

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 7415 of 2020 (O&M)

Rattan Institute of Technology and Management
....Petitioner

VS

State of Haryana and others
....Respondents

CWP No. 7422 of 2020 (O&M)

Delhi Institute of Technology Management and Research, Faridabad
....Petitioner

VS

State of Haryana and others
....Respondents

CWP No. 8280 of 2021 (O&M)

Ryan Uday
....Petitioner

VS

State of Haryana and others
....Respondents

CWP No. 10483 of 2021 (O&M)

Dheeraj and others
....Petitioners

VS

State of Haryana and others
....Respondents

Date of Decision: 26.07.2021

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Rana Gurtej Singh, Advocate
for the petitioner in CWP Nos.7415 and 7422 of 2020 and
for respondent No.4 in CWP Nos.8280 and 10483 of 2021

Mr. Tejeshwar Singh, Advocate
for the petitioner(s) in CWP Nos.8280 and 10483 of 2021

Ms. Upasana Dhawan, AAG Haryana

Mr. Tribhuvan Dahiya, Sr. Advocate with
Mr. Deepak Kundu, Advocate
for respondent No.2

Mr. Anurag Goyal and Mr. Amit Rao, Advocates
for respondent No.3

SUDHIR MITTAL, J. (Oral)

CM No. 9374-CWP of 2021

This application has been filed for placing on record affidavit of Controller of Examination of respondent No. 3.

Application is allowed and said affidavit is taken on record.

CWP Nos.7415 and 7422-2020 (O&M), CWP-8280-2021 and CWP-10483-2021 (O&M)

This bunch of writ petitions has been filed by certain institutions as well as students challenging the refusal of respondent No. 3 to take their examination in re-appear papers without respondent No. 2 providing the result data.

The petitioner-institutions were affiliated with respondent No. 3 – Maharshi Dayanand University, Rohtak. Vide notification dated 21.06.2017 issued by the State of Haryana, the territorial jurisdiction of various universities was changed. The petitioner-institutions came within the territorial jurisdiction of respondent No. 2 – J.C. Bose University of Science and Technology, YMCA, Faridabad. Consequently, in the academic sessions 2018-19 and 2019-2020 their affiliation was with respondent No. 2. The petitioner-institutions challenged the notification dated 21.06.2017 in various writ petitions wherein the said notification has been stayed by this Court vide orders dated 17.08.2019 and 06.09.2019.

Thereafter, these institutions have reverted to respondent No. 3 – Maharshi Dayanand University, Rohtak.

Problems arose because Maharshi Dayanand University refused to conduct re-appear examination for the students who had failed in certain subjects while their institutions were affiliated with respondent No. 2. Also, certain subjects were part of the curriculum of Maharshi Dayanand University but were not in curriculum of respondent No. 2. For conducting the said examinations, Maharshi Dayanand University demanded result data from respondent No. 2 but the same was not forthcoming.

Affidavit of Controller of Examinations of Maharshi Dayanand University has been placed on record according to which the data available on the website is not sufficient for declaration of final result. The final result is required to be prepared in respect of students who took admission in the academic session 2017-18 i.e. prior to the issuance of notification dated 21.06.2017.

Learned senior counsel for respondent No. 2 submits that the result data can not be transferred because the said students were admitted while their institutions were affiliated with the said University and all their examinations have been conducted by it. Thus, the said University alone is competent to certify and declare the final result. In support of his argument reliance has been placed upon Section 3-A of the J.C. Bose University of Science & Technology, YMCA, Faridabad Act, 2009. The same is reproduced below:-

“3A. Territorial exercise of powers:- (1) The limits of the area within which the University shall exercise its powers shall be such, as the Government may, from time to time, by notification specify:

Provided that different areas may be specified for different faculties.

- (2) *Any college to be opened in the territorial limits of the University as mentioned under sub-section (1), shall have to get affiliated to this University.*
- (3) *Notwithstanding anything contained in any State law for the time being in force, any college, institution or regional centre situated within the limits of the area specified under sub-section (1) shall, with effect from such date, as may be notified in this behalf by the Government, be deemed to be associated with, and admitted to, the privileges of the University and shall cease to be associated in any way with, or be admitted to, any privileges of any other university and different dates may be notified for different colleges:*

Provided that -

- (i) *any student of any college, institution or regional centre, associated with, or admitted to, the other university before the said date, who was studying for any degree or diploma examination of that university, shall be permitted to complete his course in preparation thereof and the University shall hold for such students, examinations in accordance with the curricula of study in force in that university for such period, as may be prescribed by the Statutes, Ordinances or Regulations;*
- (ii) *any such student may, until any such examination is held by the University, be admitted to the examination of the other university and be conferred the degree, diploma or any other privilege of that university for which he qualified on the result of such examination.”*

Proviso to sub Section 3 relied upon by learned senior counsel for respondent No. 2 relates to students of a University before change of affiliation by virtue of notification of the State Government. The said students shall be permitted

to complete the course in the University to which they were earlier affiliated.

Thus, under ordinary circumstances, said students would continue with the curricula of study with the University with which their institution was affiliated prior to transfer. However, in this case upon passing of a stay order by the High Court certain institutions have gone back to the University with which they were affiliated before notification dated 21.06.2017 and, thus, learned senior counsel for respondent No. 2 can not draw any benefit from the aforementioned provision. The same can not apply in this fact situation as the stay order is transitory.

Consequently, the writ petitions are allowed. Respondent No. 2 is directed to transfer the result data to respondent No. 3 in respect of candidates who had taken the re-appear examination inclusive of candidates who appeared in deficient subjects (subjects which were not part of the curriculum of respondent No. 2).

A photocopy of this order be placed on the files of other connected cases.

**(SUDHIR MITTAL)
JUDGE**

26.07.2021

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Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No