

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

1. CWP No.16962 of 2020
Date of decision: November 04, 2020

Chiraag Malli

....Petitioner

Versus

Panjab University, Chandigarh and others

....Respondents

2. CWP No.17507 of 2020

Rosen and another

....Petitioners

Versus

Panjab University, Chandigarh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Abhinav Gupta, Advocate
for the petitioner (in CWP No.16962 of 2020).

Mr. Sandeep Verma, Advocate
for the petitioners (in CWP No.17507 of 2020).

Mr. Subhash Ahuja, Advocate
For respondent-PU.

(PROCEEDINGS THROUGH V.C.)

AUGUSTINE GEORGE MASI, J.

By this order, we propose to decide two writ petitions i.e. *CWP No.16962 of 2020* titled as *Chiraag Malli Versus Panjab University and others* and *CWP No.17507 of 2020* titled as *Rosen and another Versus Panjab University and others*, relating to admission to 5 years B.A.LL.B. integrated course and 3 years Law Course after graduation respectively where challenge is to the decision of the Committee constituted by the Vice Chancellor of the Panjab University, Chandigarh, whereby a decision was taken that all entrance tests of the professional courses including Undergraduate Law Entrance Test as

well as Postgraduate Law Entrance Test stand scrapped and the admissions are to be made on the basis of the marks obtained in the qualifying examination. Facts are being taken from Chiraag's case, which pertains to the challenge to the scrapping of Under Graduate Law Entrance Test as the counsel have addressed arguments in this case.

2. University Institute of Legal Studies, Panjab University-respondent No.3 issued a prospectus for admission to B.A. LL.B. and B.Com. LL.B. (Hons.) 5 years integrated course, 2020 for Chandigarh Campus on 01.04.2020 (Annexure P-1) for 180 seats. Date for entrance test was fixed as 17.06.2020, which was subsequently postponed to 04.10.2020. Petitioners applied for admission to B.A. LL.B. 5 year integrated course.

3. Participation of candidates for admission was mandatory in the entrance test as it is apparent from the fact that preliminary merit list of candidates on the basis of the entrance test was to be published with minimum cut-off marks being 15% for General Category and 10% for candidates belonging to the Scheduled Castes/Scheduled Tribes/Backward Class/Persons with Disability. Final merit list for B.A.LL.B. (Hons.) was to be prepared by adding 50% marks for the entrance test with 50% for the qualifying examination plus other admissible weightage. For B.Com. LL.B. (Hons.), 50% marks were for the entrance test and 50% for qualifying examination with weightage for commerce subject and other admissible weightage.

4. But then a circular was issued by the University on 11.08.2020 (Annexure P-3) notifying scrapping of UG Law entrance test keeping in view the COVID-19 situation and the admission was to be based on the result of the senior secondary examination. This decision of the respondent-University was challenged by some of the candidates in *CWP No.12832 of 2020* titled as *Saurav Rao and others Versus Panjab University through its Registrar, Sector 14, Chandigarh and*

others and CWP No.13272 of 2020 titled as *Navya Raj Versus Panjab University, Chandigarh and others*. The said writ petitions were disposed of vide order dated 01.09.2020 directing the University to reconsider its decision to scrap the UG Law entrance examination for the 5 years law course as expressed in the circular dated 11.08.2020 and take a fresh decision not later than 15.09.2020 keeping in view the observations of the Court in the order, the grounds raised in the petition and the fact that PG Entrance Test for three years law course had not been scrapped. The decision was to be uploaded on the website of the University forthwith. Restraint order was also passed regarding admissions till a decision is taken by the University and uploaded on its website. It may be pointed out here that vide notification dated 11.08.2020 (Annexure P-3), scrapping had taken place of the UG Law entrance test only, whereas no decision with regard to PG Law entrance test had been taken.

