IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RA-CW No. 458 of 2019 and
CM No. 17760-CWP of 2019 in
CWP No. 32490 of 2019

Date of decision : 07.02.2020

Puneet

.... *Petitioner*

Versus

Lala Lajpat Rai University of Veterinary and Animal Sciences, Hisar and others

... *Respondents*

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MRS. JUSTICE SUDHIR MITTAL

Present : Mr. D. S. Rawat, Advocate
for applicant/respondent No.1 in RA-CW No. 458 of 2019.

Mr. Sandeep Singh Sangwan, Advocate
for the non-applicant/petitioner.

Mr. Himanshu Malik, Advocate
for applicant/respondent No.2 in CM No.17760-CWP of 2019.

Mr. Kannan Malik, Advocate for respondent No.3.

* * *

DAYA CHAUDHARY, J.

This review application has been filed by respondent No.1-University for withdrawal of the statement given by its counsel Mr. D. S. Rawat before this Court on 08.11.2019 to the effect that it had been decided to grant admission to the petitioner in the Institute of respondent No.2.

Petitioner Puneet filed CWP No. 32490 of 2019 before this Court for direction to respondent No.2 *i.e.* International Institute of

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Veterinary Education and Research (IIVER), Bahu Akbarpur in Rohtak to grant admission in Veterinary and Livestock Development Diploma (VLDD), on the ground that one seat was lying vacant and the petitioner was qualified for admission but still he was denied admission.

Notice of motion in the case was issued on 07.11.2019. On the next date of hearing *i.e.* 08.11.2019, learned counsel appearing for the respondent-University, after having instruction from Dr. Sandeep Gera, Director, Institute of Para Veterinary Sciences, stated that it had been decided to grant admission to the petitioner and on the basis of his statement, the petition was disposed of.

The present review application has been moved for withdrawal of the statement suffered before this Court on 08.11.2019 by Mr. D. S. Rawat, Advocate appearing for the respondent-University on the ground that the petitioner was not eligible for admission as he was not fulfilling the criteria of passing each and every subject in 10+2 examination.

Learned counsel for applicant/respondent No.1 submits that a wrong contention was made at the time of issuance of notice of motion that the petitioner had passed 10+2 examination but still he was not granted admission as he had failed in the additional subject. However, the petitioner was not having the requisite marks in other subjects as the requirement of passing marks was 33% in each and every subject, whereas in theory papers *i.e.* Physics, Chemistry and Hindi Music Vocal, his percentage was less than 33%.

Learned counsel for the non-applicant/petitioner submits that the petitioner has been shown to have passed 10+2 examination as in the

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result the word “pass” has been mentioned.

During pendency of this application, Mr. Kannan Malik, learned counsel representing respondent No.3-CBSE, was asked to explain as to why the word “pass” was mentioned when he had not passed all the subjects. He submitted that the petitioner is having qualifying percentage in aggregate including theory and practical, whereas the requirement is having 33% in the theory and the practical. It is for the University to consider the claim of the petitioner for admission purpose.

Learned counsel for respondent No.2-Institute submits that because of the pendency of this petition, one seat has remained unfilled and it is a direct loss to the Institute. He also submits that in case the University has no objection in granting admission to the petitioner, the Institute is ready to grant him admission.

Heard arguments raised by learned counsel for the parties. We have also perused the orders passed on different dates including the contentions raised at the time of issuing notice of motion.

Admittedly, notice of motion was issued by considering the submissions of learned counsel for the petitioner that the petitioner had passed 10+2 examination but he has been denied admission on the ground that he had failed in the additional subject. The counsel for the respondent-University made a statement before this Court that decision had been taken to grant admission to the petitioner, whereas no admission was granted. According to learned counsel for the respondent-University, he was not aware at that time as to whether the requirement of having 33% marks in theory and practical was essential for admission or not. By considering the

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total aggregate percentage in all subjects, he made the statement. Now the admission is over. It is an academic exercise and the application for recalling of statement made by learned counsel for the University has been filed.

After considering the submissions made by learned counsel for respondent No.3-CBSE that minimum requirement of passing in all the subjects is 33% marks in theory as well as the practical and also the fact that the petitioner has been shown to have passed the examination, it will be considered at the time of final arguments in the main writ petition. However, keeping in view the inadvertent statement given by learned counsel for the applicant-University, he is allowed to withdraw his statement.

Accordingly, the present review application is allowed. However, keeping in view the fact that on account of giving wrong statement by learned counsel for the respondent-University without having any proper instructions, which has resulted in wastage of precious time of this Court; lingering on the case without any sufficient reason; the fact that valuable time of the petitioner has also been wasted as he is not in a position to get admission at this stage as the time of admission is already over; the Institute has also not filled up seat which has remained vacant because of the statement given by the University counsel, cost of ₹50,000/- is imposed upon the respondent-University to be paid to the petitioner as well as respondent No.2-Institute in equal share *i.e.* ₹ 25,000/- to each, within a period of four weeks from the date of receipt of certified copy of this order.

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The main petition is adjourned to 06.03.2020.

Be put up as per the roster after obtaining appropriate orders from Hon'ble the Chief Justice.

(DAYA CHAUDHARY)
JUDGE

Dated : 07.02.2020
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No

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