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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 4800 of 2016
Date of Decision: 30.04.2019

MISS NEETA

...Petitioner

VS.

GURU NANAK DEV UNIVERSITY, AMRITSAR AND ANOTHER

...Respondents

CORAM: **HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.**
 HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. M.L. Saggar, Senior Advocate,
 with Veenu Garg, Advocate, for the petitioner.

Mr. Amrit Paul, Advocate, for respondents No. 1 and 2

RAKESH KUMAR JAIN, J.

The petitioner has basically made two prayers in this petition, firstly, for declaring a part of Clause 7 (c) of the Credit Based Continuous Evaluation Grading System, only to the effect that “*they should register for these (repeat) course/s in the beginning of that semester but need not to attend the classes again. However, they may consult the concerned teacher for guidance.*” as illegal, arbitrary and for quashing the same and secondly, for the issuance of a writ in the nature of *Mandamus* to direct the respondents to accept the admission form of the petitioner, allowing her to appear in the subject of “Jurisprudence” of the final examination of 4th semester of session 2015-2016 of L.L.M. (Hons.) Course, to be held in the month of April, 2016.

In brief, the petitioner, after completing her three year LL.B. Course in the year 2003, enrolled herself with the Bar Council of Punjab, Haryana and U.T., Chandigarh. She took admission in the 1st Semester of L.L.M (Hons.) 2 years’ course in the regional campus of the Guru Nanak Dev University, Amritsar (herein after referred to as ‘the University’) in the academic session 2013-2014, started in July 2013 under its governing

Ordinance called as, Credit Based Continuous Evaluation Grading System Ordinances (hereinafter referred to as ‘the CGPA Ordinances’). She completed her teaching course of two year’s LLM (Hons.) under the said CGPA Ordinances after the 4th semester of the academic session i.e. 2014-15 for which the examinations were held in the month of May, 2015 but she could not clear the subject of the Jurisprudence of the 1st semester, firstly, in the regular examination held in the month of November and December, 2013, at the end of the first semester and then in the re-appear/repeat (Examination) held in the November/December 2014.

The academic profile of the petitioner is as under: -

Sr. No.	Academic Session	Semester	Semester started in	University Semester examination (called Major examination) held in	Result/ Comments
1.	2013-14	1 st	July, 2013	Nov./Dec., 2013	Got reappear (repeat) in one subject of Jurisprudence
2.	2013-14	2 nd	Jan., 2014	May, 2014	Passed in all subjects.
3.	2014-15	3 rd	July, 2014	Nov./Dec., 2014	Passed in all subjects.
4.	2014-15	1 st	July, 2014	Nov./Dec., 2014	Appeared in the reappear (repeat) subject of Jurisprudence of her 1 st semester alongwith her 3 rd semester exam., but failed to clear it.
5.	2014-15	4 th	Jan., 2015	May, 2015	Passed in all subjects of 4 th semester, and ceased to be a student of the University after May, 2015.

The petitioner has alleged that in order to clear the re-appear exam, in the subject of Jurisprudence, she had submitted her admission form on 13.11.2015 in the office of the University for the examination which was to be held on 26.11.2015. she was allegedly asked by the University to submit an undertaking to pay any other fee if asked by the University to

which she gave her undertaking on 18.11.2015 but her admission form was returned on 20.11.2015 on the pretext that she could not appear in the examination as she did not get herself admitted afresh to appear in the examination. The petitioner came to know about the Ordinance 7 (c) of the CGPA Ordinances in which it is provided that the student, like the petitioner, had to get herself registered for the repeat course in the beginning of the semester. The petitioner is aggrieved against the portion of the Ordinance 7 (c) wherein it is provided that *“they should register for these (repeat) course/s in the beginning of that semester but need not to attend the classes again. However, they may consult the concerned teacher for guidance.”*

According to the petitioner, this provision is illegal, unlawful and arbitrary as it has been incorporated in the CGPA Ordinances to fleece the students because in case of fresh admission, the student has to pay the admission fee of ₹22,700/- otherwise for the repeat examination, the examination fee is only ₹1,100/-.