5. In compliance with the directions issued by this Court, a Committee was constituted to reconsider the decision dated 11.08.2020 and a meeting was held on 09.09.2020, where it was decided that the respondent-Panjab University will not be able to conduct the entrance test in any undergraduate/postgraduate courses including B.A. LL.B (Hons.)/B.Com LL.B. (Hons.) 5 years integrated course and 3 years law course for the session 2020-21. Minutes of the meeting dated 09.09.2020 is appended as Annexure P-5.

6. Petitioner-Chiraag Malli, challenged this decision dated 09.09.2020 (Annexure P-5) of the University by filing CWP No.15572 of 2020, which came up for hearing on 28.09.2020, when the counsel for the University sought a day's accommodation and the case was thereafter taken up on 29.09.2020; on the said date, counsel for the University produced a letter dated 28.09.2020 (Annexure P-7) in which the respondent-University undertook to take a fresh decision in relation to the matter in issue within three days. The Court disposed of the writ petition vide

order dated 29.09.2020 (Annexure P-8). It is at this stage that the meeting of the Committee constituted by the Vice Chancellor was held on 09.09.2020, when again a decision on reconsideration was taken that Panjab University will not be able to conduct the entrance examination in any UG/PG courses including B.A. LL.B. (Hons.)/B.Com. LL.B. (Hons.) 5 years integrated course and 3 years law course for the session 2020-21. This decision dated 01.10.2020 (Annexure P-9) of the University is under challenge in these writ petitions.

7. Learned counsel for the petitioners have, while challenging the impugned decision of the University based their arguments upon the judgment passed by the Hon'ble Supreme Court and some other Courts including the observations made by this Court while passing the order dated 01.09.2020 (Annexure P-4) in Saurav Rao's case (supra), where the importance and relevance including the purpose for holding of the common entrance test was emphasized. Reasons were also assigned as to why the said process needs to be resorted to. Reference in this regard has been made to the judgments and observations made by the Hon'ble Supreme Court in *State of M.P. Versus Gopal D. Tirthani AIR 2003 SC 2952* and *Ajay Hasia Versus Khalid Mujib AIR 1981 SC 487*. On the basis of the said judgments, it has been emphasized that the object for holding the entrance test is for assessing the knowledge and intelligence quotient of the candidate as also to assess the merit *inter se* of the candidate. It also facilitates the assessment of the comparative talent of the candidates by applying a uniform standard and is always preferable to evaluation of comparative merit on the basis of marks obtained at the qualifying examination, especially when the qualifying examination is held by two or more different authorities with different modes of examination. The entrance test would ensure common yardstick for judging the suitability of the candidates in the light of their different sources, resources and different backgrounds.

8. It has been further asserted by counsel for the petitioners that the main reason, which has been put forth by the Panjab University for issuing the impugned order is COVID-19 pandemic, which is absolutely unjustified and untenable, especially in the light of the fact that various competitions/admission tests have been held by different institutions, agencies and organizations. Reference in this regard has been made to CLAT, which was held on 28.09.2020 for admission to 21 National Law Schools across the country, Symbiosis University situated in Pune, which conducted online entrance test on 26 to 28.07.2020, Kerala Management Admission Test, which conducted online examination for 3 years and 5 years LL.B. course, All India Institute of Medical Sciences, which conducted entrance examination for admission in postgraduate courses as well as the Delhi University, which has decided to conduct online entrance test from September 4 to September 12, 2020. Apart from this, reference has also been made to the successful conduct of NEET (UG), JEE-2020 entrance examination and Union Public Service Commission, which has also conducted its preliminary examinations for civil services on 04.10.2020. It is, on this basis, asserted by the petitioners that the decision taken by the University, scrapping the entrance examination is unsustainable, especially when various entrance examinations have already been conducted and successfully completed.

