

LPA-1491-2017 (O&M)

229

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

LPA-1491-2017 (O&M)

Date of decision : 22.10.2018

Varinderjit Kaur and another

... Appellants

Versus

Guru Nank Dev University, Sri Amritsar Sahib and
others

... Respondents

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. Lal Singh Sandhu, Advocate
for the appellants.

Mr. Gaurav Kathuria, Advocate
for respondent Nos.1 & 2/University.

None for respondent No.3.

MAHESH GROVER, J. (ORAL)

CM-3175-LPA-2017

Delay of 48 days in filing the appeal is condoned for the
reasons set out in the application.

C.M. stands allowed.

LPA-1491-2017

This appeal is directed against the judgment of learned Single
Judge dated 24.05.2017.

The appellants, who are the students of Masters Course, applied
for improvement of marks by taking another examination. This was
supposedly prevalent and applicable to the semester system adopted by the

LPA-1491-2017 (O&M)

college. The University issued a circular dated 31.05.2016 (Annexure P-9) and cancelled all such examinations taken by the students by exercising its powers in terms of Clause 3 (C) (i) of the Calendar, Volume II-2008, which provides that if a candidate, subsequent to the issue of Roll Number or subsequent to appearance in an examination, is found to be ineligible to take the examination, his candidature would be cancelled by the Registrar. Since the examination of the petitioners was cancelled, they approached this Court, resulting into dismissal of the writ petition by holding that there was statutory provision for appearing in the improvement examination as the petitioners had been pursuing the semester system course.

Learned counsel for the appellants contend that the impugned judgment is erroneous and has not taken into account the reply of the University, which clearly stated that the instructions (Annexure P-9) did not apply to autonomous colleges and it was intended only for non-autonomous college affiliated to the University. The reply of the College reveals that they had merely followed the diktat of the University.

Before us, learned counsel for respondent No.1-University reiterates its stand.

There is no representation on behalf of respondent No.3/college.

After hearing learned counsel for the parties, we are of the opinion that learned Single Judge fell in error in not taking into consideration the reply of the University, which is unambiguous to say that the instruction dated 31.05.2016 (Annexure P-9) was not applicable to respondent No.3/College, being an autonomous body. If that be so, then the examination, which was cancelled solely on the basis of Annexure P-9,

LPA-1491-2017 (O&M)

cannot be sustained. For the purposes of reference, we extract the relevant portion of the reply of respondent No.1-University:-

"3. That the impugned decision conveyed vide letter dated 31-5-2016 (Annexure P-9), which is self explanatory, was not issued to the respondent No.3-Khalsa College, Amritsar, by the respondent No.1-Guru Nanak Dev University, Amritsar, and that it is meant for the students of non-autonomous colleges affiliated to the respondent No.1-University."

In view of above, we accept the appeal, set aside the impugned judgment and direct the College/respondent No.3 to review the decision in the case of cancellation of petitioners' examination. The needful be done as expeditiously as possible preferably within a period of four weeks from the date of receipt of the certified copy of this order.

**(MAHESH GROVER)
JUDGE**

**(AMIT RAWAL)
JUDGE**

22.10.2018
Yogesh Sharma

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**