

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

CWP No. 25761 of 2017

Date of Decision: 08.01.2018

VINAY MALIK

..... Petitioner

V/s.

CH. CHARAN SINGH HARYANA AGRICULTURE UNIVERSITY AND
ANOTHER

..... Respondents

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

Present: Mr. Anil Shukla, Advocate,
for the petitioner.

Mr. Vinod S. Bhardwaj, Advocate,
for the respondents.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner has challenged the order dated 31.08.2017 and 20.09.2017 by which his request to continue his B.Sc. (Hons.) Agriculture, 4-year programme, by way of re-admission, has been declined.

In brief, the petitioner, after doing 10+2, got admission in B.Sc. (Hons.) Agriculture, 4-year programme, offered by the Chaudhary Charan Singh Haryana Agricultural University, Hisar (hereinafter referred to as 'the University'). As per Rule 11.2 contained in Chapter I of the University Calendar, Volume II, the student would be declared pass if he would obtain 40% and above marks in theory and practical separately but 50% and above in aggregate but in case a student is unable to maintain 3.5 OGPA ending 1st year then he or she will be re-admitted only for one more chance at the Under Graduate level if he would obtain minimum 2.5/10.00 OGPA.

Rule 11.2 reads as under:-

*“11.2 **Pass:** A student obtaining 40% and above marks in theory and practical separately but 50% and above in aggregate shall be*

declared pass in the relevant course(s). A student obtaining 35% and above marks in theory and practical separately and 35% and above in aggregate shall be passed in the relevant non-credit course, subject to further condition that student must maintain an OGPA as under :

<i>Ending 1st Year</i>	<i>3.5/10.00</i>
<i>Ending 2nd Year</i>	<i>4.0/10.00</i>
<i>Thereafter</i>	<i>5.0/10.00</i>

If a student is unable to maintain 3.5 OGPA ending 1st year, he/she will be readmitted and only one chance for readmission will be given at UG level for those students who have minimum 2.5/10.00 OGPA.”

Admittedly, the petitioner obtained 2.4 OGPA in the 1st year of B.Sc. (Hons.) Agriculture. Therefore, he was not eligible for re-admission to the 1st year of the said programme for one more year. The petitioner, therefore, made a request to the University in terms of Rule 20.5 of the University Calendar, Volume II which reads as under: -

“20.5 Generally rules are not to be relaxed. The Deans will screen all the cases relating to the students of the College at their own level, accept or reject, as per rules. Extension cases may, however be referred to the 14 committee consisting of all Deans and Registrar or his nominee. The senior most Dean will be convenor of the committee and in case the senior most Dean happens to be away, the next senior most Dean will preside over the meeting. The Registrar or his nominee shall act as Member-Secretary. Other cases which are not covered under the rules, but there is sufficient justification for relaxation in the rules, Deans of the Colleges shall obtain Vice-Chancellor’s orders through the Registrar. This will, however, be done only in exceptional and extreme emergent circumstances.”

The application of the petitioner was scrutinized by the Dean who found him ineligible for re-admission and referred his case to the

Registrar for perusal of the Vice Chancellor who ultimately declined the same. Thereafter, the petitioner again filed a similar application by setting up an example of a student, namely; Carlos De Jesus (2016A18BIV) whose OGPA was 0.90 and contended that he had been allowed to get re-admission by relaxing the condition of minimum OGPA as provided in Rule 11.2 of the University Calendar, Volume II. The said application was again declined upto the Vice Chancellor of the University. The petitioner has, thus, approached this Court by way of this petition for seeking a writ in the nature of certiorari for quashing the impugned orders.

Learned counsel for the petitioner has submitted that the University has the power to relax the condition in terms of Rule 20.5 (Supra) which has been done in the case of one student of the same University, namely; Carlos De Jesus. Therefore, he has alleged discrimination at the hands of University.

Learned counsel for respondent-University has submitted that the case of the petitioner is not similar to that of Carlos De Jesus because he had peculiar circumstances in his matter which are mentioned in the Para 6 of their reply which read as under: -

“6. That the averments contained in the para are a matter of record. It is submitted that Mr. Carlos De Jesus a Mozambique student was admitted to B.Sc. (Hons.) Agriculture 4-year programme during the Academic Session 2016-17 under Admission No. 2016A18BIV. He was nominated by the Indian Council for Cultural Relations (ICCR) vide their letter F. No. ASS/35/ISD-1/2016-17/9614/16 dated 03.03.2016 (Annexure R-1) under the Africa Scholarship Scheme. He could not obtain the minimum Overall Grade Point Average (OPGA) at the end of 1st year as required under Rule 11.2 as mentioned in Para 4 above. He submitted an

application dated 10.08.2017 (Annexure R-2) to the Vice-Chancellor of the University vide which he had stated that due to accident, his nose was broken and he had a lot of health problem during examination days and he could not pass the 1st year of B.Sc. (Hons.) Agriculture 4-year. He has requested to allow re-admission Rule 20.5 of Chapter I of University Calender Volume II.”

It is further submitted in the reply that there were no extra-ordinary circumstances in the case of the petitioner for which Rule 20.5 (Supra) could have been invoked for the purpose of relaxation. It is also submitted that there are 26 other students similar to the petitioner who are also waiting for this case.

In this regard, averment has been made by the University in Para 9 of their reply which reads as under: -

“9. That the averments contained in this para are misconceived. In reply to the Para 9 of the petition it is submitted that keeping in view the special circumstances in the case of Mr. Carlos De Jesus a foreign student the worthy Vice Chancellor relaxed the condition of minimum OGPA. Twenty six students (including petitioner and Mr. Carlos De Jesus) were also dropped due to non-fulfilling the requirement of maintaining minimum OGPA of 2.5/10.00 to be eligible for re-admission as required under Rule 11.2 mentioned in Para 4 above. Details of the students is given as under:-

<i>1. B.Sc. (Hons.) Agriculture 4-year students</i>	<i>6</i>
<i>2. B.Sc. (Hons.) Agriculture 6-year students</i>	<i>5</i>
<i>3. B.Sc. (Hons.) Home Science 4-year students</i>	<i>8</i>
<i>4. B.Sc. (Hons.) Home Science 6-year students</i>	<i>7</i>
<i>Total</i>	<i>26 Students</i>

Copies of result notifications of these classes are attached as (Annexure R-7). In case, the petitioner is allowed relaxation in

Rule 11.2 other students will also come up with the similar requests.”

It is further submitted that had there been a special circumstance because of which the petitioner could not obtain the minimum benchmark of 2.5/10.00 then the University might have considered the case of the petitioner but in the absence of any such circumstance, the rule cannot be relaxed.

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that there is no merit in the case of the petitioner because Rule 20.5 is provided in University Calender, Volume II is made to meet the extraordinary circumstance in order to mitigate the hardships of the student as has been done in the case of Carlos De Jesus as he had met with an accident, broke his nose and was suffering from various problems due to acclimatization/change of environment in this country. There is no such circumstance, insofar as the petitioner is concerned, therefore, he has been treated similarly with the other 26 students who have not been allowed re-admission, by relaxing the Rule 20.5. Therefore, the petitioner has failed to make out the case of discrimination.

In view of the above, I do not find any merit in the present petition and the same is hereby dismissed, though without any order as to costs.

January 8, 2017
Ess Kay

(RAKESH KUMAR JAIN)
JUDGE

<i>Whether speaking / reasoned</i>	:	✓ Yes	/	No
<i>Whether Reportable</i>	:	Yes	/	No