9. Counsel submits that a plea has been taken by the respondent-University that it is unable to conduct the entrance examination because of non-availability of infrastructure, which according to the petitioners, is unacceptable as Panjab University is one of the largest Universities in North India having all the infrastructure available at its disposal. Reference has also been made to the various challenges posed to the holding of the entrance examination and seeking cancellation/postponement thereof because of COVID-19 pandemic before the

Hon'ble Supreme Court as well as various High Courts where none of these

petitions have been accepted, rather all have been rejected by observing that the career of the students cannot be put to peril and COVID-19 cannot become a ground for postponing/cancelling the examination.

10. It is further asserted that despite having scrapped the entrance examination for postgraduate courses by the University, the said decision has been partly withdrawn, which is apparent from the fact of opening of the portal and starting acceptance of applications for conducting entrance examination for postgraduate courses (Ph.D and M.Phil) as the same is mandatory as per the UGC guidelines dated 05.05.2016. It is, therefore, clear that the University has certainly got the capability for conducting entrance examination.

11. That apart, what has been submitted by the counsel for the petitioners is that the prospectus clearly lays down that entrance test would be held. The said prospectus was issued on 01.04.2020, on which date prevalence of COVID-19 was known and the country was under lockdown. The procedure for admission was also laid down, where 50% marks were exclusively kept for entrance examination. With the scrapping thereof, the merit of the candidates is being compromised as it is an open secret that different Boards have different standards of education and modes of marking. Thus, the said decision is not permissible when the University itself acknowledges the importance of admission test. In any case, it is asserted that the rules of the game cannot be changed midway. In support of this contention, reliance has been placed upon the judgment of the Supreme Court in *Tej Prakash Pathak and others Versus Rajasthan High Court and others 2013 (4) SCC 540*, in which it has been held that the criteria of the selection cannot be changed midway.

12. Thus, prayer has been made for quashing of the impugned decision dated 01.10.2020 (Annexure P-9) and for issuance of a writ of mandamus directing the respondents to conduct the entrance examination for admission to 3 year and 5 year integrated law course.

13. Upon notice having been issued, respondent-University filed its reply taking preliminary objection that seeking direction to the University to hold entrance test for admission to B.A./B.Com LL.B. 5 years integrated course during COVID-19 pandemic is misconceived, as no rule/regulation has been cited by the petitioners under which they are entitled to the relief sought for. Objection with regard to cause of action to maintain the present writ petitions has also been raised by the respondent-University and that the present writ petition is barred by estoppel in view of the instructions for entrance test mentioned in the prospectus (Annexure P-1). Objection with regard to non-joinder of necessary parties has also been taken and that the writ petitions are contrary to public interest detailing the facts in the reply, justifying the decision for scrapping the entrance examination. On merits also, the respondent-University denied the claim of the petitioners in toto explaining the reasons in detail and asserted that the petitioners are not entitled to the relief claimed for and prayed for dismissal of both the writ petitions with costs narrating various reasons.

14. Learned counsel for the respondents has taken a preliminary objection with regard to the maintainability of the present writ petition as it is asserted that the petitioners are seeking a writ of mandamus without pointing out any statutory duty imposed upon the respondent-University to discharge a statutory obligation. It is asserted that the University by way of the present impugned decision dated 01.10.2020 has not rendered any person ineligible nor has any ineligible person been made eligible. Merit has also not been compromised. The change in mode of admission has been made applicable to all equally and, therefore, it cannot be said that there has been any violation of the provisions of Article 14 of the Constitution of India. The Regulatory Authority i.e. the Bar Council of India in the case of legal education does not mandate admission of students to law courses on the basis

of entrance test only. It is a self-adopted procedure on the part of the Panjab University that admissions through entrance test clubbed with the marks obtained in the qualifying examination with some other weightage as admissible, is being followed.

