Guru Nanak Dev University, Amritsar and (iii)

Punjabi University, Patiala were notified by the Department of Higher Education, government of Punjab and the Punjabi University, Patiala was appointed as the authority to conduct centralized online counselling. The petitioner, who had allegedly obtained B.Sc. degree from the private University, also applied for admission in the B.Ed Course, as according to her, the only eligibility was 50% marks in the Bachelor's degree. The petitioner continued her studies but when she was on the verge of taking the exams, received an intimation from the College that her admission has been declared illegal and her name has been struck off from the College rolls.

Counsel for the petitioner has submitted that the petitioner has not concealed any material either from her College (respondent No.4) or from the University at the time of taking admission as there was no condition enumerated in the column of eligibility that the student having degree under the Distant Education shall not be eligible. At the time of notice of motion, the petitioner was permitted to sit in the B.Ed examination provisionally subject to the final decision of the writ petition, making it clear to her that the said interim order will not create any right or equity in her favour. The petitioner has taken the exams but her result has not been declared. In the reply filed by respondent No.4/ College, it is stated that the petitioner had applied for admission on 25.7.2013 without giving documents, namely, Final Year DMC, migration upto 15th Aug., Character certificate, Medical fitness, Residence proof.

She herself stated in that letter that her admission may be kept provisional. In the following letter dated 25.7.2013, she stated that she herself would be responsible for any action taken by the University against

the private University from where she has taken her graduation degree and would not cause any loss to the College. In the reply filed by the University, it is stated that in the notification dated 23.5.2013 by which the admissions were offered for B.Ed. Course for session 2013-2014 in the Colleges of Education, affiliated to three Universities, already referred to above, reference was made about respondent No.4 having 200 seats and it was specifically mentioned as under :-

- “14. In counseling only the major subject would be allotted by the University. The minor subject shall be allotted by the College. Allocation of seat does not mean confirmation of admission. The admission will be confirmed by the college concerned after checking and verification of documents.
15. It is the responsibility of the candidate to ensure that correct information is provided when the online form is filled.
16. Any incorrect information will lead to disqualification.
17. Checking final certificates of the students allocated to the College would be the responsibility of the college.”

It is further submitted that the Academic Council of the University held a meeting in the year 2008 in which a decision was taken to the effect that “In view of the above decision, the Committee also recommended that all the examinations upto Master's degree (two years duration), under regular mode of the various Universities/ Institutions created under the Act of States and Centre funded by the UGC and State

Govt. except private universities/ institutions, distance mode of education & Lateral Entry be considered.” It is also submitted that the eligibility criteria for the Colleges for the session 2013-2014 was also uploaded on the net in which a note was given drawing special attention, reading thus: “The students who do their graduation by lateral entry or under the distance education mode and take admission in any higher class, viz., M.A./M.Sc./P.G. Diploma/B.Ed or in any post-graduation, then they will get admission in post-graduation only by first obtaining **Equivalency Certificate** by making an application with a fee of Rs.300/- to the **Equivalence Section** of the General Branch. If any student does not obtain such a certificate and obtains admission and he is subsequently found to be ineligible, then the responsibility shall be that of the College itself and not of the University.” It is further submitted that intimation was also given to all Heads of all the University teaching Departments and the Principals of all the Colleges affiliated to this University on 28.5.2013 on the subject of instructions to be kept in view for making admissions to the various classes during the Session 2013-14. The students who have done their lower class under Distance Education or by Lateral Entry or in addition to it, those students who come to take admission after doing B.A/B.Sc./B.Com/BBA etc., Part-I or Part-II from outside Universities, all their certificates be sent to their office personally with a letter of the College. It was also provided that “It is essential to check the eligibility of the student for any course. The responsibility for giving wrong admission shall be that of the concerned College. Any enquiry regarding the eligibility of the student is required to be made by the concerned College because the student is not aware of the

office procedure. In addition to it, this may also be ensured that the enquiry on telephone may be done in urgent circumstances only.” Counsel for the University has further submitted that for the first time on 13.8.2013, respondent No.4- College sent the original certificates of the petitioner, i.e. eligibility form and fee of Rs.200/-, Residence, DMC of Matric, +2, B.Sc. I, II and B.Ed Admit Slip. It is submitted that it is nowhere mentioned that the petitioner has obtained a degree under the distance Education Mode and degree of B.Sc Third Year was also not sent despite the clear instructions of 28th May, 2013. Thereafter, on 9.9.2013, the College sent the return of the students admitted by it and for the first time at that time, it was disclosed that the petitioner had passed graduation from the private University authorities but still it is not mentioned that it has been done under the Distance Education Mode. This led to a suspicion in the mind of the University and ultimately they enquired on 19.2.2014 from the College/ respondent No.4 as to whether the petitioner has passed her B.Sc Physics under the Distance Education Mode or the regular one so that further action can be taken about her eligibility. In response to this letter, on 4.3.2014, the College sent the original DMC of the petitioner of the B.Sc. Third Year also and disclosed that the petitioner has passed her graduation under Distance Education Mode from the private University. Thereafter, the University passed the impugned order on 10.3.2014 finding that the petitioner has passed her graduation under the Distance Education.

