

LPA no. 582 of 2017 (O&M) 1

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

LPA no. 582 of 2017 (O&M)

Date of Decision : 09.10.2018

Parveen Kumar

....Appellant

Versus

Maharishi Dayanand University Rohtak and another

...Respondent(s)

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

Present : Mr.Virender Singh Punia, Advocate for the appellant
 Mr. Amit Rao, Advocate for respondent No.1
 Mr. Bijender Kaushik, Advocate for respondent No.2

MAHESH GROVER, J.(ORAL)

CM No. 1202-LPA of 2017

After hearing learned counsel for the applicant and going through the contents of the application, delay of 95 days in filing the instant appeal is hereby condoned. CM stands allowed.

Main case

This appeal is directed against the judgment of the learned Single Judge dated 30.11.2016. The appellant while taking his examination for the sixth semester of the Bachelor of Science course was involved in an unfair means case. He was found in possession of supportive material related to the subject of examination. However, his result of B.Sc was declared on 11.7.2014 which was later on cancelled on 28.9.2015.

In the interregnum due to the lapse on the part of the University,

the appellant was shown to have passed the examination successfully

whereafter he took examination for the B.Ed course and during the currency of which his result was cancelled on 28.9.2015. He approached this Court by way of CWP No.25828 of 2015 where he concealed the fact of his involvement in the unfair means case. During the writ proceedings when the University disclosed this fact the appellant was asked to furnish an affidavit which he did admitting to his mis-conduct. The writ petition was dismissed by the learned Single Judge and apart from other reasons the attempt by the appellant to conceal the facts was one of the factors that weighed with the learned Single Judge in passing the impugned order dismissing the writ petition which is now cause of grievance to the appellant, who now contends that it is only on account of the fault of the University that result was cancelled belatedly and since he had been shown as pass he undertook the further studies which has now jeopardized his whole career.

Appellant concedes to his mis-conduct during the examination and the attempt to mislead the Court and during the course of arguments larger part of the submissions made by the learned counsel for the appellant have centred around the lapse on the University's part in showing him as passed.

After hearing learned counsel for the parties, we are of the opinion that the judgment of the learned Single Judge cannot be termed to be erroneous in any manner so as to warrant our interference in the Letters Patent jurisdiction. Evidently, the appellant was in the wrong when he mis-conducted himself during the examination and thereafter concealing facts from the Court. Both these factors would be sufficient to shut the doors on the appellant.

The only redeeming feature that we see in the present case is

that the University too was at fault in declaring the appellant successful in the examination even though his conduct was under scanner.

But the appellant cannot derive any undue mileage from this lapse considering the fact that his own mis-conduct clearly outweighs the lapse of the University.

At this stage, learned counsel for the appellant contends that another candidate similarly placed as him has approached this Court by way of CWP No.14273 of 2016 where learned Single Judge restricted the cancellation of the result to the paper in question and did not apply it to the entire examination.

On due consideration of the matter, we are of the opinion that a similar yard stick as the one applied by learned Single Judge in CWP No. CWP No.14273 of 2016 would suffice and meets the ends of justice. The cancellation of the examination would thus only pertain to the subject in which appellant was found in possession of unsolicited material. This to our mind would settle the equities considering the fact that the University itself was sufficiently at fault resulting in the appellant gaining admission to another course which he had also completed when entire result of B.Sci course was cancelled.

Disposed of.

(Mahesh Grover)
Judge

09.10.2018
rekha

(Mahabir Singh Sindhu)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No