

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

CWP No.30022 of 2018(O&M)

Date of Decision: 07.12.2018

Shivani Sharma

.....Petitioner

Versus

Bhagat Phool Singh Mahila Vishwavidyalaya Khanpur Kalan and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. A.K. Kansal, Advocate for the petitioner.

Mr. Tribhuvan Dahiya, Advocate for the respondents.

TEJINDER SINGH DHINDSA J.

Petitioner who is pursuing her B.A.LL.B (Honours), integrated five years course has filed the instant writ petition seeking issuance of directions to the respondents-Bhagat Phool Singh Mahila Vishwavidyalaya, University, to accept her application form and to permit her to appear in the 8th Semester reappear examinations which are scheduled to be held from the second week of December 2018.

It has been averred that petitioner was admitted to the B.A. LL.B (Honours), integrated five years course in the year 2013. Petitioner is stated to have cleared all her examinations upto 7th semester. In the 8th semester examination petitioner could not appear for 5 external examinations on account of certain pressing circumstances. She thereafter appeared in the 9th semester and cleared all the subjects. Thereafter, petitioner appeared in the 10th semester examination alongwith the five papers of 8th semester in the month of May 2018 but could not clear three papers of 8th semester as also certain papers of the 10th semester. Petitioner accordingly submitted the requisite form(s) for re-appearing in the 8th as

also 10th semester examination.

Precise grievance raised in the instant petition is that even though the respondent-university has accepted her examination form for 10th semester examination but she is not being permitted to appear for the 8th semester reappears and has been informed orally that she would be eligible to appear in such 8th semester re-appear examinations in the month of May 2019. Case of the petitioner is that the action of the respondent-University is in violation of ordinance No. **BPSMV/Laws/UG/B.A.LL.B./2009/01** issued by the Department of Laws pertaining to the 5 years integrated course of Bachelor of Arts and Bachelor of Laws (Honours).

Upon notice of motion having been issued, Mr. Tribhuvan Dahiya, Advocate has put in appearance on behalf of the contesting respondent. Even though reply has not been filed yet Mr. Dahiya has placed reliance on a subsequent ordinance issued by the respondent-University for the Bachelor of Arts and Bachelor of Laws (Honours) course made applicable w.e.f. 2012-2013 and it has been submitted that such ordinance supersedes the previous ordinance appended as Annexure P-6 alongwith the writ petition. A copy of the ordinance made applicable w.e.f. 2012-2013 was furnished to learned counsel for the petitioner and even made available for perusal of this Court.

Learned counsel representing the petitioner places heavy reliance upon Clause 7.7 of the ordinance made effective w.e.f. 2012-2013 and which reads as follows:-

7.7 If a candidate, after attending the clases for the course of studies in the Department either not appeared or having appeared in any semester examination has failed in one or more papers for that examination, she can appear for such

papers at subsequent examinations without attending a fresh course of studies for that semester such a candidate may, in the meantime, prosecute his/her studies for the next semesters. Supplementary examinations for the last two semesters will be held after six months i.e. for odd semester in the month of May and for even semester in the month of December/January.

Learned counsel submits that in terms of clause 7.7 a candidate having not appeared or having appeared in **any** semester examination and having failed, can appear for such paper/s at subsequent examinations. It is argued that since the petitioner had not cleared three papers for the 8th semester examination held in May 2018, the subsequent examination is now to be held in the second week of December 2018 and the respondent-University is not justified in not permitting the petitioner to appear in the three examinations for the 8th semester in December 2018.

The submission raised by learned counsel for the petitioner appears attractive at first blush. However, Clause 8 of such ordinance would clarify the matter. Clause 8 reads as follows:-

8. Reappear Examinations

A student having reappear in even/odd semester up to 8th semester may reappear in the examination with the regular students. The students having reappear in final year (9th & 10th semester) may re appear in both even and odd semester's regular examination.

In terms of clause 8 the student having reappear in even/odd semester upto 8th semester may re-appear in the examination alongwith the regular students. The term “**subsequent examinations**” as appearing in clause 7.7 of the ordinance as such stands qualified in terms of contents of Clause 8 and whereby for reappear in even/odd semester upto 8th semester, the student has a right to re-appear in the examination with the

regular students. In other words the subsequent examinations for reappears upto 8th semester have to be linked with the examinations being held for the regular students. Learned counsel for the petitioner does not controvert that the 8th semester examination for regular students is to be now held in the month of May 2019.

The attempt made by learned counsel to read Clause 7.7 of the ordinance in isolation cannot be accepted. To consider the prayer raised by the petitioner in the instant petition, Clause 7.7 has to be read alongwith Clause 8 of the ordinance and a conjoint reading of both the clauses clearly bring out that for reappears pertaining to 8th semester, a candidate is entitled to appear at the subsequent examinations but alongwith the regular students. Such subsequent examination for 8th semester for the regular students is concededly to be held in the month of May 2019.

Under such circumstances no infirmity is noticed in the action of the respondent-University in declining claim of the petitioner to appear in the reappear examinations for 8th semester in the month of December 2018

No merit.

Writ petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

December 07, 2018

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No