15. Assertions has also been made that the petitioners are barred by the principle of estoppel as it was very much provided and made known to all in prospectus under heading “Important Instructions for Entrance Test” Clauses 19 and 29 thereof that the respondent-University is entitled to take a decision at any time dependent on the facts and circumstances. In Clause 29, it has clearly been mentioned that in case of conflict or inconsistency between the prospectus on the one hand and Panjab University Rules/Regulations/Guidelines/Orders/Decisions on the other hand, the latter shall prevail. These clauses are not under challenge in the writ petitions. The power being there to make changes with regard to the mode of admission, the challenge of the petitioners is unsustainable. Plea has also been taken with regard to non-joinder of the necessary parties such as University Grants Commission and the Bar Council of India despite the fact that various rules/regulations/guidelines are being relied upon or referred to in the petitions.

16. Another plea pressed into service by the counsel is with regard to the writ petition being contrary to the public interest as it is asserted that the various instructions issued by the Ministry of Human Resource Development, Home Affairs and UGC had given paramount importance to safeguard the health, safety and security of the students, faculty and the staff members because of COVID-19 pandemic. The University does not have the adequate infrastructure to manage a crowd of about 20,000 people on a single day on a campus inviting risk to health, safety and security of students, faculty, staff and residents of the campus. According to the UGC guidelines issued in September 2020 (Annexure R-1), admission process has to be completed by 31.10.2020 and the classes are required

to commence on 01.11.2020 for merit/entrance based admission to the 1st year programme of the session 2020-21. It is asserted that if the process of holding the entrance test is now initiated, it being time consuming, the guidelines as fixed by the UGC cannot be fulfilled rendering the session to be declared as zero session, . Apart from that, financial implications have also been highlighted which burden the University at the present juncture is unable to bear. Amount, which has been charged by the University, is meager as compared to the likely expenses incurred in holding the entrance test as per the guidelines/regulations issued by the Ministry of Home Affairs and Human Resource Development. The respondent-University is having only one testing centre, whereas the other institutes/agencies, which have held their entrance test examinations such as CLAT, NEET, JEE, CAT etc. have large number of centres at their disposal. The funds and infrastructure available with the central agencies are far better than the respondent-University. There are practical difficulties as according to the guidelines at least 2 meters distance between two candidates is required. With only one testing centre being available, it would not be viable and feasible to hold the entrance test apart from it requiring extra vigilance and supporting staff leading to huge financial expenses, when the University is facing a financial crunch and is unable to pay salaries of staff regularly.

17. It is asserted by the counsel that the University has not conducted/held any physical examination after the imposition of the lockdown. It is categorically denied that the University has conducted UGC examinations as well as entrance test examination for Ph.D. admission. Feasibility of holding the online test has also been considered by a Committee constituted for the said purpose, which has not recommended the holding of the same online. Respondent-University has contacted various Government agencies like EDCIL, National Testing Agency as also various universities like J.N.U., D.U., B.H.U. etc. for finding feasibility for

conducting online test and the information received from them does not pose confidence as these would compromise the transparency in case candidates are permitted to take the entrance examination online from their residences.

What has been pointed out by the counsel for the respondent-University is that the various entrance examinations, which have been held under CLAT/NEET/JEE/CAT etc. are prescribed under the statute or mandated under the statutory regulations and are held by the Regulatory Authority. There is no such statutory mandate of the Bar Council of India for admission of students to the law degree courses. The judgments on which reliance has been placed by the petitioners relate to such bodies/institutions, where the statutory obligation has been imposed for holding the entrance test prescribed by the Regulatory Body. It has, thus, been asserted that there being no statutory mandate for holding the examination for entrance to the law degree courses, the said judgments would not be applicable.

18. An affidavit dated 16.10.2020 has also been filed by the Registrar, Panjab University, Chandigarh, in compliance with the order of this Court specifically mentioning therein that the respondent-University has not conducted any UGC examination and the UGC itself conducted the National Eligibility Test (NET) at all India level. All arrangements for the examination centres and vigilance staff were done at the level of UGC. No physical examination has been held/conducted by the respondent-University during the entire lockdown till the date of filing of the affidavit, neither has any entrance test for M.Phil/Ph.D. conducted by the University.

