

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-1952-2022

Jaskaran Singh Matharu

....Petitioner

VS

Panjab University and others

....Respondents

CWP-1281-2022

Yafrin Ramana and another

....Petitioners

VS

Panjab University and others

....Respondents

CWP-2412-2022

Dhruv Yadav

....Petitioner

VS

Panjab University and others

....Respondents

CWP-2987-2022

Akshan Jindal

....Petitioner

VS

Panjab University and others

....Respondents

Date of Decision: 25.02.2022

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Akshay Bhan, Sr. Advocate with
Mr. Sushant Kareer, Advocate
for the petitioner in CWP-1952-2022

Mr. Gaurav Chopra, Sr. Advocate with
Mr. Nikhil Sabharwal, Advocate
for the petitioner in CWP-1281-2022

Mr. J.S. Yadav, Advocate
for the petitioner in CWP-2412-2022

Mr. Rishav Jain, Advocate with
Mr. Kanish Jindal, Advocate
for the petitioner in CWP-2987-2022

Mr. Akshay Kumar Goel, Advocate
for respondents No. 1 and 2 in all the petitions

Mr. Ankush Aggarwal, Advocate
for respondent No. 3 in all the petitions

SUDHIR MITTAL, J.

This judgment shall decide all the above mentioned writ petitions as common questions of fact and law are involved therein. For ease of reference facts are being extracted from CWP No. 1952 of 2022.

2. The petitioner is a student of B.Com. L.L.B. (Hons.) 5 years Course being conducted by respondent No. 3. Presently, he is a student of 3rd semester. He is desirous of migrating to respondent No. 2 - University Institute of Legal Studies (UILS). Respondent No. 1 – Panjab University published a notice dated 24.08.2021 inviting applications for migration to 3rd, 5th and 7th semesters of B.A./B.Com. L.L.B. (Hons.) 5 years integrated course, Session 2021-2022 being conducted at UILS Chandigarh. Applications were to be submitted between 01.09.2021 and 07.09.2021. The petitioner submitted his application dated 01.09.2021. Two months later, Public Notice dated 18.11.2021 was issued informing all applicants for migration to submit copies of their DMCs/results of the previous semesters by 29.11.2021. This notice was complied with and the result was submitted vide application dated 24.11.2021. Based on the previous results, a merit list of students desirous of migrating to 3rd semester of UILS was drawn up in which name of the petitioner is at Serial No. 1 amongst the B.Com. L.L.B. (Hons.) students. This was followed by another Public Notice (copy of which is Annexure P-8) informing the applicants that online counselling would be

held on 17.12.2021 between 10.50 a.m. and 12.00 noon. A day prior to the counselling, notice dated 16.12.2021 was posted postponing the migration till receipt of further orders from the competent authorities. This was followed by notice dated 01.02.2022 whereby all earlier notices regarding migration to UILS during the Session 2021-2022 were withdrawn. Thus, the present writ petition was filed.

3. In the written statement filed on behalf of the University it has been submitted that students of the UILS had submitted a representation dated 02.09.2021 to the Controller of Examinations complaining of inflation of marks by respondent No. 3 - Rayat College of Law (hereinafter referred to as 'Rayat College'). On receipt of the complaint, a meeting of the Administrative and Academic Committee was convened at 2.30 p.m. on the same day. In this meeting, it was resolved that the University should look into the option of rationalization of result or rechecking of sheets of toppers or in the alternative to not consider online examination marks while declaring University toppers. The Committee strongly recommended centralized coding and evaluation system and further recommended that the matter requires consideration so that a proper solution could be found. The complaint as well as deliberations of the Joint Committee were forwarded to the Secretary to the Vice Chancellor on 03.09.2021. The matter was put up to the Vice Chancellor who directed constitution of a Committee comprising Controller of Examination/Director UILS vide noting dated 13.09.2021. Thereafter, the Controller of Examinations recommended holding of a screening test at the level of the concerned department for the purposes of migration. This proposal was forwarded to the Secretary to the Vice Chancellor who forwarded the same to the Vice Chancellor vide his noting dated 16.12.2021.

The Vice Chancellor asked the Director UILS and Chairperson, Department of Laws to discuss jointly. It was also decided to keep the counselling for migration in

abeyance till the time a final decision is taken. Thus, notice dated 16.12.2021 was issued putting the process of migration on hold. On 06.01.2022, a meeting was held of nominated faculty members of UILS and the Chairperson of Department of Laws. In this meeting it was recommended that migration for the academic Session 2021-2022 can be done after moderation. From the next academic session migration be done on the basis of entrance test. A recommendation was also made to cancel the examination centre of Rayat College. These recommendations were approved vide noting dated 26.01.2022. Thus, the action of withdrawing the notices for migration was justified as marks obtained by students of Rayat College were highly inflated.

