

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

CWP No.7304 of 2015

Date of Decision:29.03.2017

Reena Dahiya & Another

.....Petitioners

Vs.

M.D. University, Rohtak and othersRespondents

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

Present:- Mr. Anil Rana, Advocate for the petitioners.

Mr. N.S. Sandhu, Advocate for the respondents.

RAKESH KUMAR JAIN, J.(Oral)

The petitioners are seeking a writ in the nature of certiorari for quashing of letter dated 17.11.2014 and for directing the respondents to register the petitioners for the Ph.D Course in the subject of Physical Education, as has been done in the case of Sanjay Kumar, who is allegedly identically situated with the petitioners and have thus alleged discrimination.

In brief, petitioner No.1, after graduating in Arts, obtained Diploma in Physical Education and Master's Degree and M.Phil in Physical Education from Kurukshetra University. She applied for awarding the University Research Scholarship (URS) and admission to the Ph.D Course. It is alleged that she had cleared the entrance test and was chosen for URS. She has also allegedly passed her Ist semester examination of the Pre-Ph.D Course.

Petitioner No.2 is stated to be a Gold Medalist in Kabaddi. He

passed his Graduation in Arts and completed his M.A in Physical Education and M.Phil with a Gold Medal from the Kurukshetra University and also passed Diploma in Coaching from the National Institute of Sports, Patiala. He also applied for the award of the URS and admission to the Ph.D Course and cleared the entrance test. He was chosen for the URS and passed his Ist semester examination of Pre-Ph.D Course and also cleared the UGC-NET. According to the petitioners, the University has issued a Brochure containing (Ordinance For Registration And Award of Degree of Doctor of Philosophy (Ph.D) in Various Faculties) for the registration to the Ph.D Programme. The Academic Eligibility to be enrolled as a candidate for the Ph.D research programme is Master's Degree with 55% aggregate marks in the concerned subject with M.Phil Degree. As per the procedure prescribed in the said Ordinance, applications from the eligible candidates were invited upto 30th September/ 31st March on the prescribed form for registration to Ph.D Programme along with synopsis/ research proposal duly approved and signed by the proposed Supervisor which was to be considered by the Departmental Committee twice a year. Copy of the synopsis/ research proposal of the each candidate was to be sent to the members of the Departmental Committee at least seven days before its meeting and the candidate was required to defend his/her research proposal. This provided that the Departmental Committee (DC) may recommend the research proposal for consideration by Departmental Research Committee (DRC) or suggest suitable changes in the research proposal or reject the proposal. The DRC offers opportunity to the candidates by inviting them to defend their synopsis/research proposal(s) and it recommends the registration of the

candidate for consideration by Post Graduate Board of Studies (PGBOS).

The DRC has to clearly state whether in its opinion, the subject proposed for research is suitable or not. Thereafter, the recommendation of the PGBOS is placed before the Academic Council and on its approval, the candidate has to pay the registration fee etc. According to the petitioners, they appeared with Sanjay Kumar before the DC on 24.3.2012. The synopsis were approved with minor modification and thereafter, they appeared before the DRC on 29.3.2012 and their synopsis along with Sanjay Kumar were approved after minor modifications and the Supervisors were allotted. On 31.3.2012, a meeting of the PGBOS was held and the Minutes of the DRC were approved. Thereafter, nothing was done and hence, representation was made by the petitioners on 6.9.2012. After about 1 ½ years, the case of the petitioners was put up to the Academic Council for formal approval but the Academic Council in its meeting held on 23.8.2013 declined the claim of the petitioners. The petitioners then filed CWP No.23582 of 2013 titled as "Reena Dhaiya and another v. Maharishi Dayanand University and others" which was dismissed by this Court on 28.10.2013. Though the case of the petitioners for registration of Ph.D Programme was taken up by the Academic Council on 23.8.2013 along with Sanjay Kumar but later on the case of Sanjay Kumar was again reconsidered/ reviewed by the respondents and the matter was put up before the Academic Council in its 173rd meeting for approval and the recommendations of the PGBOS dated 31.3.2012 were reviewed and after approval by the Academic Council vide resolution dated 15.1.2014, Sanjay Kumar was allowed to be registered for Ph.D Course in the subject of

Physical Education vide letter dated 28.1.2014 and has since been awarded the Ph.D Degree by taking into account his earlier work. Thereafter, both the petitioners submitted a detailed representation on 6.3.2014 specifically mentioning about the resolution dated 15.1.2014 whereby case of Sanjay Kumar has been approved for registration for the Ph.D. Course and requested for consideration of their names as PGBOS had also approved the recommendations of the DRC along with Sanjay Kumar in its meeting held on 31.3.2012. They have also pointed out that they had already completed their 70% respective work. The request of the petitioners was not accepted by the respondents vide their letter dated 17.11.2014 and they were directed to appear before the DC meeting on 26.11.2014 for registration to the Ph.D Course afresh. The petitioners have thus laid challenge to the letter dated 17.11.2014 on the ground that they have been discriminated viz-a-viz Sanjay Kumar, who was similarly situated.

