

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

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CWP No.9712 of 2016  
Date of Decision: 19.05.2017

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Vinay Kumar

....Petitioner

**Vs.**

Punjab Technical University, Jalandhar and others

....Respondents

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

Present: Ms.Sonia G. Singh, Advocate,  
for the petitioner.

Mr.IPS Mangat, Advocate,  
for the respondents.

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***RAKESH KUMAR JAIN, J. (ORAL)***

This petition is filed for seeking a writ in the nature of certiorari for quashing the report dated 16.2.2016 and orders dated 18.2.2016 and 13.5.2016 by which the petitioner has been debarred to appear in the last semester and his participation in the last semester has been annulled.

In brief, petitioner is the student of 8<sup>th</sup> semester of B.Tech in the Guru Nanak Dev Engineering College, Ludhiana, which is affiliated to the Punjab Technical University. The petitioner appeared in the 7<sup>th</sup> semester examination of Cyber Law and IPR having subject code BTIT-501/71919 on 4.12.2015 and at that time, the invigilator affixed its seal on the answer sheet of the petitioner i.e. "space below cancelled". According to the petitioner, the said seal

was affixed by the invigilator before the examination time was over whereas the petitioner had attempted the paper even after affixation of “space below cancelled” seal and at the end the invigilator again put the same seal “space below cancelled” on the answer sheet. It is alleged that because of the dual seal i.e. “space below cancelled” on the answer sheet, the paper of the petitioner became controversial and a committee was constituted by the college on 27.11.2015 to resolve the issue. On 27.1.2016, the committee called the concerned invigilator-cum-complainant and the students and recorded their statements. At that time, the invigilator herself admitted that in routine they put the “space below cancelled” seal some time before the end of exam but they allow the students to complete their paper in the remaining time. It is alleged that the committee could not reach to any conclusion and recommended for professional advice and the answer sheet of the petitioner was sent to forensic expert of Panjab University and on the report of the forensic expert, the case of the petitioner was sent to UMC committee vide letter dated 16.2.2016. It is alleged that on the same day, the UMC committee, without providing the report of forensic expert and without provided any opportunity of hearing to the petitioner, cancelled the aforesaid two papers of the petitioner and further debarred him from appearing in the next semester too. Further vide letter dated 18.2.2016, the Director has approved the recommendations of the UMC committee. Consequently, the petitioner has challenged that letter also. On 13.5.2016, the petitioner reached the examination hall to take his

exam of 8<sup>th</sup> semester but the respondents did not allow him to appear in the examination. The petitioner also challenged the letter dated 13.5.2016.

At the time of notice of motion, the petitioner was allowed to take his practical examinations subject to the final outcome of the petition.

After notice, the respondents have put in appearance and filed their reply in which they have basically relied upon the report of the forensic expert but it is not denied that the invigilator had made a specific statement before the committee that *“the invigilators admit that they routinely put the “space below cancelled” stamp some time before the end of exam. However, they say that they leave some pages for the students to attempt the paper in the remaining time as per requirements”*.

Learned counsel for the respondents has submitted that the procedure of putting the seal “space below cancelled” is adopted by the University and the college, so that the answer sheet of the students may not be tampered after the examination is over. However, it is not denied that there are two such seals affixed on the answer sheets of the petitioner, which are just after the 8<sup>th</sup> page of the answer sheet and the another one is after the 15<sup>th</sup> page of the answer sheet, meaning thereby that after attempting the paper till 8<sup>th</sup> page, the petitioner attempted other questions till 15<sup>th</sup> page of the answer sheet. No explanation has been given by the invigilator of affixing the said seal of “space below cancelled” twice on the answer sheet because the

said seal remains in possession of the invigilator and there is no allegation that the petitioner had any access to it.

I have heard both the learned counsel for the parties and after examining the available record, am of the considered opinion that in the absence of any explanation, which has not come from the invigilator, as to why two seals have been affixed on the answer sheet, benefit of doubt has to be given to the petitioner because the invigilator had specifically admitted before the committee that the seal “space below cancelled” is sometimes put even before the end of the examination. It appears that the said seal is put by the invigilators during the course of examination for their own convenience because after the examination there would be lots of answer sheets on which they would require to put their seal.

It is also submitted by learned counsel for the respondents that usually the seal “space below cancelled” is affixed after leaving 3-4 pages so that the examinee may complete his/her paper before the place where the said seal “space below cancelled” is affixed.

To my mind, for this reason, the petitioner cannot be punished by cancelling his examination and also by debarring him to appear in next semester also. The report of the forensic expert is only for the assistance of the Court and cannot be held to be a proof of tampering of the answer sheet by the petitioner. As I have already held that it is a case where there is a serious doubt on the role played

by the invigilator, therefore, the benefit of doubt has to be given to the student/petitioner.

Consequently, the present petition is allowed and the impugned orders are hereby set aside.

**(RAKESH KUMAR JAIN)**  
**JUDGE**

**19.05.2017**

*Vivek*

*Whether speaking/reasoned*    *Yes/No*

*Whether reportable*                *Yes/No*