During the pendency of the writ petition, the respondents had submitted that no examination of the subject of the first semester, in which the petitioner wanted to re-appear, is scheduled to be held in the month of May or April, 2016 but in the order dated 04.05.2016 passed in the application i.e. **CM-4608-CWP-2016**, this Court had observed that:-

“Since, no examination in which petitioner can appear is scheduled to be held in the month of May, the application is disposed of with a direction that as and when the examination for re-appear would be held in the months of November/December or thereafter, the petitioner shall be allowed to appear provisionally, subject to final outcome of this writ petition.”

Thereafter, the petitioner had appeared in the examination. The result of the examination was ordered to be produced before the Court in a

sealed cover vide order dated 01.09.2017 and on the adjourned date i.e. 15.11.2017, the result was received in the sealed cover which was opened, perused, re-sealed and retained on the Court file.

Learned counsel for the petitioner has requested this Court to open the result which has been re-sealed to find out as to whether the petitioner has qualified in the examination or failed. He has also submitted that in case the petitioner has failed in the examination then the writ petition would not be pressed and in case she has cleared the examination then the writ petition may be allowed without treating the order passed by this Court as a precedent.

On the other hand, learned counsel appearing on behalf of the University has contested this suggestion/argument raised by learned counsel for the petitioner on the ground that the petitioner cannot take advantage of the permission given by this Court to appear in the examination provisionally because it was made clear in the order dated 04.05.2016 that the appearance of the petitioner in the exam is provisional and would depend upon the final outcome of the writ petition. In this regard, he has referred to the decisions of the Hon'ble the Supreme Court rendered in the case of **Central Board of Secondary Education** Vs. **Nikhil Gulati and another; 1998 (2) RSJ 153** and in the case of **Mahatma Gandhi University and Another** Vs. **Gis Jose and Others; 2009(1) RSJ 438.**

Learned counsel for the respondents has further submitted that the continuous evaluation in each course/subject comprises of the following “% weightage (Marks)”:-

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|-------------------------------|------------|
| 1. Minor-I Class examination | 20% marks. |
| 2. Minor-II Class examination | 20% marks. |
| 3. Quizes/Group Discussion/ | 10% |

Case discussion etc.

4. *Major Test (i.e., University Examination)* 50%

It is further submitted that Ordinance 7 (c) of the CGPA Ordinances, which is under challenge, provides that a repeat examination of an odd semester (1st, 3rd, 5th, etc.) is to be taken by the candidate alongwith the major (University) examination of that odd semester (1st, 3rd, 5th, etc.) and not with the major (University) examination of the even semesters (2nd, 4th, 6th, etc.) of the course concerned.

Ordinance 7 (c) of the CGPA Ordinances is reproduced as under: -

“If a student maintains CGPA of 4.5 at the end of the even semester of the session, but fails in a maximum of two courses during the two semesters of that year, he/she will be promoted to the next year. However, he/she will be required to clear these courses during the subsequent semesters within the duration of the maximum period specified to complete the degree. For such candidates, repeat (Minor-I, Minor-II, Quiz as well as Major) examination for an odd semester shall be conducted alongwith the next odd semester and even semester alongwith the next even semester. They should register for these (repeat) course/s in the beginning of that semester but need not to attend the classes again. However, they may consult the concerned teacher for guidance.”

According to the petitioner, a student can re-appear in the repeat subject of odd semesters (i.e. 1st and 3rd Semester) only with the major examination of odd semesters which were held in the months of November/December in every session but a student cannot reappear in the repeat subject of odd semesters (i.e. 1st and 3rd Semester) with the major exam of even semesters usually held in the month of May in every session. It is also submitted that there are no Minor-I or Minor-II examinations of

1st semester to be held with the 4th semester students of the current academic session 2015-16. Minor-I of the even (2nd & 4th) semesters of the current January, 2016-May, 2016 session were held in February, 2016 and Minor-II of the even (2nd and 4th) semesters of January, 2016-May, 2016 session are held in March-April, 2016 towards the Major examinations of the said even semesters which are to be held in May 2016. Thus, it is submitted that the petitioner is not eligible and she cannot re-appear in her repeat subject of Jurisprudence of 1st semester (odd semester) relating to the session 2013-14 with the major examination of 4th semester (i.e. even semester) of the current academic session 2015-16 which was to be held in May, 2016.

