

RSA No. 840 of 2018 (O&M)

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

RSA No. 840 of 2018 (O&M)

Date of decision: 01.10.2019

Neeraj Kumar

... Appellant

Versus

**Guru Nanak Senior Secondary School, Rishi Nagar, Hisar, and others
... Respondents**

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Vivek Khatri, Advocate,
for the applicant.

ARUN PALLI, J. (Oral)

The suit filed by the plaintiff-appellant was dismissed by the trial court, vide judgment and decree dated 6.10.2012 and as even the appeal preferred against the said decree failed and was dismissed on 15.10.2016, he is before this Court in Regular Second Appeal. Parties to the lis, hereinafter, shall be referred to by their original positions in the suit.

Suit for recovery of Rs. 4,50,000/-, along with interest @ 18% per annum, was filed by the plaintiff against defendants No.1 to 4, who were alleged to be jointly and severally liable, for owing to their conduct, he lost one precious academic year and also for having suffered mental tension and agony.

In brief, the case set out by him was that he got admission in 10+2 (non-medical stream) in Guru Nanak Senior Secondary School, Hisar (defendant No.1), in July 2001. He deposited the admission fee and continued to pay school/tuition fee regularly. The annual examination of

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10+2 (non-medical stream), was to commence from 2nd March, 2002. Plaintiff, along with other students, contacted defendants No.1 and 2 for issuance of roll numbers for the annual examinations, but eventually, they got to know that for defendant No.1 had no sanction/affiliation to run non medical courses, defendant No.4, i.e. Board of School Education, Haryana, had withheld their roll numbers. In fact, defendant No.4 required the school authorities to fulfill necessary terms and conditions to obtain sanction/affiliation to run non-medical courses, but due to their inaction, neither the plaintiff was issued roll number, nor he could appear in the final examinations. Thus, the suit.

Defendants No.1 and 2, in the written statement filed by them, pleaded that neither did the plaintiff get admission in 10+2 (non-medical stream) in Guru Nanak Senior Secondary School, Hisar, nor the Principal was authorised by the management to admit any student in the non-medical group.

In a separate written statement filed by defendants No. 3 and 4, it was clarified that on the assurance given by defendants No.1 and 2 that they would produce the recognition certificate of the school, the defendants released the roll numbers to the defendant-school. Therefore, neither any negligence or carelessness was to be attributed to the defendants No. 3 and 4, nor they were party to the alleged fraud.

Upon consideration of the matter in issue and evidence on record, both the courts concurrently concluded that undoubtedly, the plaintiff had applied for admission in non-medical stream and it was also true that defendant No.1 had no sanction/affiliation to run non-medical courses. As regards the issue, “whether the plaintiff was induced by the school

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authorities to seek admission in the non-medical stream”, it was observed that plaintiff (PW5) appeared as his own witness and tendered his affidavit (Ex.PW5/A) in examination-in-chief. However, an analysis thereof showed that it was not his case at all that he was given admission in the school owing to alleged inducement by the then Principal of the school. It was not his case either that he was approached by the officials of the school or the management or any assurance, verbal or otherwise, was given, pursuant where to he applied for admission in the school. Further, Ex.P5, Ex.P6/Ex.PW4/1, matriculation certificate and certificate of 10+1 of the plaintiff revealed that plaintiff was an average student whose admission was also cancelled by the Government Senior Secondary School, Jahajpul, Hisar, on 24.7.2001. In fact, even Husan Singh (PW4), Senior Laboratory Assistant from the said school, corroborated this position. Still further, Ex.D8 to Ex. D10 showed that plaintiff was not even regularly appearing in the school and for his attendance was less than 75%, the Board cancelled his candidature. The categorical case set out by the management of the Guru Nanak Senior Secondary School, Hisar, (defendant No.1) was that, the then Principal was not authorised by the management to admit any student in the non-medical stream in the school. Thus, negligence, if any, was on the part of the then Principal of the School. However, the plaintiff himself was not free from blemish as till submission of his examination form, he did not care to ascertain if the school had necessary sanctions/affiliations to run the course. Not just that, no classes were taken in non-medical faculty throughout the year, but the plaintiff chose to remain mum. Nothing was brought on record either to show any result sheet qua the house tests conducted by the school all this while. In the circumstances, version of the

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plaintiff that his parents got him admitted in the school on the assurance given by the then Principal or the then Principal induced him to seek admission in the non-medical stream remained unsubstantiated for lack of evidence.

Upon being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the findings recorded by both the courts were either contrary to the record or suffered from any material illegality. No ground is made out to interfere with the concurrent findings recorded by both the courts. The appeal being devoid of merit, is accordingly dismissed.

(ARUN PALLI)
JUDGE

October 01, 2019

AK Sharma

Whether speaking / reasoned:

YES

Whether Reportable:

YES/NO