

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

Sr. No.216

DATE OF DECISION: 21.09.2020

CWP No.33400 of 2019

MANOHAR SINGH AND OTHERS

..PETITIONERS

VERSUS

**PUNJAB STATE BOARD OF TECHNICAL EDUCATION AND
INDUSTRIAL TRAINING AND OTHERS**

...RESPONDENTS

CWP No.9744 of 2020

SAGARDEEP SINGH AND OTHERS

..PETITIONERS

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Vivek K. Thakur, Advocate,
for the petitioners in CWP-33400-2019.

Mr. Amit Arora, Advocate,
for the petitioners in CWP-9744-2020.

Ms. Anju Sharma Kaushik, DAG, Punjab,
for respondents No.1 & 2 in CWP-9744-2020.

Mr. Rishabh Gupta, Advocate,
for respondent No.1 in CWP-33400-2019 and
for respondent No.3 in CWP-9744-2020.

Mr. M.S. Atwal, Advocate,
for respondent No.2 in CWP-33400-2019.

Mr. S.K. Sharma, Advocate,
for respondent No.3 in CWP-33400-2019 and
for respondent No.6 in CWP-9744-2020.

**CWP No.33400 of 2019 and
CWP No.9744 of 2020**

Mr. Jagjit Singh Lalli, Advocate,
for respondent No.4 in CWP-9744-2020.

Mr. Vaibhav Sharma, Advocate,
for respondent No.5 in CWP-9744-2020.

SUDHIR MITTAL, J. (ORAL)

This order shall dispose of aforementioned two petitions as the similar questions of facts and law are involved therein.

The petitioners are students of two years diploma in Pharmacy. They were admitted in the first year in April, 2017 and took their first examination in May, 2018. All the petitioners had re-appears in more than two subjects. All of them took the re-appear examination in November, 2018. Some of them cleared all the subjects in the said examination whereas the others cleared the subjects in the second reappear examination conducted in May, 2019. In May, 2019 itself, they appeared for the second year examination but their result for the second year examination has been withheld on the ground that Regulation 16 of the Education Regulations, 1991 (hereinafter referred to as the Regulations) issued by the Pharmacy Council of India bars the promotion of a student to the second year in case he/she has failed in more than two subjects.

Learned counsel for the petitioners has argued that after the declaration of the first year result, the petitioners took admission in the second year, deposited the fee for the course, attended 75% classes and also attended a three months training programme. Their applications for taking the second year examination were forwarded to the Board i.e. The Punjab

**CWP No.33400 of 2019 and
CWP No.9744 of 2020**

State Board of Technical Education and Industrial Training and the said Board issued admit cards. Thereafter, they took the examination. Thus, there was no concealment/misrepresentation on the part of the petitioners. The first year result was known to the Board, but it permitted the petitioners to undergo the entire second year course and woke up only when the result of the said course was to be declared. Thus, principle of equitable estoppel would arise and the petitioners would be protected by a judgment of the Supreme Court in '*Shri Krishan V. Kurukshetra University, AIR 1976 SC 376*', a Division Bench of this Court in '*Rimmi Sehgal Minor v. Punjab School Education Board, 1992(1) SCT 202*' and a Single Bench of this Court in '*Shri Guru Govind Singh Khalsa College and ors. v. Panjab University, Chandigarh and anr., 2014(3) RSJ 499*'.

It may be noticed that the concerned colleges are supporting the case of the petitioners. On their behalf, it has been argued that Regulation 16 aforementioned is ambiguous inasmuch as students are permitted to take the reappear examination after being promoted to the second year as is evident from the fact that the petitioners were permitted to take the reappear examination in November, 2018 as well as in May, 2019. In case, the Regulation was to be so strictly enforced, no reappear examination should have been held. Thus, it is evident that the said Regulation is not a mandate for non-promotion of students to the second year. In any case, under the current circumstances, the students should not be made to suffer.

Learned counsel for respondent No.1 argues that when a student is promoted to the second year, his admission to the said course is not scrutinized by the Board. Admissions are made at the level of the

**CWP No.33400 of 2019 and
CWP No.9744 of 2020**

college only. The Board comes into the picture only when the examination forms are received by it. The colleges are making admissions at their own level and violating binding Regulations.

Learned counsel for respondent No.3 submits that the judgments relied upon by the petitioners are distinguishable inasmuch as none of them pertain to the Pharmacy Council of India. The Pharmacy students deal with the lives of the people and unqualified students cannot be permitted to become licensed Pharmacists/Chemists.

From the aforementioned arguments, it is evident that the facts are not in dispute. Thus, there was no misrepresentation/concealment by the petitioners. Assuming, that the Board acquires knowledge of the students who took admission in the second year only when the examination forms are received by it, it should have woken up at that stage and should not have issued the admit cards. Having done so, it does not lie in its mouth to claim innocence. The judgments referred by learned counsel for the petitioners are squarely applicable in the facts of this case. No distinction can be made on the ground that the said judgments were passed in respect of other educational courses.

It is not disputed that before taking the second year examination, the petitioners had cleared their first year examination albeit, after taking the reappear examination.

In view of the above, the writ petitions are allowed and The Punjab State Board of Technical Education and Industrial Training is directed to declare the second year result of the petitioners forthwith.

**CWP No.33400 of 2019 and
CWP No.9744 of 2020**

I have been informed that the reappear examinations for second year are scheduled to be held on 29.09.2020 and that the last date for making applications for the said examination is today i.e. 21.09.2020. Thus, in case, any of the petitioners have reappears, the last date for application for them shall stand extended upto 25.09.2020.

21.09.2020

Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No