

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

CWP No.8174 of 2017 (O&M)

Date of Decision:23.05.2017

Smrity

.....Petitioner

Vs.

Kurukshetra University, Kurukshetra and others

.....Respondents

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

Present:- Mr. Jarnail Singh Saneta, Advocate for the petitioner.

Mr. A.S. Virk, Advocate for respondents No.1 and 2.

Mr. R.S. Cheema, Advocate for respondent No.3.

RAKESH KUMAR JAIN, J.(Oral)

This petition is filed for seeking quashing of the letters dated 07.03.2017 and 16.03.2017 by which admission of the petitioner to the Post Graduate Diploma in Computer Application (PGDCA) has been cancelled.

In short, the petitioner after completing her B.Sc in the year 2016 applied for admission in the PGDCA. However, at that time, she had compartment in two subjects of 5th semester, namely, Maths and Physics. The petitioner, instead of appearing in the compartment exams, applied for re-evaluation of the marks of the said two papers on 6.6.2016. The re-evaluation was not done by the University till the petitioner applied for the admission in the PGDCA on 15.09.2016. However, the result of the re-evaluation of the two papers of the 5th semester was declared on 16.12.2016 and the petitioner was found to have secured more than the pass marks. The

net result was that the petitioner was declared to have passed both the subjects of compartment, namely, Maths and Physics of the 5th semester but the respondent has declined admission to the petitioner in PGDCA only on the ground that at the time when the petitioner applied for the admission, she had not passed the qualifying exam.

Counsel for the petitioner has submitted that no doubt, the petitioner had not passed the qualifying exam on 15.9.2016 but before that on 6.6.2016, i.e. three months before, the petitioner had applied for re-evaluation of both the papers in which she had compartment but the University took inordinate time to re-evaluate her marks in the papers of Maths and Physics and the result was declared after the admission was taken. It is further submitted that had the University acted in time for the purpose of re-evaluation i.e. before she took admission on 15.9.2016 then the matter would have been altogether different but the petitioner had no control over the University for the purpose of re-evaluation and, therefore, she could not be penalised. In support of her contention, she has relied upon a decision of the Bench of Himachal Pradesh High Court rendered in the case of **Arun Gautam and others v. H.P. Technical Education Board and others, 1998(2) SimLC 364** to contend that the result of the re-evaluation would relate back to the original result. He has also relied upon a judgment of this Court in the case of **Tejinder Singh v. Punjab University, Chandigarh and others, 2014(8) R.C.R. (Civil) 467**, to contend that the declaration of result lies exclusively in the hands of the University for which the petitioner should not be penalised.

On the other hand, learned counsel for the University has submitted that admission to the petitioner has been denied on the ground that the petitioner was not promoted in the same course to a higher class/semester but she has sought admission in the PGDCA. In this regard, he has referred to clause 4 of the eligibility of the instructions/ guidelines for admission to various courses for the session 2016-2017 to contend that “Compartmental candidates are not eligible for admission in various Post-graduate/Tech./Medical/Para-medical Courses. Therefore, all such requests may not be considered at all. Concerned Ordinances may be kept in view while making admission.” He has also submitted that there is no time fixed in Clause 18.9 of the Chapter IV of “Re-evaluation of Answer Book” contained in University Calendar Volume-II, Part B of the “Ordinance for Examinations” of the Kurukshetra University, Kurukshetra.

I have heard learned counsel for the parties and examined the record with their able assistance. The facts are not in dispute. The petitioner had two compartments. She did not appear in the compartment examination rather she applied for re-evaluation on 6.6.2016 in both the subjects in which she had the compartments. The admission to the PGDCA was taken on 15.9.2016 after about three months and on 16.12.2016, the University after re-evaluating the marks of the petitioner in the said two subjects, namely, Maths and Physics declared her pass. The question thus would arise “As to whether the petitioner is at fault in taking admission on 15.9.2016 or the University is at fault in not declaring her result after re-evaluation in time?”

The answer to this question is not far-fetched because it appears that there was wrong evaluation initially by the examiner because in re-evaluation, it has been found that she had more marks to her credit than what was awarded by the examiner initially. Had the evaluation been done properly initially then, the petitioner would not have to face this kind of difficulty through which she had passed. Secondly, the petitioner had applied for re-evaluation much before she took admission in the PGDCA Course, i.e. three months before the date on which she had applied for the PGDCA Course but the University did not re-evaluate the answer-sheet of the petitioner, rather declared the result of the petitioner after three months thereafter. In that situation, the judgment relied upon by the petitioner, of the Himachal Pradesh High Court, rendered in the case of **Arun Gautam and others (supra)** is fully applicable in which similar issue was involved and the Division Bench has held that “when the fault was rectified by the university in the revaluation, the petitioners are entitled to all the advantages that accrued to all the candidates who came out successfully.” Similarly, the declaration of re-evaluation result on 16.12.2016, the petitioner would also be similarly placed with those students who had passed the examination initially. If that is the position, then the University cannot deny the admission to the petitioner only on the ground that the petitioner is seeking admission in the PGDCA Course and not seeking promotion in the same course to a higher semester. Moreover, the process of re-evaluation is in the hands of the University who has taken six months' time. All these facts goes in favour of the petitioner and thus, to my mind,

the impugned orders are totally illegal and, hence, the same are hereby set aside. The writ petition is allowed accordingly.

May 23, 2017
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(RAKESH KUMAR JAIN)
JUDGE

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