

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

CWP No.8585 of 2018
Date of Decision:- 15.05.2018

Naren Pratap Singh

.....Petitioner

Vs.

Kurukshetra University and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: - Mr.N.P. Singh, Advocate,
for the petitioner.

Mr.Bhuwan Vats, Advocate,
for respondents No.1 and 2.

RAKESH KUMAR JAIN, J.

The petitioner passed out his LL.M. 2 years' course from the Kurukshetra University, Kurukshetra [for short 'the University'] in the year 2013. He applied to the University for taking improvement examination which has been made applicable from Session 2015-2016. He referred to Clause 16.1 and 16.2 of the University Calendar but he has been informed by the University that since he had completed his LL.M. in the year 2013 and the decision with regard to improvement in the marks of LL.M. has been taken in the year 2015 w.e.f. Session 2015-16, therefore, he would not be eligible. The petitioner has thus approached this Court for seeking a direction to the University to consider his application for permission to appear in the improvement examination of previous and final year of LL.M.

After notice, the University has filed its reply in which it is averred that the Vice Chancellor of the University constituted a committee to consider the request of the students to award grace marks to the LL.M. students and to make provisions for improvement in the LL.M. course. The meeting of the said committee was held on 29.10.2014 and favourable recommendations were placed before the Academic Council of the University which were considered and approved in the meeting held on 15.4.2015. The decision taken by the Academic Council was then placed before the Executive Council of the University. In its meeting held on 14.9.2015, the Executive Council of the University approved the recommendations of the Academic Council and permitted improvement of performance which was included in the Rules much less Clause 16.1 and 16.2 in the University Calendar. However, the stand of the University is that the petitioner cannot be permitted to seek improvement in his marks of LL.M. course because he had passed out in the year 2013 whereas the provisions of improvement have been made w.e.f. Session 2015-2016.

In order to appreciate the respective contentions of learned counsel for the parties, it would be relevant to refer to Clause 16.1 and 16.2 of the University Calendar, which read as under: -

“16.1 A person who has passed the L.L.M Examination of this University and is desirous of improving his performance, will be allowed to appear as an ex-student in the L.L.M. examination thrice in one or more theory paper(s) of Previous and/or final

examination within a period of five years of his passing the L.L.M. examination. Such a candidate in the first instance , shall be required to intimate all the paper(s) in which he would like to improve his/her performance. He will then appear in the respective paper(s) at the Previous and/or final examination simultaneously in April/May and/or in supplementary examination. If he does not improve his performance he shall be eligible to do so in the following year(s) which would be treated as second chance. In case he does not improve his performance even in second chance, he will be given third chance to improve his performance.

16.2 *The result of such a candidate shall be declared only if he improves his performance in the aggregate of the whole examination by taking into account the marks obtained by him in the paper(s) in which he re-appeared and the marks obtained by him earlier in the remaining paper(s) etc whichever are higher. The fact that the candidate has improved the*

performance shall be mentioned in the Detailed-marks-Card.”

Provided that the candidate will take the examination according to the Syllabus in force for the regular students in that academic session in which he proposes to take the examination for the purpose of improving his performance.

Learned counsel for the petitioner has submitted that Clause 16.1 of the University Calendar applies to the petitioner because it only talks of a period of 5 years of the passing of the LL.M. examination for improvement in the marks. It is submitted that it is only a decision which has been taken in the year 2015 but the Rule does not say anywhere that it would not apply to the students, who had passed the LL.M examination before the Rule came into being.

On the other hand, learned counsel for the respondents/University has submitted that the Rule is prospective in nature and has been made to apply w.e.f. Session 2015-16. It is submitted that it would not apply to the case of the petitioner who had already passed out his LL.M. course in the year 2013.

I have heard learned counsel for the parties and perused the available record with their able assistance. Clause 16.1 of the University Calendar which requires interpretation, on dissection, would read as under: -

- (i) A person, who has passed LL.M. examination of this University is desirous for improving his/her performance;
- (ii) Will be allowed to appear as an ex-student in the LL.M. examination;
- (iii) Thrice in one or more theory paper(s) of previous and/or final examinations;
- (iv) Within five years of his passing of the LL.M. examination.

According to the aforesaid provision, it would apply to all such ex-students of the LL.M., who are desirous of improving their performance of the LL.M. examination passed by them but would be allowed three chances in one or more theory paper(s) of the previous and/or final examination which has to be within five years of his/her passing of the LL.M. examination. It means that if a student has passed his/her LL.M. examination in the year 2012 then he/she would not be entitled/eligible to seek appearance in the improvement examination as an ex-student in the year 2018, after the expiry of five years of his/her passing of the LL.M. examination. It is nowhere mentioned in Clause 16.1 of the University Calendar that it would apply to a student who has passed out his/her LL.M. in the year 2015 but it would not debar any ex-student of LL.M., whose case would fall within a period of five years of his/her passing of the LL.M. for the purpose of appearing in the improvement examination.

The present petition is hereby allowed and a direction is issued to respondent No.2 to consider the request of the petitioner for his appearance in the improvement examination of LL.M. in case he wanted to appear in previous and final year of examination of LL.M. The necessary

decision shall be taken by the University in this regard within a period of seven days from the date of receipt of certified copy of this order.

15.05.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : *Yes/No*
Whether Reportable : *Yes/No*