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

CWP-15471-2023

Date of decision: 06.09.2023

Dev Sehgal

...Petitioner

Versus

Panjab University, Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gurminder Singh, Sr. Advocate with
Mr. R.P.S. Bara, Advocate for the petitioner.

Mr. Arun K. Bakshi, Advocate for the respondents.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Articles 226/227 of the Constitution of India for the issuance of a writ in the nature of certiorari for setting aside the communication/letter/order dated 02.05.2023 issued by the respondent No.3 (Annexure P-9), whereby the petitioner has been informed that his unfair means case has been decided and that the petitioner has been disqualified from appearing in any university examination for two years (four exams) including the one in which he was found guilty i.e., from November/December, 2022 to May/June 2024. Challenge has also been made to the communication/letter/order dated 09.06.2023 (Annexure P-13) vide which the petitioner has been informed that the appeal/request made by the petitioner has been rejected.

2. The brief facts of the present case are that the petitioner had passed 10+2 examination in the year 2020 and thereafter, had taken admission in Chitkara University in Bachelor of Engineering in Mechanical Engineering for the batch of 2020 to 2024 and the petitioner had successfully passed his first semester and second semester examination with SGPA:9.42 and 9.53, respectively, as is apparent from the result annexed as Annexure P-1. In the year 2021, the petitioner gave the Panjab University Migration Engineering Entrance Test-2021, in which, he was successful and was admitted in the Panjab University, Chandigarh where he successfully passed the examinations of the third and fourth semester of Bachelor of Engineering (Mechanical Engineering) in the session 2021-22. In the year 2022, the petitioner was promoted to the fifth semester and after completion of the academic session of the semester, the petitioner was to appear for the examination which was scheduled in the month of December 2022. The petitioner appeared in the first five examinations of the fifth semester which were held from 13.12.2022 to 22.12.2022 and the last examination in the subject of Fluid Machinery (MEC-506) was to be held on 24.12.2022 at 09:30 am. Before the petitioner could write anything in the exam, he was, as per the case of the respondent authorities, caught with incriminating material as per the report dated 24.12.2022 written at 09:45 AM by the Invigilator. The said report was forwarded in a sealed cover to the Assistant Registrar, Panjab University, Chandigarh and thereafter, the petitioner, vide letter dated 27.02.2023 (Annexure P-6), was given show cause notice as to why action should not be taken against him and he was directed to appear before the Assistant Registrar on 02.03.2023. The petitioner appeared in

pursuance of the said letter on 02.03.2023 and was further called for personal hearing by the UMC Standing Committee-II on 28.04.2023 which the petitioner attended. The UMC Standing Committee-II in its minutes which have been annexed as Annexure R-3 (at page 55 of the paper book) resolved that the Committee members were of the view that although, the petitioner could not copy from the recovered material but since, the slips were related to the subject matter, therefore, the petitioner was found guilty and was disqualified from appearing in any University examinations for two years (four exams) including the one in which he was found guilty under Regulation 5(a) of the Panjab University Calender Volume-II, 2007. In pursuance of the said minutes, decision dated 02.05.2023 (Annexure P-9) (at page 31 of the paper book) signed by the Assistant Registrar, UMC, was communicated to the petitioner and in the said decision, it had been stated that the unfair means case pending against the petitioner has been decided and that the petitioner has been disqualified from appearing in any university examination for two years (four exams) including the one in which he was found guilty, under Regulation 5(a). The petitioner filed an appeal dated 10.05.2023 (Annexure P-10) (at page 32 of the paper book) raising several grounds including the ground, mentioned in para 6 of the same, to the effect that when the petitioner reached his sitting place, he found that some written notes were lying on the table which he picked up and was about to throw the same outside the room and in the process, the Supervisory staff caught the petitioner. It was also stated in the said grounds of appeal that not even a single word on the petitioner's answer sheet had been written by him and he only wanted to throw out the material which

