

246

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

1. CWP-19728-2021
Date of decision: 20.09.2023

Meena Kumari ...Petitioner

Versus

State of Punjab and others ...Respondents

2. CWP-25213-2021
Date of decision: 20.09.2023

Baljit Kaur ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Yagyadeep, Advocate and
Mr. Rajesh Kumar, Advocate for the petitioner.
(In both the writ petitions)

Ms. Jasleen Kaur Sidhu, DAG, Punjab
for respondent Nos.1 and 2.
(In both the writ petitions)

Mr. Vijay Pal, Advocate for respondent No.3.
(In both the writ petitions).

VIKAS BAHL, J. (ORAL)

1. This order will dispose of two writ petitions i.e., CWP-19728-2021 filed by Meena Kumari and CWP-25213-2021 filed by Baljit Kaur, as they involve similar questions of law and facts.

2. With the consent of learned counsel for the parties, CWP-

19728-2021 is taken up as the lead case and facts are being noticed from the said case.

3. Prayer in the writ petition is for directing the respondents to declare the result of the petitioner-Meena Kumari pertaining to the first, third and fourth semester of MA History and to issue detailed marks card of the second semester which has been withheld by respondent No.3-Panjab University, Chandigarh stating 'result late for fee' (RLF).

4. The short question that arises for consideration in the present set of writ petitions is as to “whether respondent No.3 can withhold the result/original detailed marks sheets/degree and other documents on the ground that the fees which was to be paid on behalf of the petitioner(s) by respondent No.4-College has not been paid, more so when the petitioner(s) belong to Scheduled Castes who, as per the Post Matric Scholarship Scheme, are not required to pay the said fees and it is the respondent No.4-College who has to pay the same to the respondent No.3-University and then seek reimbursement from the State Government.”

5. The undisputed facts in the present case are that the Government of Punjab, Welfare Department, Welfare Cell Non Plan, had issued instructions dated 11.07.2007 (Annexure P-1/T) with respect to non-charging of admission fee and other charges from Scheduled Caste students under Post Matriculation Scholarship Scheme. In the said instructions, the objective of the Post Matriculation Scholarship Scheme to the effect that the same was to facilitate Scheduled Caste students to

get higher education by providing financial help, was noticed and it was further noticed that after taking into account the difficulties being faced by the Scheduled Castes Students, it had been decided under the Post Matriculation Scholarship Scheme, that instead of charging the tuition fee and non-refundable fees from the students and then to reimburse them, the concerned Departments/Institutes would get the reimbursement of the eligible students from the office of the Director Welfare and thus, it was specifically stated that the said fee is not to be charged from the students and the concerned Institutions have to prepare their claim according to the norms and submit the same. Further instructions dated 25.06.2010 (Annexure P-2/T) were issued by the Government of Punjab, Welfare Department, in which, it was stated that it had been found that the Educational Institutions were pressing upon the students belonging to the Scheduled Caste Community to deposit the fees on the spot and in case the said students were not able to do so, then their seat would be offered to other students. It was observed that such kind of an action was in violation of the Government instructions and that the Government instructions are to be followed in letter and spirit. Vide instructions dated 18.03.2011 (Annexure P-3), the Directorate, Department of Welfare of Scheduled Caste and Backward Classes, Punjab, had given directions regarding revision of the Centrally Sponsored Scheme of Post Matric Scholarship, in which, reference was made to the scheme dated 31.12.2010 which was titled as "Centrally Sponsored Scheme of Post Matric Scholarships to the Students belonging to Scheduled Castes for studies in India". The said

centrally sponsored scheme was formulated with the object to provide financial assistance to the students belonging to Scheduled Castes and the value of Scholarship granted under the said scheme consisted of several benefits, which were detailed in Clause V. Clauses I and V of the said scheme, which has been handed over by learned counsel for the petitioner during the course of hearing and has been taken on record as Mark 'A' as its authenticity has not been disputed by the counsel for the respondents, are reproduced hereinbelow:-

“GOVERNMENT OF INDIA
MINISTRY OF SOCIAL JUSTICE & EMPOWERMENT

SCHEME OF POST MATRIC SCHOLARSHIPS TO THE
STUDENTS BELONGING TO SCHEDULED CASTES FOR
STUDIES IN INDIA

(EFFECTIVE FROM 01-07-2010)

I. OBJECT

The objective of the scheme is to provide financial assistance to the Scheduled Caste students studying at post matriculation or post-secondary stage to enable them to complete their education.

