

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10708-2017 (O&M)

Decided on 06.11.2023

Manpreet Kaur

... Petitioner

VS.

Punjabi University & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Parvinder Singh, Advocate for the petitioner

Mr. Amit Singh Sethi, Advocate for respondent No.1

Sandeep Moudgil, J.

(1). The petitioner has filed the instant writ petition under Article 226 of the Constitution seeking a writ in the nature of mandamus directing the respondents to issue admit card to the petitioner for appearing in final examination of 4th semester of the two year B.Ed. course as well as reappear examination of previous semester and also to compensate the petitioner for the harassment she faced by the respondents.

(2). Learned counsel for the petitioner contends that the petitioner, after having passed her graduation, was admitted in 2-year B.Ed. course of 4 semesters and that she has already cleared 3 semesters and was issued admit card for appearing in the examination of 4th semester as well, however, she has been detained on the pretext that she did not have 45% marks in her graduation and was not eligible despite the fact that the admission to the petitioner was granted despite her not concealing any information regarding the qualifications held by her. It is submitted that this is not the stage when the respondents could have raised this issue of eligibility especially when the

petitioner is on the verge of completion of her course. He further contends that any equitable jurisdiction should be exercised to compensate the petitioner for the years lost by burdening respondent No.2-Institute with heavy costs.

(3). While so, it is the case of the petitioner that respondents did not allow her to appear in 4th semester examination and rejected her admission on the ground that she secured less than 45% marks in the qualifying exam (i.e., graduation) for admission into B.Ed. Course. The petitioner states that at the time of her admission into B.Ed. Course, the respondents have not taken any objection as to the marks, which are less than 45% marks secured by her in the qualifying exam for admission into B.Ed. Course, and inasmuch as knowing fully well that she got 40% in BA, respondent No.2-College had admitted her into B.Ed. Course and permitted her to attend the classes for 3 semesters, the petitioner urged that she had a legitimate expectation that her admission into B.Ed. Course is proper, and even if her admission is not in accordance with the Rules, respondents, after having permitted the petitioner to attend her classes upto 3 semesters, are estopped from rejecting her admission into B.Ed. Course. The petitioner thus prayed that the writ petition be allowed and the respondents be directed to permit the petitioner to complete the B.Ed. Course.

(4). Learned counsel appearing on behalf of the respondent-University refers to the prospectus wherein the eligibility conditions were boldly prescribed. He contends that there is no estoppel against law and that the petitioner being an educated and a qualified person was fully aware and conscious of the eligibility conditions prescribed in the prospectus and as

such the petitioner cannot take advantages of his own wrong. He further contends that in any case the petitioner as well as respondent No.2 are the mutual beneficiaries and that a degree of B.Ed. cannot be granted to a person who is not eligible. He contended that the petitioner's admission was violative of the Admission Rules governing the B.Ed. Course, and therefore, Respondent-University, rejected the admission of the petitioner, and no exception can be taken to such action inasmuch as the petitioner has to go by the para 3(2) of Appendix IV of NCTE Notification, 2014, under which she was admitted which prescribes minimum of 45% marks to be secured in the qualifying exam for admission into B.Ed. Course

(5). Heard learned counsel for the parties and gone through the record.

(6). Admittedly, the petitioner had passed her Bachelor of Arts from Panjab University, Chandigarh, April, 2015 and secured 1059 marks out of maximum marks of 2400, the percentage of which comes out to 44%. The petitioner was rendered ineligible for admission to B.Ed. course under the respondent-University as the minimum percentage of marks required for being eligible for admission to B.Ed. course is 50% for general category and 45% for reserved and the petitioner having had applied under SC category, she was required to have 45% marks for admission. Despite such conditions, the petitioner was allowed admission by the respondent-College in the B.Ed. course in June-July 2015 and she regularly attended the college and had also successfully undertaken examinations of three semesters out of total 4 semesters under the two-year B.Ed. course and also paid all dues in respect of 4th semester. She was even issued admit card (Annexure P5) to appear in 4th

Semester examination of B.Ed. However, surprisingly, the respondents snatched away the admit card from the petitioner.

(7). Notice of motion was issued on 17.05.2017 and this Court directed respondent No.1 to issue admit card to the petitioner to enable her to appear in the examination stated to be held the very next day i.e. 18.05.2017.

(8). When this matter came up for hearing before this Bench on 20.09.2023, this Court passed the following order:-

“Learned counsel for respondent No.1 is directed to file an affidavit of Registrar, Punjabi University, Patiala, to the effect that once they came to know about the alleged designs of respondent No.2-college, who is prima facie indulged in serious irregularities, while granting admissions to various students on commission basis through agents, including those students also, who are not even eligible, as per the instructions prescribed in the prospectus of the University, whether any action has been initiated against the arraying respondent No.2-college, with regard to its affiliation with respondent No.2 or not.

