

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-8179-2021 (O&M)
Date of Decision: 21.05.2021

Saksham Vaid

... Petitioner

VS.

University Institute of Legal Studies & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE GIRISH AGNIHOTRI

Present: Mr. Sarthak Gupta, Advocate for the petitioner

Mr. Akshay Kumar Goel, Advocate for the respondents

GIRISH AGNIHOTRI, J. (Oral)

(1) The matter has been taken up through video conferencing on account of restrictions due to outbreak of COVID-19 pandemic.

(2) The petitioner Saksham Vaid aged 21 years has filed the present writ petition *inter alia* with a prayer to quash the decision dated 22.01.2021 of the Board of Control of respondent No.1 (P5) vide which the Board has rejected the petitioner's request to provisionally sit for the Third Semester B.Com, LL.B. (Hons.) Examinations held in February-March, 2021 pending results of the Second Semester Re-Appeal Examinations held in January, 2021. A further prayer is made to direct to the respondent-authorities to evaluate the answer-sheets submitted by the petitioner for the Third Semester of the Course on the basis that he has cleared the Second Semester Re-Appeal Examinations held in January, 2021 and to provisionally admit the petitioner to Fourth Semester of B.Com, LL.B. (Hons.).

(3) Record shows that notice of motion in this case was issued on 09.04.2021. In response thereto, reply has been filed by the respondents by

Sh. Vikram Nayyar, Registrar, Panjab University, Chandigarh.

For the facts and reasons recorded hereinunder, this Court is of the considered view that the petitioner is not entitled to the prayer made in the present writ petition.

(4) The brief facts which needs to be noticed are that the petitioner was admitted to First Semester of B.Com., LL.B. (Hons.) Five year integrated Course in the academic year 2017-18. The respondent-University in its reply has *inter alia* pointed out certain eligibility conditions and has also referred to certain provisions in the Rules as to how a student can seek re-appear and further promotion to next semester(s). Some of the salient pre-conditions are:-

- (i) the students of the above Course are required to attend overall 70% of lectures and 65% of the lectures per subject;
- (ii) promotion/admission of a student to the next year of the Course shall be allowed if he or she has passed at least 50% of the papers of previous Semester, as the case may be;
- (iii) all papers of 10 semesters must be passed by a student within 8 years from the year of admission.

Relevant extracts of the Rules regulating admission and promotion to B.Com., LL.B. (Hons.) Five Year Integrated Course (1 to 10 semesters) are appended as Annexure R1 with reply.

(5) The petitioner herein took admission in First Semester in 2017 (approximately in the month of August 2017). In December, 2017, he appeared in all 6 papers of First Semester but passed only 2 papers: Paper-III and Paper-IV – and failed in the remaining 4 papers. He was permitted admission in Second Semester in December, 2017-January, 2018. However, he failed to attend overall 70% attendance of lectures delivered in Second Semester (he attended 76 lectures only out of 350 lectures delivered by the

Institute). Accordingly, in May, 2018, the petitioner neither was allowed to appear in the Second Semester Examination nor was allowed to be promoted to Third Semester as he did not fulfill the pre-conditions of eligibility.

(6) Thereafter he chose not to take re-appear examinations of First Semester (which were held in December, 2018). He, in the month of January, 2019, took re-admission to Second Semester. The petitioner appeared in all 6 papers of Second Semester held in May, 2019 but passed only in one paper (Paper-VII) and failed in remaining 5 papers. Accordingly, since the petitioner had not passed 50% of the papers of First Year i.e. $6+6=12$ and 50% requirement being 6 papers whereas he only passed 3 papers. He was accordingly not promoted to Third Semester for the session 2019-2020. Thereafter, the petitioner again did not choose to take re-appear examination of First Semester which were held in December, 2019. As evident from the above, the position that existed as on 01.01.2020 was that the petitioner had only passed 2 papers of First Semester out of 6 and had passed only one paper out of 6 of Second Semester.

(7) It is a matter of common knowledge that in March, 2020, the whole country was put to lockdown due to COVID-19 pandemic. Accordingly, the University through its Circular dated 05.08.2020 took a decision that the students having cleared 50% of the papers of his/her previous semester upto December, 2019 were allowed to be promoted to next semester of academic year. Since the petitioner had only passed 3 papers out of 12, he was not promoted to Third Semester of Second Year. Since because of COVID-19 pandemic situation the exams of Second Semester were not held in May, 2020, the University took a decision to

conduct online examinations of additional and improvement subjects of even semesters in the month of January, 2021. In these examinations, the petitioner appeared in all the remaining 5 papers of Second Semester. The result of the said examination was declared on 06.04.2021 and the petitioner has passed all 5 papers. Therefore as on date, the position that stands is that the petitioner has passed 8 papers out of 12, of First and Second Semester. The petitioner is entitled to be promoted to Third Semester for the Session 2021-22.