It is further submitted by learned counsel for the University that there is an object to be achieved with the part of Ordinance 7 (c) of the CGPA Ordinances which has been challenged by the petitioner because after completing the study of all the 4 semesters of LL.M. (Hons.) by May 2015, the petitioner was no longer the student of the University and was not eligible and entitled to re-appear in the repeat subject of Jurisprudence in the major (University) examination of the 1st semester held in November/December, 2015, without taking admission as a student of the University by registering herself during the session 2015-16 (July, 2015 to November/December, 2015) for availing the facilities as a student towards continuous assessment and evaluation by way of taking the Minor-I, Minor-II, Quizes, etc. of the 1st semester of 2015-16 session, for her subject of jurisprudence, in view of the mandatory provisions of Ordinances No. 5 & 7 (c).

It is further submitted that in order to re-appear in 1st semester repeat paper of Jurisprudence relating to the 2013-14 session, alongwith the 1st semester examination held in November/December, 2015, she was

required to take admission by registering as a University student of 2015-16 to avail of the facilities of re-appearing in the September, 2015 and then 1st semester Minor-II examination for LL.M. (Hons.) held in October, 2015 and then quiz of the 1st semester for LL.M. (Hons.) of 2015-16 for her repeat subject of Jurisprudence had she registered herself as a student for the same at the beginning of that 1st semester but she failed to do so and hence she was not entitled and legally eligible to re-appear in her said repeat subject of Jurisprudence in the major University examination of 1st semester held in November/December, 2015.

In regard to the challenge laid to the part of the Ordinance 7 (c) of the CGPA Ordinances, he has also referred to Ordinance 5 which is reproduced as under: -

“5. Course Evaluation

<i>Examination (Theory)</i>	<i>Syllabus to be covered in the examination</i>	<i>Time allotted for the examination</i>	<i>% Weightage (Marks)</i>
<i>Minor Test - I</i>	<i>Upto 33%</i>	<i>1 hour</i>	<i>20</i>
<i>Minor Test – II</i>	<i>33% to 66%</i>	<i>1 hour</i>	<i>20</i>
<i>Quizes/Group Discussions/Case discussion etc.</i>			<i>10</i>
<i>Major Test</i>	<i>100% syllabus</i>	<i>3 hours</i>	<i>50</i>
<i>Total</i>			<i>100</i>
<i>(Practical)</i>			
<i>Daily evaluation of practical records/ Assignment/Viva Voce etc.</i>			<i>50</i>
<i>Final Practical Performance + Viva Voce</i>			<i>50</i>
<i>Total</i>			<i>100</i>

It is, thus, submitted that the repeat examination of a student in a given subject(s) of a particular previous semester comprising of Minor-I test, Minor II test, quizzes leading to the Major University examination for the rest of 50% marks to be held at the end of that semester, is a continuous evaluation/grading process throughout that semester. Therefore, requirement

for appearing in the major University examination for a repeat subject of a previous semester, the candidate is to register for it in the next relevant semester which means that the candidate is no more a University student having already completed the full course of studies but still having some re-appear in some subjects of the previous semester of her course, must have to get admission to become a student of the University of the next relevant semester to avail of the facilities of his continuous evaluation in the repeat subject through Minor-I test, Minor II and quiz before being eligible to appear in the Major University examination in that repeat subject at the end of the semester. It is submitted to register means to take admission and admission can only be taken after paying the requisite fee. The registration fee as per the impugned part of the Ordinance 7(C) would include the prescribed tuition and other fee for that particular semester including the examination fee for the major University examination. The admission has to be taken by registering for the 1st semester at the beginning of the semester starting in July, 2015 (for an odd i.e. 1st Semester as in the case of the petitioner) and in any case before the start of the Minor I test in that repeat subject to be held by the Department concerned but if the candidate does not do that, he would not be eligible to re-appear in the major examination of the repeat paper/subject to be held at the end of that semester. The mere submission of examination form for appearing in the major University examination just before its start without such registration as a student at the beginning of semester starting in July, 2015 and without having appeared in the Minor-I, Minor-II and quiz for that repeat subject would not make the student eligible. It is, thus, submitted that the requirement of registration of an old student (who had completed the full course of his studies and ceased to

be a student of the University) to again take admission in order to become a student of the University by paying the requisite fee at the beginning of the particular semester so as to avail of the facilities as its student, has a reasonable nexus with the object of his continuous assessment/evaluation during that particular semester for that repeat subject as per the relevant provisions especially of Ordinances 5 and 7 of the CGPA Ordinances.