19. Prayer, on the basis of above, has been made by counsel for the respondents for dismissal of the writ petition.

20. We have heard the counsel for the parties and have gone through the pleadings with their assistance.

21. Learned counsel for respondent-University, to buttress his arguments, has placed reliance upon judgments passed by various Courts. As regards the plea of discrimination, as has been sought to be highlighted by the petitioners, it is asserted that no pick and choose policy has been adopted by the respondent-University vis-à-vis the similarly circumstanced candidates. There is no violation of fundamental rights of the petitioners nor is the action of the respondent-University arbitrary, which would render the action of the respondent-University illegal. Reliance has been placed upon the judgment of the Supreme Court in Dr. Muneeb Ul Rehman Vs. Govt. of J&K and others, 1984 AIR (SC) 1581.

Counsel has also referred to the sub-clauses 19 and 29 of Clause 4 of the prospectus to contend that the power to change as per the requirement relating to the eligibility condition for admission to the law course was available with the respondent-University, which power, when exercised, cannot be said to be illegal or arbitrary. In support of this contention, reliance has been placed upon the judgment of the Supreme Court in *National Board of Examinations Versus G. Anand Rammurti and others* 2006 AIR (SC) 2484, where the Hon'ble Supreme Court has held that where a categorical and explicit disclosure is made to all the candidates that the instructions contained in the information bulletin and the schedule were liable to be changed for the examination based upon decision taken by such Authority from time to time. Such change, when made, in the schedule of the examination would not be illegal. When a right is reserved to change the guideline/practice and the same has been made clear to the candidate, no grievance can be made by the candidate and the same cannot be faulted with.

Counsel for the respondent has asserted that with the non-availability of the infrastructure, the financial constraints and practical difficulty because of the prevailing COVID-19 pandemic, with the University not being in a position to

comply with the requirements of the regulations/rules of the Ministry of Home Affairs as well as the Ministry of Human Resource Development, the writ petition deserves to be dismissed as the decision impugned dated 01.10.2020 (Annexure P-9) of the respondent-University is based upon the facts and circumstances laid down therein. It has also been pointed out that the respondent-University has already taken care of rationalization of the marks obtained by the candidates in 10+2 as well as B.A./B.Com., B.Sc. etc. from different streams/different boards/universities. In this regard, he has referred to the impugned minutes of meeting to contend that it is very much taken care of by the respondent-University. No prejudice thus would be caused to any of the candidates. It has been asserted that the various orders/directions issued by this Court from time to time have been taken note of and complied with in letter and spirit and, therefore, the writ petition deserve to be dismissed.

22. The basic contention on the part of the petitioners is that the respondents have not complied with in letter and spirit the order/observations made by this Court in the order dated 01.09.2020 (Annexure P-4) while disposing of Saurav Rao's case (*supra*). Apart from these observations as recorded in para 11 in the said order, reference has also been made to the judgment of the Supreme Court in *Chander Chinar Baba Akhara Udasin Society and others Versus State of J & K and others 1996 (5) SCC 732*, which judgment deals with the need to hold common entrance test exam for admission in the course. Apart from this, learned counsel for the petitioners have also relied upon the judgment of the Gujarat High Court in *Bhavya S. Desai and others Versus State of Gujarat and others*, 2006 (26) SCT 206 and *V.S. Sai Sachin, Minor represented by his father and Natural Guardian, V. Suresh Versus The State of Tamilnadu, Department of Health and Family Welfare and others*, 2017 (5) MLJ 790.

What has been sought to be asserted by the counsel for the petitioners is that un-equals have been put together as candidates, who had passed the eligibility examination from various States/Boards/Institutes by clubbing them together and there has been no rationalization or moderation, resulting in disadvantage to one set of candidates vis-à-vis other set of candidates. Various Courts have also opined in favour of holding an entrance test for admission. The necessity of the entrance test and its utility stands established, which factum has been admitted by the respondent-University in their reply and finds mention in the impugned decision but still the respondent-University has chosen to scrap the said entrance test.

