

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

LPA No.1513 of 2017 (O&M)

Date of decision: March 18, 2020

Jagpreet Singh

...Appellant

Versus

Guru Nanak Dev University & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Shashi Himshikha, Advocate for the appellant.
Ms. Ambika Sood, DAG, Punjab.
Ms. Dr. Puneet Kaur Sekhon, Advocate for the respondents.

Ashok Kumar Verma, J.

We are seized of an intra-court appeal, under Clause X of the Letters Patent, against an order rendered by the learned Single Judge vide which the Civil Writ Petition filed by the appellant has been dismissed.

A few facts relevant for the decision of the controversy involved as available on the record may be noticed. Appellant was a student of four years B. Tech. course in Urban and Regional Planning in Guru Ramdass School of Planning under the respondent University in the academic session July, 2014. The grading system was adopted. The theory subject was consisting of 100 marks (50 marks for minor test and 50 marks for major tests) and the practical subject was also consisting of 100 marks. The appellant cleared his first semester in December, 2015 by securing 5.82 SGPA and second semester in June, 2016 by securing 6.44 SGPA. Appellant also cleared his third semester by securing 4.46 SGPA but got

E grading for the subject 'Planning Theory-II', meaning thereby that he failed in the third semester but was promoted to fourth semester as per the existing rules. The appellant thereafter joined the fourth semester. He was declared failed in the practical subject as he secured only 18 marks out of 100, whereas no other student was declared failed in this subject. According to the appellant, in his answer sheet of 'Transportation Planning-I' examination one last answer carrying 05 marks was left unevaluated. The stand of the respondents was that the appellant wrote question No.5 part (i) on page 17 of the answer-sheet, but left it unanswered after writing the title of the question only. He was, thus, awarded zero mark in that answer. On the next page also nothing was written by him. Appellant had written the answer to each question just under their title in his answer-sheet, but against question No.5 part (i) the page was left blank. No plausible explanation, whatsoever, has been forwarded by the appellant with regard to the factum of writing the answer to the said question on page 18 and 19 when page 17 was left blank. Still further the appellant did not follow instruction No.11 printed on the answer-sheet. Further on pages 3 to 17 there are lot of cuttings but on pages 18 and 19 hardly there is any cutting. The reason might be because the answer has been added by resorting to unfair means. Aggrieved, the appellant filed Civil Writ Petition No.13960 of 2017 in this Court for quashing the detailed mark sheet and directing the respondents to evaluate the unevaluated question of the appellant in Transportation Planning-I subject and to declare his result based on the marks obtained by him. Vide judgment dated 02.08.2017, the learned Single Judge dismissed the writ petition. Hence the instant appeal

by the appellant.

Ex facie, the learned Single Judge, on a deep and thorough analysis of the matter found that there was no doubt that immediately after returning from leave the respondent No.5 made a complaint that there were indications to state that his room had been broken into. Thus, the court was not in a position to give a determinative finding as to whether appellant or the respondents were correct. That being the case, the learned Single Judge was of the view that these were pure question of facts which did not warrant an interference by the writ court.

Learned counsel for the appellant submits that the learned Single Judge has failed to appreciate the terms and the provisions of the instructions applicable. The impugned action of the respondents in depriving the appellant of his valuable academic year is illegal and arbitrary. She lastly contended that even if there are disputed question of fact but if they do not require elaborate evidence to be adduced, the High Court is not precluded from entertaining a petition under Article 226 of the Constitution. She has placed reliance on the judgment rendered by the Hon'ble Supreme Court in Civil Appeal No.1600 of 2020 titled as *Popatrao Vyankatrao Patil Vs. The State of Maharashtra & others*, decided on February 14, 2020. She further submits that the appellant was shown the answer-sheet. There was no provision of re-evaluation in the respondent University in the grading courses, therefore, after marking of the major examination the students are brought in a big hall where the answer-sheet was shown to the appellant, who on checking the mark-sheet found that his answer to question 5 (i) attempted on last page has been left unevaluated and he duly informed the

teacher Incharge, who in turn informed the subject Teacher i.e. respondent No.5 who assured him that his answer will be marked, therefore, the appellant left the premises.

To our minds, the argument being advanced, does not enhance the case of the appellant. It is apparent from the relative positions taken by the parties that there is considerable dispute in regard to material facts and that the dispute is of a nature which cannot be conveniently adjudicated upon in the writ petition. In this context, we are fortified by the decision rendered by the Hon'ble Apex Court in *Bihar Rajya Vidyut Parishad Field Kamgar Union Vs. State of Bihar and others*, 1987 AIR (SC) 1875, wherein it has been so held.

Even otherwise also, no case for interference is made out. The whole controversy revolves around the question regarding the marking of the one unevaluated answer of the appellant in the 'Transportation Planning-I' paper. Man may lie but not the circumstances. According to appellant, he was shown the answer-sheet and he was given assurance that his answer will be marked, whereas the stand taken up by the respondents is that the answer-sheet was duly shown to the appellant but he did not raise any dispute regarding non-marking of question No.5 Part (i) at that time and left the conference hall. From a bare perusal of the answer-sheet Annexure R-5/3, it is apparent that the appellant had written the answer to a question immediately after writing the question throughout in the answer-sheet. However, the appellant wrote question No.5 part (i) on page 17 of the answer-sheet but left it unanswered after writing the title of question only. Page 17 has been left blank. Accordingly, he was awarded zero (0) mark in

that answer. It is further seen that the appellant has written the answer to each question just under title of each question in his answer-sheet, then why in case of question No.5 (i) the answer was not written under the title of the question No.5 part (i) on page no.17 of the answer-sheet and the page was left blank. There is no plausible explanation with regard to factum to write the answer to the said question on page 18 and 19 when page no.17 was left blank. Still further the appellant did not follow the instruction No.11 printed on the answer-sheet that the candidate should write on both sides of the answer-sheet except the back of the title page.

Further more, as per instruction No.11 on the answer-sheet the students were instructed to cross the blank papers but in the case of the appellant, two pages i.e. page Nos.18 and 19 were not crossed at the time of submitting the answer-sheet in the examination centre. Under these circumstances, there is every possibility that the appellant might have taken the advantage of this fact and added the answer to question No.5 part (i) later on by resorting to unfair means.

We find no reason, least plausible, to interfere with the order rendered by the learned Single Judge. The appeal is, accordingly, dismissed. The parties are left to bear their own costs.

(RAKESH KUMAR JAIN)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

March 18, 2020
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No