

CWP No. 22510 of 2020 of 2020 (O&M) 1

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

CWP No. 22510 of 2020 (O&M)

Date of Decision:08.02.2021

Manisha Joshi

.....Petitioner

Versus

Panjab University and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Om Pal Sharma, Advocate
for the petitioner.

Mr. Indresh Goyal, Advocate
for the respondents.

LISA GILL, J(Oral).

This matter is being taken up for hearing through video conferencing due to outbreak of the pandemic, COVID-19.

Petitioner is aggrieved of orders dated 20.10.2020 and 11.12.2020, whereby she has been debarred from appearing in any of the examination conducted by the Panjab University-respondent no.1 for a period of two years.

Petitioner after passing her graduation from Delhi University was afforded admission in the three year LLB course with respondent-University and she was allocated Punjab University Regional Centre, Sri Muktsar Sahib, Punjab. Random checking was conducted at the time when the petitioner was taking her examination of Family Law for the first semester. Incriminating material was statedly found on the petitioner's person. Show cause notice dated 30.01.2020 was served. Case was lodged for use of unfair means in the examination centre against the petitioner and after inquiry, petitioner was disqualified from appearing in any University examination for a period of two years i.e., from December 2019 to May

2021 for violation of Regulation/s 5 and 8 appearing at page/s 10-14 Panjab University Calendar Volume-II, 2007. Petitioner's appeal was also dismissed.

Aggrieved therefrom, present writ petition has been filed.

Learned counsel for the petitioner submits that on 16.12.2019, petitioner was suffering from fever and body ache and she came to Chandigarh a day before her examination for treatment. Despite high fever and body ache, she travelled from Chandigarh to Sri Muktsar Sahib in the early hours of the morning and she was carrying her notes in her pocket which she inadvertently forgot to empty before entering the examination centre. It is further contended that the petitioner's signatures were forcibly obtained on certain documents at examination centre. Moreover, impugned orders dated 20.10.2020 and 11.12.2020 are nonspeaking orders, which reveal total non-application of mind. Explanation set-forth by the petitioner, it is submitted has not been taken into account. Petitioner is stated to be a meritorious student and would suffer an unjustified setback in her academic career. Furthermore, the petitioner has been regularly attending online classes of third semester for LLB and examinations are now scheduled to be held from 15.02.2021 onwards. It is thus prayed that impugned orders be set aside and the petitioner be permitted to take her examinations.

Learned counsel for the respondents points out that decision against the petitioner was taken after observing due process in accordance with law. He submits that minutes of meeting of UMC Standing Committee-II and UMC Standing Committee-I attached as Annexures R-1 and R-2 with the reply, reveal that action has been taken in-accordance with law. Documents attached as Annexures P-2 and P-5 are stated to be the intimation to the petitioner of the decision taken in consonance with the

applicable rules and regulations. It is thus prayed that the present writ petition be dismissed.

I have heard learned counsel for the parties and have gone through the file with their assistance.

It is the case of the petitioner herself that as she was taking the examination in the paper of 'Family Law' on 16.12.2019, she was found in possession of some handwritten slips which were recovered from her pocket, during random checking. Explanation offered is that as she was unwell and had travelled from Chandigarh to Sri Muktsar Sahib on the said day, she had entered the examination hall without emptying her pockets by mistake. The incident in question is duly admitted as is the recovery of some handwritten notes. It is relevant to note that there is no such prescription slip to show that the petitioner was unwell on the said day. There is no such detail pleaded to have been placed before the authorities and neither is there any such document attached with the writ petition. There is further no material on record to show that the petitioner was forced to sign/write anything on blank papers on 16.12.2019 as alleged in the writ petition. No representation or objection was ever raised by the petitioner before the authorities at that time or immediately thereafter.

It is to be noted that in the minutes of the meeting of UMC Standing Committee-II held on 16.10.2020, it is specifically mentioned that two printed slips and eight handwritten slips were recovered from the candidate's hand and pocket. Explanation offered by the petitioner that she was reading from the notes while travelling and these slips were left by mistake in her pocket has been duly considered. It is further noted in the said minutes that the Assistant Superintendent, Deputy Superintendent and Centre Superintendent, certified the detection and that the petitioner had

admitted her mistake for possession of incriminating material. No mala fide has been alleged much less proved against any of the said officials, who had no axe to grind against the petitioner. Moreover, it is categorically recorded that the petitioner copied Section 9 at Page no. 20 of the answer sheet from the handwritten slip no.8. It is in such situation that it was decided to disqualify the petitioner from appearing in any university examination for a period of two years.

UMC Standing Committee-I (appellate authority) constituted for hearing the appeal filed by the petitioner has also considered the matter. Admittedly, the petitioner was afforded an opportunity to appear before the said standing committee on 10.12.2020 and she was given opportunity to explain her position and to submit any new facts for consideration of the Committee. It is specifically observed by the said standing committee as under:-

“The candidate appeared before the Standing Committee-I on 10.12.2020. She was given another opportunity to explain her position and to submit any news facts for the consideration of the Committee. On careful scrutiny of the appeal filed by the candidate, the Committee finds that no new facts have been advanced which had not been placed before the Standing Committee-II which could have resulted in a different decision that taken by the previous Committee. She admitted her mistake for possessing incriminating material. It was verified once again that she had copied Sec.9 at page no. 20 of the Answer Book from handwritten slip No.8. So no new facts have been brought to the notice of the Committee to alter the decision of previous Committee.”

Learned counsel for the petitioner is unable to deny that petitioner was given due opportunity of hearing before both the committees and the same was needless to say, availed of and he is unable to point out

any irregularity in the proceedings. At this stage, learned counsel for the petitioner submits that the period of disqualification be reduced from two years to one year.

Clause 5 of Chapter 2 of the University Calendar dealing with punishment for use of unfair means provides for disqualification of the candidate from appearing in any examination for two years. Learned counsel for the petitioner is unable to point out any provision which provides for reduction of the said period of two years or any relaxation in this regard. Thus this prayer cannot be accepted.

It is brought to my notice that in view of the rules and regulations, the petitioner has however been promoted to 3rd Semester, as she had attended her classes and submitted assignments in accordance with the regulations.

Mr. Goyal, learned counsel for the respondent-University, submits that in case the petitioner complies with the rules and regulations, she would be afforded promotion to the 4th Semester as well and petitioner would be at liberty to take all examinations together, inconsonance with the provisions in the University Calendar, when the ban comes to an end.

Keeping in view the facts and circumstances as above, I do not find any ground whatsoever to interfere in the matter. This writ petition is accordingly dismissed with no order as to cost. Pending applications, if any, are accordingly disposed of.

08.02.2021
s.khan

[LISA GILL]
Judge

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