Assertion has also been made that plea of pandemic of COVID-19, which has been taken shelter of by the respondents, is totally unjustified as it has appropriate infrastructure and resources to hold the entrance examination and the pleas, which have been taken are uncalled for. It has also been submitted that the University could not have changed the mode of admission, especially when the same forms a part of the prospectus, which is enforceable in law as per the settled proposition and, therefore, the stand of the respondent-University with regard to non-maintainability of the writ of mandamus, as prayed for by the petitioners is unsustainable. Once it is a part of the prospectus, the force of law imposes a mandate upon the respondent-University to follow the same, the action, therefore, of the respondent-University in scrapping the entrance test midway is uncalled for and in violation of the judgment of the Supreme Court in Tej Parkash Pathak's case (supra) as it has been held therein that the criteria for selection cannot be changed midway.

Learned counsel for the petitioners has referred to the various orders, which have been passed by the Supreme Court as well as the High Courts including this Court, where postponement sought because of the prevailing

pandemic has been declined and the Courts have observed that the prevailing circumstances cannot be a ground for cancelling or postponing the examination.

23. Prior to proceeding in the matter on merits, let us first deal with the plea of the respondents that the writs of the petitioners would not be maintainable, which, in our opinion, is unacceptable keeping in view the provisions of the prospectus, which has the force of law, where in the prospectus itself as per clause 4.1, respondent-University has itself opted for the entrance test for which a date was also fixed, which was subsequently postponed. Further conditions as provided for in the prospectus also show that importance has been given to the entrance examination inasmuch as 50% marks have been kept for the entrance test with another 50% for qualifying examination apart from other admissible weightage. It cannot, therefore, be said that the University did not intend to or want to hold the entrance test. With this being incorporated in the prospectus from which diversion has been made by the respondent-University, it cannot be said that the petitioners did not have a right to approach this Court or maintain the present petition.

24. On considering the submissions made by the counsel for the parties and keeping in view the observations of this Court in the order dated 01.09.2020 in Saurav Rao's case (*supra*), which are very much relevant as also the observations of the Supreme Court in *Chander Chinar Baba Akhara Udasin Society's case (supra)*, the first choice would be and should be the holding of the entrance test for admission to 5 years integrated course as well as for 3 years law course. In the light of the law as laid down and has been referred to by the counsel for the parties including the stand, which has been taken by the respondent-University, which itself acknowledges that the entrance test is preferable, the contention of the petitioners that the entrance test in normal circumstances should have been resorted to and given effect to, thus, cannot be said to be incorrect or unjustified but the stand of the respondent University that it is because of the prevailing COVID-19

pandemic that the University, in exceptional facts and circumstances, is not in a position to hold the entrance test this year, requires to be tested on its competence and legality to do so apart from the factual aspect.

25. This would lead us to an aspect, where it is required to be seen as to whether the respondent-University had the power to postpone or scrap the entrance test.

For the answer to this question, we need to refer to the prospectus (Annexure P-1), where clauses 19 and 29, which are relevant, need to be gone into. The same read as follows:-

“XXX XXX XXX

19. If a dispute or controversy of any kind arises before, during or after the conduct of Entrance Test, the decision of Controller of Examinations, Panjab University, in this regard, shall be absolutely final.

XXX XXX XXX

29. Notwithstanding anything contained in this Prospectus, the eligibility conditions for admission to B.A./B.Com., LL.B. (Hons) 5 Years Integrated Course shall be governed by the respective rules/regulations as enshrined in Handbook of Information 2020 or the General Guidelines for admission or orders/decisions of the University Senate/Syndicate/Vice-Chancellor and any other Competent Authority. In case of any conflict or inconsistency between the Prospectus on the one hand and aforesaid Panjab University Rules/Regulations/Guidelines/Orders/decisions on the other hand, the latter shall prevail.”

