

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA-2395-2016 (O&M)

Date of Decision: 4.2.2019

Arun Kumar

...Appellant.

Versus

Guru Ravidas Ayurved University and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.**

PRESENT: Mr. S.K. Sharma Budhladawale, Advocate for the appellant.

AJAY KUMAR MITTAL, J.

1. Delay of 41 days' in filing the appeal is condoned.
2. Challenge in this Letters Patent Appeal is to the order dated 26.9.2016 passed by the learned Single Judge whereby CWP-21227-2015 filed by the appellant was dismissed.
3. Put shortly, the facts necessary for adjudication of the instant appeal as narrated therein may be noticed. The appellant had passed his intermediate certificate examination (equivalent to +2) held in October/ November, 2013 from Rural Institute of Open Schooling (NCT of Delhi) (in short "RIOS") affiliated with the Chhattisgarh State Open Schooling (CGSOS), Raipur, as is clear from the marks card dated 4.2.2014 (Annexure P-1). The CGSOS is established under the State Legislative Act and is a Member Board of the Council of Boards of School Education in India (COBSE), Delhi. As per OM dated 7.9.2012 and 6.3.2013 issued by the Ministry of Personnel, PG & Pensions, Department of Personnel and

recognition of School Education Boards in India. The appellant appeared for admission to BAMS Entrance examination conducted by respondent No.1 and had successfully qualified it. The appellant appeared for counseling for admission of the BAMS Course under the NRI category. After scrutinizing/verifying all the documents/certificates of 10+2 etc., the appellant got admission in BAMS Course in the college of respondent No.3 as is clear from the documents (Annexures P-2/A to P-2/C, respectively). The appellant was asked to deposit a sum of ₹ 2,40,000/- as fees and another amount of ₹ 5,000/- as registration fee on 27.12.2014. The said amounts along with another sum of ₹ 13,000/- were deposited by the appellant as is discernible from the receipts (Annexures P-3 to P-5, respectively). The CGSOS issued a notification dated 30.3.2013 (Annexure P-6) notifying the equivalence of Rural Institute of Open Schooling Delhi of HSC/Secondary and Higher Secondary Examination along with establishment of academic centres and conduct and declaration of examinations and the results by the RIOS. For sometime the affiliation of the RIOS, Delhi was cancelled by the CGSOS, Raipur and all orders/notifications regarding RIOS issued by CGSOS were cancelled vide order dated 22.4.2013 (Annexure P-7). Further, in the list of Members of COBSE as on April/May, 2013 like other Boards/Councils like CBSE etc. the name of the RIOS appeared at Sr. No. 14(a) below the CGSOS as is clear from the document, Annexure P-8. The COBSE vide letter dated 29.4.2013 (Annexure P-9), on verification of the records found that the RIOS had been granted equivalence and the certificates issued were equivalent to any other Board across the country and, therefore, were valid for employment as well as for pursuing higher studies. The membership of RIOS was restored by

the Chairman, CGSOS, Raipur vide order dated 24.9.2013 pursuant to the order dated 3.7.2013 passed in WP-693-2013. The order dated 22.4.2013 (Annexure P-7) passed by the CGSOS was withdrawn and cancelled with immediate effect as is clear from the official intimation dated 12.9.2013 (Annexure P-10/A). The CGSOS vide order dated 24.9.2013 (Annexure P-10/B) ordered that the RIOS may continue with the work already assigned vide notification dated 20.3.2013 issued by the CGSOS, Raipur. Thereafter, respondents No.1 and 2 issued a show cause notice dated 28.4.2015 to the effect that the appellant had passed his Intermediate Certificate Examination from Rural Institute of Open Schooling that the said Board did not exist in the approved list of Boards of Member-Boards/Councils of COBSE. The Director of RIOS vide letter dated 13.5.2015 (Annexure P-11) informed respondent No.2 that the appellant had passed the intermediate examination in 2013 from RIOS which was a juristic person registered body with the Government of NCT of Delhi and it was granted membership of COBSE. However, respondent No.2 cancelled the admission of the appellant vide order dated 27.5.2015 (Annexure P-12). The appellant filed CWP-12882-2015 and this Court vide order dated 9.7.2015 (Annexure P-13) disposed of the said writ petition with a direction to respondent No.2 to take a decision on the documents produced by the appellant. However, vide order dated 21.7.2015 (Annexure P-14), respondent No.2 cancelled the admission of the appellant to the BAMS Course. Accordingly, the appellant filed CWP-21227-2015. The said writ petition was contested by respondents No.1 and 2 by filing the reply and controverting the averments made in the writ petition. The learned Single Judge vide impugned order dated 26.9.2016 dismissed the said writ petition. Hence, the present Letters Patent Appeal.