During the Course of hearing, this Court asked the University to put the case of the petitioner before Equivalence Committee to find out as to whether the degree obtained by the petitioner can be treated equal to the

degree granted by the University. Apropos, the matter was put up before the Equivalence Committee of the University on 20.2.2015. The Equivalence Committee after considering the case of the petitioner, made the following recommendations:-

“Keeping in view the above, the committee recommends that the recognition of Bachelor of Science (Physics) Degree passed under distance education mode from Eastern Institute for Integrated Learning in Management (EIILM) (a Private University), Jorethang, Sikkim be not recognised as equivalent to B.Sc. (Hons.) Physics degree of this University.”

Thus, for all intents and purposes, the University took a stand that the degree obtained by the petitioner under the Distance Education Mode from a private University cannot be equated with the degree granted by the University to a regular student. It is also submitted that even if the petitioner has relied upon a decision of the Supreme Court in the case of **Guru Nanak Dev University v. Sanjay Kumar Katwal and Another**, 2008(4) SCT 391 but it has been specifically stated therein that “What is more important is that the appellant university does not wish to treat correspondence course and Distance Education Course as being the same. That is a matter of policy. Courts will not interfere with the said policy relating to an academic matter.” In support of this submission, counsel for the University has relied upon a judgment of the Constitution Bench of the Supreme Court rendered in the case of **Mohammad Shujat Ali and others v. Union of India and others**, 1975(3) SCC 76, in which the following observations have been made:-

“It must be noted that the question in regard to equivalence of educational qualifications is a technical question based on proper assessment and evaluation of the relevant academic standard and practical attainments of such qualifications and where the decision of the government is based on the recommendation of an expert body which possesses the requisite knowledge, skill and expertise for adequately discharging such a function, the Court, uninformed of relevant data and unaided by the technical insights necessary for the purpose of determining equivalence, would not lightly disturb the decision of the Government. It is only where the decision of the Government is shown to be based on extraneous or irrelevant considerations or actuated by mala fides or irrational and perverse or manifestly wrong that the Court would reach out its lethal arm.”

Counsel for the petitioner has failed to show any mala fide on the part of the University except submitting that the advertisement was silent about the eligibility of a student who had obtained his/ her degree under a Distance Education Mode. The stand taken by the College is that when provisional admission was granted to the petitioner she had specifically stated that she would not claim any loss from the College in case her admission is found to be irregular or illegal.

I have heard learned counsel for the parties and after examining the available record, am of the considered opinion that there is no merit in this petition and the same deserves to be dismissed because the petitioner

had obtained her graduation degree from a private University under a Distance Education Mode. Even if the advertisement does not say that the if the person having the degree under the Distance Education Mode is not eligible but the decision in this regard had already been taken in the year 2008 by the Academic Council of the University. The eligibility criteria for the Courses of Study of the year 2013-2014 specifically provided a special note that a student who has done his/her graduation by lateral entry or under the Distance Education Mode and taken admission to any higher class including B.Ed, then the such student shall have to obtain an equivalence certificate. No equivalence certificate was obtained by the petitioner. The instructions of the University dated 28.5.2013 specifically provided that it would be the responsibility of the College to consider all the documents of the student but in this case, the College did not submit all the documents to the University well within time as on 13.8.2013, only the certificates of B.Sc. Part I and II were sent and the certificate of B.Sc. Part-III was withheld and at no point of time it was disclosed to the University that the petitioner has obtained her graduation degree under the Distance Education Mode and that too from a private University. Ultimately, the true facts were disclosed to the University by the College on 4.3.2014 and immediately thereafter on 10.3.2014, the impugned order was passed. Thus, in these circumstances, the petitioner cannot be allowed to urge that her admission has been cancelled and her name has been struck off from the rolls of the College only on the eve of the examination and the College/ University has allowed her to continue with her studies all along. No other point has been raised.

Thus, keeping in view the aforesaid observations, no merit is found in this petition and hence it is dismissed.

January 19, 2017
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(RAKESH KUMAR JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No