A perusal of the above would show that the final authority was the respondent-University in case of any conflict or inconsistency between the prospectus on the one hand and the Panjab University orders or decisions on the other hand. This clarifies the position with regard to the power of the respondent-University to make the required modifications/changes with regard to the entrance test as also the eligibility conditions for admission dependent upon the situation and the final decision of the University, which would prevail over the terms as laid down in the prospectus. It can, thus, be safely said that the action of the university

in scrapping the entrance test cannot be said to be without any authority of law. However, still the decision of the University is open to judicial scrutiny and review.

The candidates had been made a categorical and explicit disclosure with regard to the decisions/orders of the University having prevailing powers over the prospectus and, thus, the decision so taken by the University cannot be said to be illegal or unsustainable. When a right is reserved and the same has been made clear to the candidates, no grievance can be made by them and the same cannot be faulted with. This has been held by the Hon'ble Supreme Court in National Board of Examinations' case (supra).

26. The question which now comes up for consideration, therefore, is whether the decision, which has been taken by the University to scrap the entrance test is *bona fide* and justified in the facts and circumstances of the present case?

Perusal of the impugned minutes of meeting would indicate and is also not disputed by the petitioners that under the Advocates Act, 1961 or Standards of Legal Education and Recognition of Degrees or the Bar Council of India Rules of Legal Education, 2008 framed by the Regulatory Authority i.e. the Bar Council of India under Section 7 (1) (h) or Section 49 (1) of the Advocates Act, 1961, there is no mandate for holding of an entrance test for admitting students to the courses leading to the conferment of degree in law.

In the light of the above, there being no requirement under the statute to hold entrance test for admission to the law degree courses, the decision taken by the respondent-University to hold one could at best be said to be a self imposed conscious choice, which is open to change at any stage for justifiable reasons.

Reliance on the judgments/orders passed by the various Courts by the counsel for the petitioners, dismissing writs for postponement/cancellation of the exam because of COVID is misplaced firstly the agency holding the exam was

mandated under the statute to hold such exam and secondly infrastructure was available as per the norms fixed for COVID protocol, which is not the case here.

27. Holding of the entrance test was a part of the prospectus which had been published, and, therefore, the University was required to conduct the same. With there being the power to change the mode of admission, which could be varied/modified and/or revoked when such a right has been reserved by the University specifically in the prospectus itself, the aspect which requires to be now seen is “whether the entrance examination could actually be held by the University as to whether and the reasons which had weighed with the respondent-University to scrap the entrance test is just and reasonable?

The first and foremost requirement for the respondent-University to hold an eligibility test would be the infrastructure. In this regard, the respondent-University has pointed out that it has only one centre available to hold the test, which would not be sufficient for holding the test as per the guidelines/norms/regulations issued by the Ministry of Human Resource Development, Home Affairs and UGC. It is not that the University has not explored the possibility of holding online entrance examination, as the perusal of the impugned minutes of meeting, a Committee had been constituted by the Panjab University to look into the aspect of conduct of online entrance examination. A comprehensive technical report was submitted by the Committee expressing the inability of the University to conduct online entrance examination. The reason which weighed in the mind of the Committee was the inability to ensure fairness in the online examinations from home as the requisite technologies for the said purpose are not available with the University. Another reason cited is the technical infeasibility due to non-availability of internet connectivity at the homes of the candidates living in remote areas. Consultation with other Government agencies and various Government Universities has also been carried out, where again the

report has come against holding the online entrance examination from home as there is every likelihood of compromise of transparency.