4. Applications for migration are invited on account of a provision in this regard existing in the Panjab University Calender. The latest one for the purposes of this case is the Panjab University Calender, 2019. Chapter XIV thereof relates to migration. Clause 'h' pertains to migration for 5 years L.L.B. integrated course. It *inter alia* provides that migration may be allowed if there are vacancies and the same is permissible only in the 3rd, 5th and 7th semesters. It also states that migration can not be claimed as a matter of right.

5. Based on the aforementioned provision, learned senior counsel for the petitioner has argued that the record shows that recommendation made after deliberating on the issue was that for the academic Session 2021-2022 migration be done after moderation. There is no recommendation for withdrawal of notices of migration and, thus, notice dated 01.02.2022 is arbitrary. It has further been argued that the petitioner is a student of B.Com. L.L.B. course. No other College affiliated to the University offers the said course. The said course is only offered by UILS apart from Rayat College. Thus, assuming that there is inflation of marks, it would not adversely affect students such as the petitioner as they are not

has been drawn for them and, thus so far as such students are concerned the migration should have been permitted.

6. On behalf of the University, it has been argued that migration is not a matter of right and this is clarified by the rules themselves. Thus, a writ is not entitled to be issued. Further, it has been submitted that Rayat College has inflated the marks of its students and *prima facie* this is proved by the fact that the students who were unable to take admission to the UILS on the basis of a common admission test were now amongst the list of toppers. It would, thus, not be desirable to migrate such students to the UILS as it would affect its standard and reputation. Reliance has been placed upon ***All India Council for Technical Education vs. Surinder Kumar Dhawan and others, (2009) 11 Supreme Court Cases 726*** to argue that Courts should not interfere in academic matters. Finally, it has been submitted that students of the UILS have already deposited 4th semester fee and, thus, migration to 3rd semester is not possible at this stage.

7. The proposition of law laid down in ***Surinder Kumar Dhawan (supra)*** can not be disputed. It is settled that Courts should be slow to interfere in academic matters as they do not possess the necessary expertise. It is also settled that migration can not be claimed as a matter of right. However, in this case applications for migration had been invited and the process was underway when the notices inviting applications were withdrawn. Thus, it requires to be examined whether the decision to withdraw was arbitrary or irrational and, thus, violative of Article 14 of the Constitution of India. The University being a State within the meaning of the term contained in Article 12 of the Constitution of India, is required to act reasonably and any arbitrariness on its part can not be condoned.

8. The deliberations of the Committee set up by the University for examining the complaint of inflation of marks received from the students finally

after moderation and that the examination centre at Rayat College be cancelled. I have been informed that infact the examination centre has been cancelled vide order dated 07.02.2022. The recommendations made in this meeting have been approved by the Vice Chancellor and yet, the impugned notice dated 01.02.2022 has been issued. Coming from an institution dedicated to teaching and learning the action can not be condoned. The decision is patently arbitrary and deserves to be quashed.

9. Submission of learned counsel for the University that moderation is a time consuming process and sufficient time is not available for the same, can not be accepted on the oral assertion of the counsel. Assuming the same to be true, the record indicates that there is also a recommendation for holding a screening test. Merely saying that holding of a screening test is not provided by the rules can not absolve the University from its duty to act fairly and rationally. Moreover, the matter regarding inflation of marks by Rayat College was first considered by the University on 02.09.2021. At that stage only applications for migration had been invited. If the matter was as serious as is sought to be conveyed a quick decision would have given the University sufficient time to carry out moderation. Instead, the applicants were asked to submit their results vide notice dated 18.11.2021. Merit list was drawn up and date of counselling was also notified. It was only thereafter that the impugned notice was issued. The lackadaisical attitude of the University fuelled the expectations of the applicants and withdrawal of the entire process at the last moment was patently unfair.

10. In view of the above, the writ petition is allowed and the impugned notice dated 01.02.2022 is quashed. The University is directed to complete the process of migration within two weeks from today as although 3rd semester examination of the UILS has been conducted, classes for the 4th semester have not yet commenced. The University shall also have liberty to hold a screening test for

the applicants to determine their *inter se* merit. So far as students of B.Com. L.L.B. are concerned, there can be no hitch in their migration as admittedly all the eligible students in the merit list are from Rayat College.

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

February 25, 2022
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(SUDHIR MITTAL)
JUDGE

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