(8) However, in spite the factual position and the undisputed fact that he was neither promoted to Third Semester by the University in July, 2020 nor he had deposited the requisite academic fee of Third Semester for July, 2020 nor he had deposited examination fee for examinations of Third Semester conducted by the University in January, 2021 yet the petitioner, of his own, downloaded the question papers of Third Semester from the portal and attempted all the papers online. In the above circumstances, the petitioner has *inter alia* made prayers through the present writ petition to direct the University to evaluate the answer-sheets submitted by the petitioner for the Third Semester Examination held in February-March, 2021 and to provisionally admit him to Fourth Semester of the Course as well as to quash the letter dated 22.01.2021 vide which his request has been rejected to provisionally sit for the Third Semester examination in February-March 2021 (pending the result of Second Semester re-appear examination held in January 2021).

(9) In the reply filed by the respondents, it has been *inter alia* submitted that the petitioner has filed the instant writ petition, by concealing the true and correct facts relating to his admission and promotion to 3rd

semester in B.A./B.Com., LL.B. (Hons.) five years integrated course. It is the specific case of the respondents that the petitioner was never promoted to 3rd semester (second year). One of the reasons for the same is that the petitioner failed to pass 50% of the papers of previous semesters i.e. 1st & 2nd semester of first year. Since he was never promoted/admitted in the 3rd semester, he never attended even a single online lecture of any paper of 3rd semester. Consequently, he could not be allowed provisional admission in the 4th semester of five years integrated course. It is also the stand of the University that result of the re-appear papers of 2nd semester was declared around in April 2021. Therefore, without first passing the second semester, without getting admission in the 3rd semester and without attending lectures of 3rd semester, as per rules, he could not be permitted to take 3rd semester examination. It is the stand of the University that the petitioner had mischievously downloaded the question papers of 3rd semester from the University Examination Portal and attempted all the papers online. He therefore cannot claim the benefit of passing the said papers which, in law as per rules, he could not take without first getting admission and without attending the classes of 3rd Semester.

(10) From the detailed facts as noticed above, this Court is inclined to accept the stand of the respondent-University. There is no merit in the claim/prayer of the petitioner to quash the decision dated 22.01.2021 (Annexure P-5) taken by the Board of Control of the University. The petitioner claims that vide aforementioned decision dated 22.01.2021, the Board had wrongly and arbitrarily rejected the request of the petitioner to permit him to provisionally sit for the 3rd semester of the Course, scheduled for February-March 2021, pending the results of 2nd semester re-appear

examinations. The University in its reply, has quoted Rule 5(i) and (ii) of the Rules regulating admissions and promotion to the course in question. From the facts narrated above, it is evident that the petitioner on one ground or the other namely minimum requirement of lectures or passing of minimum 50% of the papers, had not achieved the eligibility and therefore, rendered himself in-eligible to claim provisional permission to sit in the 3rd semester examination. The petitioner has not challenged the Rules. He has admittedly neither been admitted nor attended any of the lectures of 3rd semester.

(11) This Court also is inclined to accept the stand of the respondents and decline the claim/prayer of the petitioner to the effect that University be directed to evaluate the answer sheets submitted by the petitioner for 3rd semester examination. For the reasons mentioned in the foregoing paras, this Court finds that the petitioner is not entitled to prayer made in the petition.

(12) The next prayer made by the petitioner is to provisionally admit him in 4th semester of the Course. As per Rules, since he has not fulfilled the minimum requirements to get promotion to the 3rd semester, the prayer of the petitioner accordingly, for provisional admission to 4th semester, is without any basis and is devoid of merit. Before concluding, this Court deems it appropriate to notice and record here that as per Rule 5(i) of the Rules, a student has to pass the course within eight years from the year of admission to the 1st semester of the concerned course. The petitioner herein had taken admission in the year 2017. The petitioner has eight years time till the year 2025, to complete the course. It appears that he has successfully passed the 1st year and thus, he still has four years to complete the remaining

course upto year 2025.

(13) In view of the above, the present writ petition is dismissed.
Subsequent applications pending with the petition, disposed of accordingly.

(14) No order as to costs.

(GIRISH AGNIHOTRI)
JUDGE

21.05.2021
anju rani/vishal shonkar

Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No