In the reply filed by the respondents, it is submitted that the University had issued a notice inviting applications for registration of Ph.D Programme for February cycle upto 30th April, 2012 subject to availability of seats which was to be verified from the respective University Teaching Departments. It is alleged that the petitioners and another candidate, namely, Ravinder Kumar had applied in response to the said advertisement for Ph.D Programme in the Department of Physical Education and the Head of the Department, without waiting for the last date for submission of applications for Ph.D Registration, convened the meeting of the DC on 24.3.2012, of the DRC on 29.3.2012 and of the PGBOS on 31.3.2012 for considering the request of the applicants along with another applicant Sanjay Kumar whose

case was related to the old cycle i.e. September, 2011. In the said meeting, the case of the petitioners with Sanjay Kumar was considered and approved for Ph.D Registration but as the meeting of the DC, DRC and PGBOS were also held prior to the last date for inviting applications for Ph.D Registration, the same were questioned and complaints were received from some students that the meetings of DC, DRC and PGBOS were held before the last date of inviting applications are invalid and the entire exercise has been done by the Head of the Department for selecting Ravinder Rathee who was not otherwise eligible to be considered for Ph.D Registration on the date of meetings as his pre Ph.D result was not declared on that date. It was also found that they had never applied for admission to the Ph.D Programme in the year 2010-11 and 2011-12 and Ravinder Rathee was not eligible on the date of holding of meeting of DC on 24.3.2012 but became eligible thereafter, on the declaration of result of Pre-Ph.D Course on the date of holding meeting of PGBOS on 31.3.2012. It is further alleged that the application form submitted by petitioner No.1 for registration to Ph.D. Programme bears the date 3.4.2012 but without any diary number of the Department of Physical Education whereas the application form of petitioner No.2 does not bear any date and diary number of the department. The matter involving academic issues pertaining to the petitioners including Sanjay Kumar and Ravinder Rathee was placed before the Academic Council in its meeting held on 23.8.2013 and the Academic Council vide Resolution No.42 did not approve the recommendation of the PGBOS. The case of Sanjay Kumar was of old cycle i.e. September, 2011 for which he had submitted application for registration to Ph.D Programme in the

Department of Physical Education vide diary No.215 dated 30.9.2011 whereas the case of Ph.D Programme of petitioners was of new cycle, i.e. February, 2012 and was not similarly situated with Sanjay Kumar. It is further alleged that the date on the application of petitioner No.1 is 3.4.2012 but without any diary number and there is no date on the application form of petitioner No.2, therefore, they were not available on the date of holding of meetings of DC, DRC and PGBOS which were held on 24.3.2012, 29.3.2012 and 31.3.2012 respectively. It is further alleged that the only error committed was that the case of Sanjay Kumar was also considered along with the case of the petitioners in the aforesaid meetings of the DC, DRC and PGBOS whereas his case was of the old cycle. Sanjay Kumar made a request to reconsider his case in view of the fact that his case was of the old cycle of September, 2011 and there was no anomaly in his case and that he was eligible for registration to the Ph.D Programme on the date of meetings of the DC, DRC and PGBOS. Therefore, Office again examined his request and sent the case to the Head of the Department of Physical Education for obtaining the comments and present status of research work. It was reported that he was punctual and dedicated to his research work. Vice Chancellor referred the case to the Academic Council for reconsideration. The Academic Council vide Resolution No.53 in its meeting held on 15.01.2014 approved the recommendation of PG Board of Studies made in its meeting held on 31.3.2012 regarding registration of Sanjay Kumar to Ph.D. Programme. The representation made by the petitioners for consideration of their case for Ph.D Registration stating that they are the URS of Department of Physical Education for the session 2010-

11 and 2011-12 and completed their Pre-Ph.D Course on July, 2011 was also considered but because of non-availability of the Supervisor in the Department, their cases were not examined and it was found that they have never applied for admission to Ph.D. Programme in the year 2010-11 and 2011-12. Rather petitioner No.1 applied for registration of Ph.D. Programme on 3.4.2012 without any diary number of the Department of Physical Education and that the application form of petitioner No.2 was undated and without any diary number. It is further alleged that the Head of the Department of Physical Education issued a notice on 17.11.2014 for holding a meeting of DC on 26.11.2014 at 1:00 P.M in the Office of the Chairperson, Department of Physical Education and also issued letters to the petitioners directing them to appear before the DC along with copy of synopsis as per schedule. The meeting of the DC was held as per the schedule on 26.11.2014 but no candidate appeared before the Committee members for defending their synopsis for their Ph.D. Registration under the old Ordinance. It is further alleged that the respondent- University has given the opportunity to the petitioners for presenting and defending their case before the DC but the petitioners themselves failed to appear. It is also submitted that the case of the petitioners is not similar to the case of Sanjay Kumar as he is candidate of the old cycle which was wrongly considered with the petitioners in the meetings of the DC, DRC and PGBOS held before the last date of application which was thus held improper and illegal. Since the allegation of the petitioners is that they have been discriminated with Sanjay Kumar who was also considered with them in the meetings of DC, DRC and PGBOS held in the month of March, 2012, therefore, at one