It is further submitted by the learned counsel for the respondent that the University is free to legislate on its academic policy matters falling within its exclusive domain, in the best interests of maintaining quality education by constant and continuous evaluation of its students in all its campuses and constituent colleges for all its various academic courses which are uniformly governed by CGPA Ordinances.

It is denied that the petitioner had submitted the application/form on 13.11.2015 rather it has been alleged that she has submitted an application dated 18.11.2015 on 18.11.2015 with the office of respondent No. 2 at Jalandhar vide diary No. 9111/Laws dated 18.11.2015, saying that she could not submit her examination form due to unavoidable circumstances and sought permission to submit the form for re-appearing in the repeat examination of LL.M. (Hons.) (Two years course). On the same day, i.e. 18.11.2015 her application was forwarded and it has been denied that the petitioner submitted the complete admission form on 13.11.2015. It is alleged that the University conveyed to her much before 26.11.2015 the refusal of permission to re-appear in the said repeat subject of jurisprudence of 1st semester in the major University examination held on 26.11.2015 because she had not taken admission in that 1st semester (July-November, 2015) by

registering for it at the beginning of that 1st semester as per the Ordinance 7 (c) of the CGPA Ordinances.

We have heard learned counsel for the parties and perused the record with their able assistance.

Insofar as the prayer of the petitioner to allow her to appear in the examination in the month of April/May 2016 is concerned, a specific statement was made by the learned counsel for the University that examination of the subject of Ist semester in which the petitioner wanted to appear is scheduled to be held in the month of April/May 2016 but vide order dated 04.05.2016 passed by this Court, the petitioner was allowed to re-appear in the said examination as and when it would be held in the month of November/December 2016 or thereafter but it was made provisional, depending upon the final outcome of the writ petition.

The result of the petitioner of the said examination which she had allegedly cleared depends upon the final outcome of the writ petition in which the petitioner has basically challenged the part of Ordinance 7 (c) of the CGPA Ordinances in which it is provided that the candidate should have registered for the repeat course(s) in the beginning of that semester but need not to attend the classes again.

The petitioner has challenged Ordinance 7(c) of the CGPA Ordinances whereby registration of the repeat courses has been made necessary because the petitioner has to otherwise pay admission fees of ₹22,700/- whereas for the repeat examination fees, she has to pay ₹1,100/- only. In this regard, scheme of the Ordinance has to be looked into which has been explained in detail in the earlier part of this order as per which a bare reading of Ordinance 7(c) of the CGPA Ordinances provides that the

petitioner was not eligible to re-appear in the repeat subject of Jurisprudence of Ist semester (odd semester) relating to the sessions 2013-2014 with the Major examination of 4th Semester i.e. even semester of the academic session 2015-2016 because after completing the study of all the four semesters of L.L.M. (honors) by May 2015, the petitioner was no longer the student of the University and was not entitled/eligible to re-appear in the repeat subject of Jurisprudence in the Major (university) examination of the Ist semester held in November/December 2015 without taking admission by registering herself in the academic session 2015-16 for availing the facility as a student towards continuous assessment and evaluation by way of taking the Minor-I, Minor-II, Quizes etc. of the first semester 2015-2016 academic session for the subject of Jurisprudence in view of the mandatory provisions of 5 and 7 (c) of the CGPA Ordinance.

In view thereof, we do not find any merit in the submissions of the learned counsel for the petitioner that part of Ordinance 7(c) of the CGPA Ordinances is illegal and arbitrary rather it is found that it is based upon sound reasoning and cannot held to be arbitrary.

Thus, in view of the aforesaid facts and circumstances, we are of the considered opinion that there is no merit in the present writ petition for the purpose of interference by this Court and hence, the same is hereby dismissed though without order as to costs.

April 30, 2019

Ess Kay

(RAKESH KUMAR JAIN)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No