

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 18383 of 2019

Date of Decision: 22.12.2020

Ajay Kumar Nain

... Petitioner(s)

Versus

Pandit B.D. Sharma University of Health Sciences and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Sumit Sangwan, Advocate
for the petitioner.

Mr. Amit Rao, Advocate
for respondent No.1.

Anil Kshetarpal, J.

The petitioner, by filing a writ petition under Article 226/227 of the Constitution of India, seeks quashing of order dated 25.03.2019 passed by the University cancelling the result of third year's examination of B.Pharmacy degree course held in May, 2018.

Some facts are required to be noticed. The petitioner is a student of B.Pharmacy four years degree course in respondent No.2-R.K.S.D. College of Pharmacy, Kaithal, which in turn is affiliated to respondent No.1-Pandit B.D.Sharma University of Health Sciences, Rohtak. He took admission in the academic session 2015-2016. The examinations are to be held annually. At the outset, it must be noticed that the pleadings are scanty and laconic. Be that as it may. It was orally submitted by learned counsel for the petitioner, which was not disputed by learned counsel

appearing for the respondent that the petitioner appeared in first year annual examination in May, 2016 after attending the regular classes. He got re-appear in the exam of one subject i.e. Organic Chemistry. The petitioner is stated to have appeared in the second year annual examination held in May, 2017 and successfully cleared the same. The examination held in December 2017 in the subject of Organic Chemistry with regard to the first year. Someone else is stated to have impersonated in place of the petitioner. The Superintendent made out a case of unfair means and sent to the Unfair Means Committee. In the meantime, the petitioner continued to study in the third year of B.Pharmacy course. The Committee constituted to decide unfair means cases took time. The petitioner filled up the form, issued roll number and allowed to appear in third year annual examination held in May, 2018.

On 17.05.2018, the petitioner was found guilty of using unfair means and his examination held in December, 2017 was cancelled and in addition, he was debarred from appearing in the next university examination. The extract in the order dated 17.05.2018 reads as under:

“Entire examination cancelled in which he appeared and in addition, debarred from appearing in next university examinations.”

As noticed above, in the meantime, the petitioner had appeared in the third year examination. The result of the third year annual examination was declared on 18.12.2018. It is pleaded that the petitioner has also cleared the same.

On 25.03.2019, the University cancelled his third year annual

examination on the ground that as per the decision of the Standing Committee on Unfair Means Cases, the petitioner was debarred from appearing in the next university examination. The petitioner filed this writ petition which came up for hearing for the first time on 10.07.2019.

It may be noted here that during the pendency of the writ petition, under the interim orders passed by the Court on 19.08.2020, the petitioner was permitted to appear in the fourth year annual examination.

Pursuant to notice of motion, a detailed written statement was filed by the University defending its decision. The question posed before this Court is as to whether the University was correct in cancelling the result of the third year annual examination on 25.03.2019.

This Court has heard the learned counsel for the parties and with their able assistance perused the paper-book.

No doubt, the petitioner was found guilty of using unfair means in the re-appear examination held in December, 2017 and he was ordered to be punished in the manner reproduced above. There is no challenge to the aforesaid order passed by the Standing Committee on Unfair Means Cases. However, the question is as to whether the interpretation being given by the University in the facts and circumstances of the present case is appropriate or not. If today, this Court upholds the decision of the University dated 25.03.2019, the result would be the petitioner will have to re-appear in third year and fourth year annual examinations apart from re-appearing in the subject of Organic Chemistry of Ist year degree course. Thus, the result would be that the petitioner would lose three academic sessions i.e. 2018-19, 2019-20 and 2020-21. As per the decision of the Unfair Means Committee,

the petitioner was debarred from appearing in the next university examination. However, the university issued the roll number to the petitioner and permitted him to write the examination and declared result. On a Court question, the University's counsel has admitted that there is no evidence that the decision of the Standing Committee on Unfair Means Cases was communicated to the petitioner before he wrote the third year annual examination held in May, 2018. He tried to explain that the decision was communicated to respondent No.2-College.

Thus, it is apparent that the University failed to communicate the decision dated 17.05.2018 to the petitioner. Still further, there is no material to hold that the College had communicated the decision of the Standing Committee on Unfair Means Cases before he wrote the annual examination for third year. Still further, the Standing Committee on Unfair Means Cases took its own time to decide. The petitioner had re-appeared in the examination held in December, 2017. There was no reason for the Committee to take five months to decide. Such decisions have to be quick and fast. The career of the students get affected by such decisions. Therefore, the University is advised to make it mandatory that such Committee takes the decision within no time. It is not the case of the University that the petitioner, inspite of notice, did not appear before the Standing Committee on Unfair Means Cases. In the written statement, it has been pleaded that the petitioner appeared before the Committee on 18.12.2017 and admitted his mistake. However, the Committee considered it appropriate to direct the petitioner to bring the boy who had impersonated in his place and therefore, adjourned the proceedings to 21.03.2018. On

21.03.2018, the petitioner brought the aforesaid boy, who also admitted that he did impersonate for the petitioner in the examination. Still the Committee did not take any decision and adjourned the proceedings to 02.05.2018. The petitioner, on 02.05.2018, once again gave in writing that on his request someone else had impersonated him. Still the Committee took its own sweet time to take a decision. Further, once the decision was taken, the University should have been stopped the petitioner to appear in the third year examination. Not only the petitioner was permitted to write the third year annual examination held in May, 2018 but his result was also declared.

It will be significant to note that in view of the decision of the University, the petitioner did not appear in any examination held in the academic session 2018-2019.

As noticed above, now the petitioner has also appeared in the annual examination held in fourth year under the interim order passed by the Court on 19.08.2020.

Keeping in view the aforesaid facts, this Court is of the considered opinion that now at this stage, it would neither be appropriate nor in the interest of justice to direct the petitioner to re-write the third and four years annual examinations again, particularly when the University took its time to decide on unfair means case and permitted the petitioner to write his third year annual examination. He has already suffered the enough punishment. He, as noticed above, did not write the annual examination held in May, 2019. Otherwise, the petitioner would lose three years of his student life. He will end up losing the academic sessions 2017-18, 2018-19 and 2019-2019-20. It would not be appropriate.

Keeping in view the aforesaid facts, the writ petition is allowed and the decision of the University dated 25.03.2019 is set aside. The result declared on 18.03.2018 is restored. The University is also directed to declare the result of four year examination. The petitioner shall be permitted to complete the degree course in accordance with the Rules of the University.

(Anil Kshetarpal)
Judge

December 22, 2020

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No