

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-2467-2018

Date of decision: - 31.07.2018

Gauri Bajaj

.....Petitioner

Versus

Kurukshetra University and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Harkesh Manuja, Advocate,
for the petitioner.

Ms. A.S. Virk, Advocate,
for respondents No.1 to 3.

Mr. N.S.Behgal, Advocate
for respondents No.4 and 5.

MAHESH GROVER, J. (ORAL)

The petitioner approached this Court for issuance of a writ in the nature of certiorari for quashing the action of the official respondents- Kurukshetra University whereby it has denied the admission to the petitioner while admitting respondents No.4 and 5 by giving them undue weightage of 10 marks for the NET examination after the date of consideration.

Learned counsel for the petitioner has contended that indeed persons having NET qualification were entitled to 10 marks, but in ordinance by the Kurukshetra University intended for the process, gave out

the last date of submission of the application and the certificates to be included for consideration as below: -

- “1. (i) Matriculation Certificate for verification of the date of birth
(ii) Details Mark Card of 10+2
(iii) DMC of Graduation
(iv) DMC of Post Graduation (in duplicate)
(v) Copy of Aadhar Card
(vi) Copy of Award Letter of UGC/CSIR-NET JRF (with validity period)
(vii) Enclose copies of the requisite Certificates to claim the weightage as per Clause 6.15.4. of the Ph.D. Ordinance.”

From the above, it is contended that respondents No.4 and 5 did not have the NET qualification on the date of the submission of the application, rather it was submitted on 03.01.2018 whereas the last date for submission of the form along with documents was 31.10.2017.

Learned counsel for the respondents No.1 to 3-Kurukshetra University points out the facts of the case to contend that the petitioner had initially filed a civil suit along with an application under Order 39 Rule 1 and 2 CPC in which the Court did not grant any substantive relief to the petitioner in view of the conclusion of the admission process. Thereafter, he filed a Civil Writ Petition No.1119 of 2018, which was dismissed on 19.01.2018 by passing the following order: -

“Concededly, the petitioner has filed a civil suit on the same cause of action which is still pending. Therefore, he is debarred from taking recourse to two parallel remedies by filing the instant writ petition also for the same reasons.

Dismissed with liberty to the petitioner to pursue his remedies in law.”

Subsequent thereto, the petitioner made a statement before the civil Court to the following effect: -

“Stated that I do not want to pursue with the present suit and intend to withdraw the same with liberty to exhaust the alternative remedy before different forum.”

The suit was permitted to be withdrawn, but no liberty was granted as was prayed for by the petitioner. The order of the civil court is as under: -

“File taken up today on filing of an application for seeking permission to withdraw the present suit. Learned counsel for the plaintiff has made a statement that he does not want to proceed further with the present suit and withdraws the same. Heard. In view of the statement suffered by the learned counsel for the plaintiff, present suit stands dismissed as withdrawn. File be consigned to record room after due compliance.”

Learned counsel for the petitioner when confronted with this objection made light of it to contend that once this Court had granted the petitioner liberty to pursue his remedies in law then he had no choice but to withdraw the suit to approach this Court again.

On due consideration of this aspect, we are of the considered view that the spirit of our order was amply clear that the petitioner cannot be permitted to have two parallel remedies and dismissed the petition with liberty to him to pursue his remedies in law which ordinarily had to be construed to submit to the process that she had already initiated.

Be that as it may, even if we were to grant certain flexibility to avoid the technicalities in order to enhance substantial justice there is still be an impediment in the way of the petitioner. The University had given out a schedule for submission of documents required, prior to enrollment, as

03.01.2018, which was in addition to the information given out in the ordinance to which the petitioner has referred. Evidently a window was kept open that in case a person who is falling short of documents was to provide the same he could do so but prior to the date of enrolment i.e. 03.01.2018. Concededly, respondents No.4 and 5 had submitted the proof of clearing the NET examination on 03.01.2018. The petitioner had not challenged the scheduled to be in conflict with the ordinance for the admission process and neither does she question the competence of the University to prescribe such a schedule in which eventually we would have little choice, but to accept the stand of the University particularly when no mala-fide has been levelled in the selection process. Even otherwise, the select list has been appended as R-1/6 to show that two persons in the general category higher in merit at Sr. Nos.9 and 12 have not been admitted. Therefore, the entire exercise would be in futility as even if the prayer of the petitioner had to be accepted, there would be no fruitful purpose considering her name being lower down in merits and the higher ones not finding their place in admission.

Dismissed.

(MAHESH GROVER)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

July 31, 2018
naresh.k

Whether reportable?	No
Whether reasoned/speaking?	Yes