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V. VALUE OF SCHOLARSHIP

The value of scholarship includes the following for complete duration of the course:-

- (i) maintenance allowance,*
- (ii) reimbursement of compulsory non-refundable fees,*
- (iii) study tour charges,*
- (iv) thesis typing/printing charges for Research Scholars,*

- (v) book allowance for students pursuing correspondence courses,*
- (vi) book bank facility for specified courses, and*
- (vii) additional allowance for students with disabilities, for the complete duration of the course.”*

6. The Government of Punjab, Department of Welfare (Welfare Cell-Non Plan) vide letter dated 12.08.2015 {Annexure P-4(T)} reiterated that all the Government Education Institutions shall give admission to the students from SC/ST community without charging them, non-refundable fees and the expenses pertaining to the fees would be transferred to the account of the said institutions. Similar provisions were made for the aided/non-aided institutions in the State of Punjab. The Government of Punjab vide Notification dated 22.07.2016 (Annexure P-9/T) while modifying the earlier instructions, crystallized the modalities with respect to the Centrally Sponsored Post Matric Scholarship Scheme. Clauses 1, 3, 7 and 9 of the said Notification are reproduced hereinbelow:-

*“Punjab Government
Welfare Department
(Welfare Cell Non Plan)*

Notification

No.3/94/2016-SAI/1493

Date, Chandigarh 22 July, 2016

Subject: Post Matric Scholarship for SC students (Central Sponsored Scheme)

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1. Government Institutes of Punjab State, under the Post

Matric Scholarship for SC Students (Central Sponsored Scheme) shall give admission to the eligible students.

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3. *Private Institutes of Punjab State, who give admission to eligible students without charging the fees, shall claim the fee from the Welfare Department. Payment of maintenance allowance will be done in their bank account through online banking management system by the welfare department.*

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7. *Reimbursement, of fees to the Institutes (Government/private) who have given admission to Scheduled Caste students without charging fee, only be made when funds would be received from the Central Government under Post Matric Scholarship to SC Students (Central Sponsored) Scheme.*

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9. *All Institutes/University (Government/private) shall submit quarterly report about the students' attendants to District Welfare Officer."*

7. In the present set of writ petitions, it is not in dispute that the petitioner-Meena Kumari as well as the petitioner-Baljit Kaur, both belong to Scheduled Castes community and are governed by the Post Matriculation Scholarship Scheme issued by the Centre which has been adopted by the State of Punjab. It is also not in dispute that the said scheme is applicable to respondent Nos.3 and 4 and that respondent No.4-College which is affiliated to respondent No.3-University had given

admissions to the petitioner in both the writ petitions without charging any non-refundable fees as per the Scheme/Notification and that respondent No.4 was entitled to get the reimbursement as per the Scheme/Notification. The petitioner-Meena Kumari has been granted admission in the session 2018-19 in respondent No.4-College in the Master of Arts (History) and the result of the petitioner for the first, third and fourth semester has been withheld and the detailed marks card of second semester has not been issued by respondent No.3 in view of respondent No.4 having not deposited the examination fee of the petitioner. The said fact is apparent from a perusal of letter dated 02.08.2021 (Annexure P-12) issued by the Panjab University, Chandigarh in response to the legal notice dated 23.07.2021 (Annexure P-7) given on behalf of the petitioner and the said fact is also not disputed before this Court. On similar grounds, the petitioner-Baljit Kaur (in CWP-25213-2021) who was admitted in the session 2015-16 by respondent No.4 in Bachelor of Arts in respondent No.4-College has not been issued detailed marks certificate of sixth semester and degree of Bachelor of Arts. The Directorate, Social Justice, Empowerment and Minorities, State of Punjab has issued a letter dated 03.11.2021 (Annexure R-7 attached with reply filed by the State of Punjab shown at page 158 of the paper book) to the Registrar, Panjab University, Chandigarh-respondent No.3 and Principal, Government College, Hoshiarpur-respondent No.4, in which, reference to the petition filed by the petitioner-Meena Kumari was made and it was stated that the Government of Punjab had issued letters for releasing the

DMCs and Degrees of the students belonging to Scheduled Castes but respondent No.3 has not done the same on account of non-payment of fees and the said conduct is violative of the letters issued by the Government of Punjab and affidavit given by DPI(C).

8. Learned counsel for the petitioner has submitted that as per the Post Matriculation Scholarship Scheme, which is applicable in the present case, the fee, for the non-payment of which respondent No.3 University has withheld the result/original detailed marks certificate/degree/Migration Certificate and other documents, is not to be paid by the petitioner as the same has to be paid by respondent No.4 to respondent No.3 and respondent No.4 is to, in turn be reimbursed by the State Government. It is submitted that it is a matter of settled law that the Certificates of the students are their individual property and no institution/individual can retain the same merely on the ground that money is due from the students and the said documents have to be released to the petitioner and it is for the Institution to institute appropriate proceedings for the recovery of money if any due from the said students. Reliance in the said regard has been placed upon the judgment passed by the Coordinate Bench of this Court in case titled as **“Monika Vs. Pt. B.D. Sharma, University of Health Sciences, Rohtak and others”** reported as **2022(4) SCT 51** as well as the judgment of a Division Bench of the Delhi High Court in case titled as **“Dr. Arjun Saili Vs. Union of India and others”, WP(C) No.2109 of 2021 decided on 26.08.2021** in support of the said argument. It is submitted that even if