28. As regards the physical mode of entrance examination is concerned for admission to law courses is concerned, the Committee, apart from referring to the admissions which are being carried out by the other universities in the State of Punjab, where it is based upon the marks obtained by the candidates in the qualifying examination, the practical difficulties in holding the examinations have also been taken into consideration and noted. It has been mentioned that there are about 7000 candidates, who had applied for admission to 5 year integrated course and 3000 candidates, who had sought admission in 3 year degree course in law. Not only the candidates are required to appear most of whom are likely to be accompanied by someone, but keeping in view the norms as laid down by UGC, Ministry of Human Resource Development and the Ministry of Home Affairs that social distancing and minimum of 2 meters distance between each candidate mandated apart from lack of infrastructure and financial resources, the feasibility of holding such an entrance test has been gone into in detail by the Committee and it is a cumulative effect of all these circumstances that a decision has been taken to scrap the entrance test. This being the position on the factual front, especially in the light of there being no contrary data made available by the petitioners to rebut such a stand of the respondent-University, the Court is left with no option but to accept the same.

The spread of highly infectious COVID 19 virus, with no treatment being available till date, which has resulted in lakhs of reported deaths around the world, the only way to curb the same is to take precautions by following the well tested and laid down guidelines by the World Health Organization following which the norms have been conveyed by the UGC, Ministry of Human Resource Development as well as Ministry of Home. All are bound and required to comply,

follow and adhere to them as it is in public interest. If a person expects to lead a healthy infection free life, a duty is also cast upon him/her to ensure that he/she does not on his/her part resort to anything which would endanger the health of other fellow beings. The Court is also required to follow the same and ensure that it is not violated. In these circumstances, where an Institute has come out with facts supported with figures, expressing its inability to hold the entrance test as per the laid down COVID 19 protocol, putting to risk of infection not only the candidates, University staff and invigilators but the other students of the University as well, which may lead to spread of viral infection, this Court would not issue such a direction or order which would be contrary to the guidelines issued by the competent authority and against the public interest and policy.

29. As regards the plea of the petitioners that no steps have been taken for moderation/rationalization of the marks obtained by the candidates in the qualifying examination, the said plea also cannot be accepted as the respondent-University has taken due care of the same. The relevant consideration on this aspect finds mention at internal page 13 of the said proceedings, which reads as follows:-

“The plea of petitioners as to what procedure is to be followed by the Panjab University for rationalization of marks obtained by candidates in 10+2 or B.A./B.Com/B.Sc. etc. from different streams and different Boards/Universities is concerned, the following procedure is being followed since its inception which is as under:-

CISCE- Best 4 Subjects

PSEB- Arts & Science- Best 5 Subjects

PSEB- Commerce- Best 6 Subjects

CBSE- Best 5 Subjects

The same process is applied to all other Boards/Universities”.

This takes care as regard the contention of the petitioners that without moderating the marks obtained by the candidates from various institutes/boards/universities would lead to discrimination. In the given facts and circumstances, University has taken necessary steps to take care that no candidate gets undue benefit nor is any candidate put to disadvantage as regards the qualifying marks are concerned because of the different modes of education/standards/markings etc.

30. It cannot be said that the prevailing COVID-19 pandemic cannot be a ground for avoiding physical entrance test. This being an exceptional, unexpected and peculiar circumstance, the opinion formed by the Committee constituted by the respondent-University that congregation of large number of people at the only centre, which the University has for holding the examination could cause the spread of Corona virus and, thus, is neither suitable for nor feasible to hold the entrance test as per UGC guidelines, directives/Standard Operating Procedure issued by the Ministry of Human Resource Development and the Ministry of Home Affairs is fully justified. The conclusion that even the residents and the other students in the University campus would be put to risk apart from the staff invigilators, candidates and those accompanying them as also others is not unfounded. The scrapping of the entrance examination, as it could lead to spread of virus, therefore, appears to be in public interest, which cannot be faulted in the light of above facts and circumstances and, thus, do not call for interference by this Court, especially when the respondent University has specifically stated that this decision is only for this year because of the peculiar and unexpected situation arising out of the pandemic.

31. In view of the above, finding no merit in these writ petitions, the same stand dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

November 04, 2020
Puneet/khurmi

Whether speaking/reasoned:	Yes
Whether reportable:	Yes