

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

Sr. No.115+227

**CM No.18578-CWP-2022 in/and
Civil Writ Petition No.4748 of 2022
Date of Decision : November 23, 2022**

Gourav Kumar Sinha

...Petitioner

Versus

Panjab University, Chandigarh & another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Bhupinder Kumar Gupta, Advocate, for the petitioner.

Mr. Indresh Goel, Advocate for the respondents.

SUDHIR MITTAL, J. (ORAL)

CM-18578-CWP-2022

This application has been filed for placing on record Annexures P-12 & P-13.

For the reasons stated in the application, the same is allowed. Annexures aforementioned are taken on record.

CWP-4748-2022

The petitioner took admission in the Bachelor of Engineering (Mechanical) Course in the University Institute of Engineering and Technology (respondent No.2) in August, 2018 after clearing the JEE Mains Examination conducted in the same year. Being a student belonging to the Economically Weaker Section, the State of Bihar is financing his education w.e.f. February, 2019. The course is a four-year course comprising 08 semesters. First semester examination was held in December, 2019 but the petitioner could appear in only two out of six subjects being short of

lecturers in the remaining four. A similar situation existed at the time of the second semester examination held in June, 2019. Out of a total of five subjects, the petitioner could appear only in two as he was short of lecturers in the remaining three. Thereafter, according to the petitioner, a communication dated 30.08.2019 was circulated by the respondent-University providing a special chance to students under the semester system of all Under-Graduate and Post-Graduate courses to clear only one reappear paper/subject in the whole course. Allegedly, the petitioner applied for the special chance to take the examination in the subjects of the first semester in which he could not appear earlier. Due to a clerical mistake, it was marked as 'reappear' form and the petitioner acquired knowledge of the same at the time of the examination because the subjects for which he had to appear were not reflected in the examination schedule. Thus, a representation dated 06.11.2019 was submitted but the error was not corrected. As the petitioner had not cleared the first year examination, he was not promoted to the second year and was not permitted to take the third semester examination which was held in December, 2019. After almost two years, he submitted a representation dated 08.10.2021 requesting for promotion to the second year being a student belonging to Economically Weaker Section of society. No action having been taken another representation dated 26.10.2021 was submitted stating therein that he had met with an accident in January, 2020 because of which he was confined to bed for two months whereafter the Pandemic started but to no avail. It has been averred that thereafter, he passed the 3rd, 5th and 6th semester examinations but result

was not declared nor was he promoted to the second year. The same being improper, request was made to look into the matter sympathetically. Vide communication dated 10.01.2022, the petitioner was informed that he was not eligible to be promoted to the 3rd semester as he had less than 50% credits in the first year. This communication is under challenge in the writ petition. A related prayer has also been made to allow the petitioner to appear in the special chance/re-appear examinations to be conducted.

Detailed written statement on behalf of the second respondent has been filed in which it has been specifically averred that the petitioner has not attended any class after the second semester nor has he taken any examination thereafter. This is proved by communication dated 04.04.2022 (Annexure R-4) sent by the examination branch. The averment regarding the petitioner having passed 3rd, 5th & 6th semester examinations is denied and is stated to be false. Regarding the special chance, it has been submitted that the same can be provided only for one examination and only once in the entire career of a student. The same is provided if a student is unable to clear one paper even after availing four chances permissible under the Rules. The petitioner has never attempted to sit for the re-appear examination and thus, his case is not covered under the special chance scheme.

In the rejoinder filed by the petitioner, the submission that he has neither attended classes after the second semester nor has taken any examination is stated to be incorrect and false. To support this assertion

attendance sheet of the 6th semester examination has been annexed as Annexure P-10. Also a certificate issued by the Deputy Registrar of respondent No.2 has been annexed as Annexure P-11. Apart from the same certain screen shots have been annexed collectively as Annexure P-9.

The case of the petitioner is that he has failed in certain subjects in the first year and has cleared all examinations thereafter, whereas, the case of the second respondent is that after the first year, he has neither attended classes nor has taken any examination. To prove his case, the petitioner has referred to the screen shots annexed as Annexure P-9 collectively, attendance sheet (Annexure P-10) and certificate (Annexure P-11), whereas the second respondent has placed on record official communication wherein it has been mentioned that the petitioner has not even attended classes after the first year. Which of them is to be relied upon? In my considered opinion, the record produced by the second respondent has to be accepted. The respondent No.2-institution is a well-known institution and there is no reason for it to submit a false record pertaining to the petitioner. No mala fides have been alleged and none exist. The official record must prevail over proofs sought to be relied upon by the petitioner. The said proofs are not verified documents. The attendance sheet (Annexure P-10) pertains only to the 6th semester examination and the certificate (Annexure P-11) only shows that the petitioner was a bona fide student having deposited four instalments of the fee. Such a certificate could have been obtained by anyone. The screen

shots (Annexure P-9) may to some extent show that the petitioner sat in the 6th semester examination but he has not produced any official proof of issuance of roll number and admit card by the second respondent. Thus, they by themselves do not prove anything. A student can always submit an application for an online examination and the same may be accepted without proper verification. The student may thus appear for the examination without him being entitled to do so. In that sense, technology can be quite misleading. Even if the screen shots are accepted, they would only establish that the petitioner appeared in the 6th semester examination held in May-June, 2021. There is still no proof of him taking and clearing the 3rd, 5th & 6th semester examinations, 4th semester examination having not been conducted on account of Covid-19 pandemic.

Reliance by learned counsel for the petitioner on judgment dated 16.06.2020 passed in WP(C) No.1994 of 2018 and other connected cases titled as *Alisha Gupta vs. Guru Gobind Singh Indraprastha University and another* is misplaced. The facts of the said case are totally distinguishable. In the said case, the petitioner was short of lecturers in the 5th semester but was permitted to take the examination. All subsequent examinations were also taken by her and thus, cancellation of the result of the 5th semester was challenged. On an interpretation of the statute, it was held that the said order was illegal and a direction was given to permit the petitioner to attend extra classes to make up for the shortage of lecturers in the 5th semester. This judgment cannot help the petitioner in any manner.

The writ petition has no merit and is dismissed.

Ankur

Yes

Yes