money is due from the students, then also the certificates cannot be retained by the authorities/institutions and the only remedy for the Institute is to seek recovery of the said amount. It is argued that the case of the petitioner is on a higher footing than the said proposition inasmuch as no amount is due from the petitioner(s), as under the Post Matriculation Scholarship Scheme, the petitioner(s) are not required to pay any money to the Institute and thus, withholding of result/original detailed marks certificate/degree/Migration Certificate and other documents by respondent No.3 is absolutely illegal and against law. It is submitted that the petitioner is suffering irreparable loss inasmuch as the petitioner-Meena Kumari has further taken admission in the course of B.Ed. and the Institute in which she has taken admission is pressing upon her to show the result/original detailed marks certificate/degree/Migration Certificate and other documents.

9. Learned counsel appearing on behalf of the State has referred to letter dated 03.11.2021 (Annexure R-7 which is at page 158 of the paper book), in which, the State had directed respondent No.3 to release the DMCs and degrees and has supported the case of the petitioner on the said aspect.

10. Learned counsel appearing on behalf of respondent No.3- Panjab University has submitted that a perusal of the result of first, third and fourth semester of the petitioner-Meena Kumari would show that the same has been declared as result late due to non-adjustment of fee and DMC of second semester has been withheld due to non-receipt of fee. It

is further submitted that the office of Vice Chancellor had taken a decision dated 13.03.2020 to the effect that in case the examination fee has been received from the concerned colleges, then the DMCs of the concerned students would be released whereas final degree would be released only after the settlement of the late fee. Further reference has been made to letter (Annexure R-3/4) which has been written on behalf of Panjab University, Chandigarh to the various affiliated colleges in which it has been stated that the concerned college i.e., respondent No.4 in the present case is directed to take necessary steps to pay the examination fee of Post Matriculation Scholarship Scheduled Castes students so that the degrees and DMCs may be released. It is argued that since the examination fee has not been paid by respondent No.4-College to respondent No.3 with respect to the petitioner(s) in both the writ petitions, thus, result/original detailed marks certificate/degree/Migration Certificate and other documents have not been released and in case the petitioner(s) make the said payment, then the said documents would be released.

11. This Court has heard learned counsel for the parties and has perused the paper book.

12. As has been noticed hereinabove, the facts are not in dispute and the only question that arises for consideration is as to “whether respondent No.3 can withhold the result/original detailed marks sheets/degree and other documents on the ground that the fees which was to be paid on behalf of the petitioner(s) by respondent No.4-College has

not been paid, more so when the petitioner(s) belong to Scheduled Castes who, as per the Post Matric Scholarship Scheme, are not required to pay the said fees and it is the respondent No.4-College who has to pay the same to the respondent No.3-University and then seek reimbursement from the State Government.”.

13. The Coordinate Bench of this Court in the case of **Monika** (Supra), has held as under:-

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5. *Learned counsel for the petitioner has submitted that he only seeks return of the original certificates/documents. The same are the petitioner's property and cannot be retained by respondent No.1. He places reliance upon a judgment **dated 26.08.2021 passed by a Division Bench of the Delhi High Court in W.P (C) No.2109 of 2021 titled as Dr. Arjun Saili Vs. Union of India and others.***

6. *Learned counsel for respondents No.1 and 2 has raised arguments in accordance with the submissions made in the written statement. According to the learned counsel, execution of a bond has been made a condition precedent to grant of admission to ensure that students do not leave the course mid-way as seats go waste resulting in loss of public money and resources. The petitioner has left the course mid-way and is liable to pay a sum of Rs.10 lacs before her original certificates can be returned.*

7. ***The argument of learned counsel for respondents No.1 and 2 makes it clear that the original documents of the petitioner are being retained as security for payment of Rs.10 lacs.***

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10. In addition, it may be observed that certificates of a student are his/her individual property. No other institution/individual can retain the same without lawful authority. If, something is due from a student or a student is required to do something lawfully stipulated, upon refusal, recourse can be taken to means provided under the law for ensuring compliance. Adopting the method of retaining original certificates/documents is unfair to say the least.

11. In view of the foregoing reasons, the writ petition is allowed. Respondent No.1 is directed to return the original certificates/documents of the petitioner within a period of ten days from the receipt of certified copy of this judgment.”