Learned counsel for respondent No.1 is directed to produce the 4th semester result of the petitioner, in which she appeared after direction was issued by this Court on 17.05.2017.

Adjourned to 07.10.2023.

In case, the necessary affidavit is not provided to the counsel representing respondent No.1-University and not produced before this Court, then, Registrar, Punjabi University, Patiala shall remain present in Court on the next date of hearing, along with the original record including the record pertaining to the affiliation of the college and subsequent inspection conducted by the University of respondent No.2, since the year 2017 till date.”

(9). The Supreme Court has in a number of decisions, considered the question of eligibility and the principles of equity, in directing continuance in a course even when the candidate does not fulfill the eligibility criteria, but only, when such action has been in consequence of a default on the part of the University.

(10). In **Shri Krishnan v. Kurukshetra University [(1976) 1 SCC 311]** the University had issued admission card to a student to appear in Part I Law examination and the admission was challenged only at the time of Part II of the Law examination, that too on a ground that the candidate, who was employed under the Government, had not produced a Consent Certificate from his employer. The Supreme Court found that such a stipulation was not in existence and also held that it was the duty of the College as also the University to scrutinise the papers as to the threshold requirement and no subsequent cancellation can be made on the ground of non-fulfilment of requirements.

(11). In **Sanatan Gauda V/s. Berhampur University & Ors. (1990) 3 SCC 23**, the application by the student for appearing in the examination was forwarded by the College and thereupon, the University asked the Principal of the College to send the student's mark list for the purpose of verification, but the Principal did not comply. In spite of this, the University Authorities had allowed the student to appear in the examination; but his result was withheld. After having lost before the Orissa High Court, the student went in appeal before the Apex Court which held that the action of the University in withholding the result of the appellant was not justified in following words:-

"...In these circumstances, the argument is, that the appellant cannot take advantage of the fact that the University allowed him to appear at the examination. I am afraid, the stand of the Respondent cannot be accepted as correct. From the letters of the University, it is clear that it was not depending upon the opinion of the Principal and had decided to verify the situation for itself. In that situation, it cannot punish the student for the negligence of the Principal or the University authorities. It is important to appreciate that the appellant cannot be accused of making any false statement or suppressing any relevant fact before anybody. He had produced his marksheet before the College authority with his application for admission and cannot be accused of any fraud or misrepresentation. The interpretation of the rule on the basis of which the University asserts that the appellant was not eligible for admission is challenged by the appellant and is not accepted by the College and my learned Brother accepts the construction suggested by him as correct. In such a situation, even assuming the construction of the rule as attempted by the University as correct, the Principal cannot be condemned for recommending the candidature of the appellant for the examination in question. It was the bounden duty of the University to have scrutinized the matter thoroughly before permitting the appellant to appear at the examination and not having done so, it cannot refuse to publish his results."

(12). After having perused the record, considered facts of the case in detail insofar as the petitioner is concerned, she cannot be held to be at fault. She had submitted the educational certificates and DMCS to the college at the time when she was offered admission. At no point of time was she ever informed either by the College or the University, evident from the documents available on record, about her ineligibility to take admission in the semester system for having less than 45% marks in her Graduation. The

University issued her roll numbers to appear in 1st, 2nd and 3rd semester examinations after scanning and scrutinizing her educational certificates and DMCs and if she was not eligible, her roll numbers should not have been sent at all. If her admission, at the eleventh hour, of completion of B.Ed. course, is ordered to be cancelled, her entire career would be spoiled without there being any fault on her part which is solely attributable only to the respondents because they are the custodian and scrutinizing authority of the documents and certificates supplied by the students. Once, it is not the case of the respondents that the petitioner has misrepresented or played any kind of fraud by submitting forged documents in order to take admission by showing that she has got 45% marks in toto in her Graduation, rather submitting her genuine documents not only to the College but also to the University, the action of the respondents in cancellation of her admission in B.Ed., at this stage, will be highly unreasonable and arbitrary. Thus, following the decision of the Apex Court (cited supra) and applying the principle of equitable estoppels and legitimate expectation, the respondents are directed to regularize the admission of the petitioner and permit her to complete her left out examination(s) and on her successfully clearing the examination, to issue her requisite certificate of B.Ed.

(13). In so far as the action of the respondent No.2-College, who is prima facie indulged in serious irregularities in granting admissions to various students on commission basis through agents, including those students also, who are not even eligible, as per the instructions prescribed in the prospectus of the University, this Court deems it appropriate to direct the Vice Chancellor of the respondent-University to constitute a Committee to find out

the truth and take necessary action, if required, within a period of one month from the date of receipt of certified copy of this order.

06.11.2023
V.Vishal

(Sandeep Moudgil)
Judge

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

Yes/No
Yes/No