4. After hearing learned counsel for the appellant and perusing the record, we do not find any merit in the appeal.

5. A show cause notice was issued to the appellant calling for personal hearing but he did not respond. Subsequent show cause notice dated 15.5.2015 was issued, the appellant appeared on 20.5.2015 and order dated 27.5.2015 (Annexure P-12) was passed by respondent No.2 cancelling the admission of the appellant on the ground that he had passed his 10+2 examination from RIOS which did not exist in the approved list of Board of Member Boards/Councils of COBSE. This Court vide order dated 9.7.2015 (Annexure P-13) passed in CWP-12882-2015 directed respondent No.2 to take a fresh decision on the basis of the documents. Respondent No.2 vide order dated 21.7.2015 (Annexure P-14) cancelled the admission of the appellant on the ground that the RIOS was not on the list of recognized Boards as per the list of recognized Boards of National Institute of Open Schooling. In the list of non-recognized Boards/Universities/ Bodies etc. issued by Kurukshetra University as equivalent to 10+2, the name of RIOS did not exist. Even the list of recognized Board by the GNDU University also did not show existence of RIOS. The name of RIOS did not figure on the website of COBSE also. The certificate issued to the appellant was not equivalent to 10+2 certificate. The CGSOS was the member of CBOSE and could not grant membership to RIOS and only the CGSOS could have issued the certificate and, therefore, the admission of the appellant was rightly cancelled. As per the list of COBSE, the name of Chhattisgarh State Open School finds mention at Serial No.14 but the list do not mention of recognition to RIOS as a member at Serial No.14(a). As per the list of Member Boards/Councils of COBSE (Annexure P-8), only membership had

been granted by CGSOS and admitted the RIOS was situated outside the jurisdiction of State of Chhattisgarh. The plea of the respondents that the RIOS was not recognized was not controverted by the appellant by placing sufficient material on record. The learned Single Judge had held that the RIOS not being set up by any Act or by Gazette notification and merely being a member of the CGSOS, the degree issued for had been rightly held to be invalid. The findings of the learned Single Judge read thus:-

“The arguments of the petitioner is that RIOS was recognized and cancellation of the membership was restored on 22.4.2013 therefore it could grant its degree is without any justification. The respondents have placed sufficient material on record to show that in the list of recognized and non-recognized boards of secondary education and senior secondary examination, the name of RIOS does not find mention. Rather it has been specifically mentioned that RIOS mentioned at Sr.No.51 is amongst non-recognized boards/universities by the NIOS (Annexure R1/8). Similarly, in the list of universities/boards recognized by the Kurukshetra University (Annexure R-1/9) for 10+2 examinations, the name of RIOS does not figure. Similarly, even the Guru Nanak Dev University does not recognize RIOS or equivalent board.

Rather perusal of the list of COBSE (Annexure R-1/11) would go on to show that Chhattisgarh State Open School finds mention at serial No.14 but the list do not

mention of recognition to RIOS as a member at serial No.14(a) as has been projected by the petitioner. Rather there is no mention of serial No.14(a). A specific denial has been made to the veracity of Annexure P/8 to show that Chhattisgarh Board of Secondary Education & State Open School, Raipur, figured in the list (Annexure R-1/8) of Recognized and Non-recognized Boards of Secondary and Senior Secondary education at code No.2902 but RIOS did not figure.

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In the present case, as noticed above, the RIOS is not being set up by any Act or by Gazette notification and merely being a member of the CGSOS, the degree issued for, has been rightly held to be invalid. Resultantly, no fault as such can be found in the impugned order of the university.”

6. No illegality or perversity could be pointed out by the learned counsel for the appellant in the aforesaid findings recorded by the learned Single Judge which may warrant interference. Accordingly, finding no merit in the appeal, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

February 4, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No