A perusal of the above judgment would show that it had been observed that the Certificates of a student are his/her individual property and no institution/individual can retain the same without lawful authority and in case something is due from a student, then recourse can be taken to means provided under the law for ensuring recovery and adopting the method of retaining original certificates/documents is unfair. In the abovesaid case, the respondent Nos.1 and 2 therein had opposed the writ petition on the ground that the execution of a bond has been made as a condition precedent to the grant of admission to ensure that students do not leave the course mid-way as in case the students leave the course midway, then the seats go waste, resulting in loss of public money and resources and it was further their stand that the petitioner therein, who

had left the course mid-way, was liable to pay a sum of Rs.10 lacs and the original certificates were being retained to recover the said amount which was due from the petitioner therein. In the abovesaid case, reliance was placed upon the judgment of the Division Bench of Delhi High Court in the case of **Dr. Arjun Saili** (Supra), relevant portion of which is reproduced hereinbelow:-

*“16 The learned Single Judge of this Court in Dr. Devenderpal Singh Tomar (supra), considering similar circumstances and terms, **has held that the retention of the documents by the respondents would be illegal and their only remedy would be to enforce the surety bond and recover the amount claimed by them in accordance with the law. We are in full agreement with the judgment of the learned Single Judge.**”*

In the abovesaid judgment also, it was observed that the only remedy for the authority was to enforce the surety bond and to recover the amount in accordance with law instead of retaining the documents.

14. The case of the petitioner is on a higher footing than the case of the petitioners in the above two cases inasmuch as it is not in dispute that the petitioner(s) belong to Scheduled Castes Community and are covered under the Post Matriculation Scholarship Scheme and are not required to pay the fee, on account of non-payment of which, the respondent No.3-University has withheld the result/original detailed marks certificate/degree/Migration Certificate and other documents. The said payment has to be made by respondent No.4 to respondent No.3 and

respondent No.4 in turn has to seek reimbursement of the same from the State Government. On account of the inter se dispute between respondent No.4, respondent No.3 and the State, the petitioner(s) who are bona fide students cannot be made scapegoats. In case, the documents i.e., result/original detailed marks certificate/degree/Migration Certificate and other documents of the petitioner are not released, then the petitioner(s) would suffer irreparable loss and would not be able to pursue their further studies. Even, in case some money is due from the petitioner(s), then also, respondent Nos.3 and 4 cannot withhold the result/original detailed marks certificate/degree/Migration Certificate and other documents of the petitioner and the only remedy with them is to institute appropriate proceedings for recovery of money.

15. It would also be relevant to note that the Directorate, Social Justice, Empowerment and Minorities, State of Punjab, had issued a letter dated 03.11.2021 (Annexure R-7) to respondent No.3-Panjab University, Chandigarh and respondent No.4-Government College, Hoshiarpur for releasing the DMCs and Degrees of the students belonging to the Scheduled Castes and specific reference has been made to the case of the petitioner-Meena Kumari and in the same, it has been further stated that the same has not been done by respondent Nos.3 and 4 and the said conduct is violative of the letters issued by the Government of Punjab. The relevant portion of the said letter is reproduced hereinbelow:-

“In the reference subject cited above, Petitioner Meena Kumari D/o Balwinder Singh, resident of Village and Post

office Lidhran, Distt. Hoshiarpur, who belongs to Scheduled Castes filed writ petition before the Hon'ble Punjab and Haryana High Court in which you are impleaded as respondents. In reference to above letters, Government of Punjab had issued letters for releasing the DMCs and Degrees of the students belong to Scheduled Castes but you have not issued DMCs, Degrees and Migration Certificates due to Result late for fees (RLF). This conduct is violative of the letters issued by the Government of Punjab and affidavit given by DPI(C) as your Line Department.

2. "It has been decided along with the other decision that colleges/universities will not demand outstanding amount from the students, no undertaking/ Cheque, will be taken as a part of security and no certificate/degree will be held"

3. By way of this letter, it is directed that DMCs and Degrees of the petitioner Meena Kumari be released immediately and to inform this department without any delay, so that reply on behalf of the department be filed before the Hon'ble Punjab and Haryana High Court."

The said letter is in consonance with the law laid down in the abovesaid judgments.

16. Keeping in view the abovesaid facts and circumstances and also in view of the law laid down in the abovesaid judgments, both the Civil Writ Petitions are allowed with the following directions:-

- i) The respondent No.3 is directed to declare the result of the petitioner-Meena Kumari (in CWP-19728-2021) pertaining to first, third and fourth semester of MA History and issue the detailed marks card of second semester and also issue the

degree and DMC along with the Migration Certificate.

- ii) The respondent No.3 is further directed to issue the detailed marks card of sixth semester of the petitioner-Baljit Kaur (in CWP-25213-2021) and Degree of Bachelor of Arts.
- iii) The said documents of both the petitioners would be issued as expeditiously as possible and in any case within a period of one month from today without insisting upon the payment of the fee in question.

20.09.2023

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**