was lying before he came to the examination hall when he was caught. It was also stated in para 12 of the appeal that the petitioner had been continuously attending classes of the sixth semester and had prepared for the examination of the same but on account of the passing of the impugned order, the petitioner was deprived of appearing in the examinations of the sixth semester. It was also stated that maximum punishment has been awarded to the petitioner and the same has caused great prejudice to him. The petitioner filed Civil Writ Petition bearing No.CWP-10160-2023 which was dismissed as withdrawn with liberty to the petitioner to pursue alternative remedy in accordance with law. Representation dated 01.06.2023 (Annexure P-12) was also given by the petitioner in which apart from other facts, it had been stated that the petitioner was a diligent and a hard working student and had prayed that he be permitted to reappear in the exams which he had missed so that he could complete his degree without any break. The said appeal and representation of the petitioner were dismissed/rejected and the same was communicated to the petitioner vide communication/letter/order dated 09.06.2023 (Annexure P-13) in which it was observed that no new facts have been given by the petitioner and thus, the decision conveyed vide communication/letter/order dated 02.05.2023 would stand. Other than Annexures P-9 and P-13, no other decision/order holding the petitioner guilty of unfair means or rejection of his appeal/representation has been communicated to the petitioner. Aggrieved against the said two communications/letters/orders, the petitioner has filed the present writ petition.

3. Learned Senior Counsel for the petitioner has argued that the

impugned communications/letters/orders deserve to be set aside solely on the ground that they are non-speaking and cryptic. It is submitted that it is the duty of every administrative authority/quasi judicial authority to give reasons for its decision while passing the order more so when the same causes prejudice to a person. It is argued that by virtue of the impugned communications/letters/orders, two precious years of the petitioner's study have been taken away and thus, the least, the authorities should have done is to have considered the pleas raised by the petitioner and should have recorded the reasons for rejecting the same. It is submitted that in the appeal/request dated 10.05.2023 (Annexure P-10), several issues were raised by the petitioner, but even the order passed by the authorities after filing of the same was cryptic and non-speaking and a perusal of Annexure P-13 shows that the same only reiterates the earlier decision taken. It is argued that other than Annexures P-9 and P-13, no other decision/order holding the petitioner guilty of unfair means or rejection of his appeal/request has been communicated to the petitioner. Learned Senior Counsel for the petitioner has submitted that the petitioner has been disqualified under Regulation 5(a) of the Panjab University Calender Volume-II, 2007 and reading of the said Regulation which is at page 64 of the paper book, would show that the disqualification under the said regulation can only be ordered by the authorities once they come to the conclusion that a candidate is in "malafide" possession of material which is relevant to the subject of the exam concerned. It is argued that a reading of the impugned communications/letters/orders would show that there is no finding with respect to the petitioner being in malafide possession of any

material. It is submitted that since, it is the admitted case of the parties, as also has been so recorded in the minutes of the meeting of UMC Standing Committee-II dated 28.04.2023, that the petitioner did not copy from the recovered material, thus at best, the case of the petitioner would fall under Regulation 4, which provides that in case, a candidate is found to be in possession of books/notes, which could be of assistance to him in the papers, but was in possession of the same due to inadvertence, then a candidate would be debarred from passing in that paper as a disciplinary measure.

4. Learned Senior Counsel for the petitioner has submitted that one Abhishek Ranjan, vide order/communication dated 02.11.2022 (Annexure P-14), was also disqualified from appearing in any University examination for two years (four exams) including that in which, the said Abhishek Ranjan was found guilty, as has been done in the case of the petitioner but in appeal, the authorities vide order/communication dated 12.12.2022 (Annexure P-15), have converted the said disqualification of said Abhishek Ranjan to that of being debarred only from passing in the paper in which he was found guilty as a disciplinary measure under Regulation 4 of the Panjab University Calender Volume-II, 2007. It is submitted that the said Abhishek Ranjan was earlier found guilty under Regulation 11.2 and has referred to Regulation 11.2 (at page 65 of the paper book) to highlight the fact that the said provision would apply in a situation where the candidate is found guilty of passing on, or attempting to pass on during the examination, a copy of a question set in the paper or the question paper itself, or solution of a question set in the question paper to any person