stage, the Registrar of the University was called upon to explain the factual position. He informed the Court that the Vice Chancellor has constituted the Committee of Dean, Academic Affairs, Registrar, Director and Research Director, accepting the applications of the petitioners for the purpose of registration of Ph.D Scholarships. The said Committee held a meeting on 17.3.2017 in the Office of Dean, Academic Affairs and held that the decision of the meeting of the Academic Council held on 15.1.2014 was valid and according to the Ph.D Ordinance, the observations made by the said Committee in that meeting are as under:-

- “1. Ms. Reena and Mr. Sukhvinder were selected for URS on 19.10.2010.
2. Both Ms. Reena and Mr. Sukhvinder passed pre Ph.D course vide December 2010 Examination. On examining the record, it was found that they did not apply for admission to Ph.D programme in 2010-11 and in the first cycle of 2011-12.
3. In the academic Session 2012, the Departmental Committee meeting was held on 24.3.2012, DRC meeting on 29.3.2012 and PGBOS meeting on 31.3.2012. Simultaneously, the University has asked for applications for admission to Ph.D programme for the 2nd cycle whose last date was 30.4.2012. It is evident from the above that meetings of DC, DRC and PGBOS which were held on 24th March 2012, 29th March 2012 and 31st March 2012 respectively were mandated for considering

the cases of previous/1st cycle of the session 2011-12 ending on 30.9.2011.

4. Therefore, the said DC, DRC & PGBOS were not competent to take up the cases of the new cycle in which Ms Reena, Mr. Sukhvinder and Mr. Ravinder Rathi applied for. It is very horrible that the said BOS took up the cases of Ms. Reena, Mr. Sukhvinder and Mr. Ravinder Rathi on 31.3.2012 whereas they applied on 3.4.2012 and after. When this fact came to the notice of the administration, it decided to bring the same in the Academic Council meeting on 15.1.2014. The Academic Council reconsidered its earlier decision passed on 23.8.2013 and allowed the admission of Mr. Sanjay Kumar on the ground that he applied in the old cycle ending on 30.9.2011 whereas the petitioners applied thereafter in April 2012.
5. The petitioner represented their cases to the Vice-Chancellor with the plea that their cases are simultaneously placed with Mr. Sanjay Kumar, the Vice-Chancellor considered their request and after obtaining the advise of Dean, Academic affairs directed the HOD (Phy Edu) to convene the meetings of DC, DRC and PGBOS for reconsideration of the case of Ms. Reena, Mr. Sukhvinder and Mr. Ravinder Rathi under old Ph.D. Programme as in the meantime new Ph.D ordinance

came into existence. The HOD (Phy Edu) issued notice on 17.11.2014 for holding the meeting of Departmental Committee (DC) on 26.11.2014 at 1:00 p.m. in the O/o HOD, Phy Edu and issued registered letter to the petitioners and directed them to appear before the DC alongwith the copy of the synopsis as per schedule. As per the proceedings of Departmental Committee of Phy Education, no candidate appeared before the committee for defending their synopsis under the old ordinance. So, it is evident that the University considered their cases sympathetically and asked the department to consider their cases under old Ph.D ordinance but even then they did not turn up. The University has given ample opportunities to the petitioners so their allegation that the University did not address their problem is unfounded.

RECOMMENDATION

In view of the above facts, the Committee is of the considered opinion that the decision of the Academic Council held on 15.1.2014 was very much valid in accordance with the Ph.D ordinance. Further, the University provided these petitioners another opportunity on 26.11.14 for processing again under the old Ph.D. ordinance and that opportunity was not availed by the petitioners voluntarily.”

After examining the record, it transpired that the case of the

petitioners could not have been considered in the meetings of DC, DRC and PGBOS which was held in the month of March, 2012 with Sanjay Kumar as petitioner No.1 had even not applied for registration for the Ph.D before 31.3.2012 as is evident from the date on the application form which is 3.4.2012, though without any diary number of its submission to the Department of Physical Education and in the case of petitioner No.2, there is no date put up on the application form at all much less the diary number to prove that the application form was actually submitted or not. Thus, in these circumstances, there is hardly any error on the part of the respondents in considering the case of Sanjay Kumar separately as he was not similarly situated with the petitioners and, therefore, the petitioners have no case to allege discrimination invoking Article 14 of the Constitution of India for the purpose of redressal of their grievance before this Court. Accordingly, I do not find any merit in the present petition and the same is hereby dismissed.

March 29, 2017
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(RAKESH KUMAR JAIN)
JUDGE

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