and the disqualification in the same is same as mentioned in Regulation 5(a). It is submitted that the act of the candidate as mentioned in Regulation 11.2 is graver than the act of which the present petitioner is accused and in a case in which the authorities had found a candidate to be guilty under Regulation 11.2, a lenient view had been taken on reconsideration and the disqualification under Regulation 11.2 has been converted into debarring the said candidate under Regulation 4 then the said principle should also apply to the case of the present petitioner as the case of the petitioner is on similar footing, if not better, as that of Abhishek Ranjan. It is submitted that specific averments with respect to the case of said Abhishek Ranjan have been made in paragraphs 19 and 20 of the writ petition and the reply to the said paragraphs has been given in the short reply (at page 47 of the paper book) in which it has only been stated that action in the case of Abhishek Ranjan was taken under Regulation 11.2 which was for a different kind of act. It is submitted that no details as to under what circumstances the said disqualification under Regulation 11.2 has been reduced to the one of debarrment under Regulation 4, have been given.

5. Learned Senior Counsel for the petitioner has further contended that the petitioner on account of the incident in question could not pass 6th exam of 5th semester and also could not appear for the 6th semester exams in spite of having attended classes for the 6th semester and has already been penalized for the alleged act. It is submitted that the case of the petitioner was considered by the UMC Standing Committee-II, in the first instance and even after, the Vice Chancellor had in terms of Regulation 32.2 ordered reconsideration of the matter, the same was again placed before the same

Committee i.e. UMC Standing Committee-II which had earlier considered the case of the petitioner, as is apparent from Annexure R-4 at page 56 of the paper book. It is submitted that the Vice Chancellor should have referred the matter to another Committee to prevent element of bias as first Committee had already taken its decision and thus, it required independent mind to reconsider the matter. Learned Senior Counsel for the petitioner has limited his challenge to setting aside of communication/letter/order dated 09.06.2023 (Annexure P-13) and for reconsideration of the matter on the basis of arguments raised on behalf of the petitioner. In support of his arguments, learned Senior Counsel for the petitioner has relied upon judgments passed by the Hon'ble Supreme Court of India in **M/s Kranti Associates Private Limited and another Vs. Sh. Masood Ahmed Khan and others** reported as **2010(9) SCC 496** and also in the case of **Chairman Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan Varshney and others**, reported as **(2009) 4 SCC 240**.

6. Learned counsel appearing on behalf of the respondents has submitted that in the present case, the procedure as envisaged under the Regulations has been followed inasmuch as after the petitioner was given the questionnaire with respect to the incident in question, an opportunity of hearing was given to the petitioner and he was personally heard by the Unfair Means Committee and it is only after hearing the petitioner, the communication/letter/order dated 02.05.2023 was issued to the petitioner. It is further submitted that the subsequent appeal/representation was also duly considered in accordance with Regulation 32.2 (at page 68 of the paper book) which provides that in case, new facts are brought to light within

thirty days of the receipt of the decision by the candidate then, the Vice Chancellor has the power to place the same before the Committee which was done in the present case and the Committee, after reconsidering the matter has reiterated its earlier stand and had observed that there were no new facts which had come into being after passing of the previous decision. It is submitted that a reading of Regulation 32.2 would show that the same Committee which had taken the earlier decision has to take the fresh decision and thus, the argument of learned Senior Counsel for the petitioner to the effect that the same Committee could not have decided the matter is not in consonance with Regulation 32.2. It is contended that the letter/communication/order dated 02.05.2023 as well as letter/communication/order dated 09.06.2023 are self-speaking and have clearly mentioned the Regulation under which the orders have been passed against the petitioner. It is also contended that administrative authorities are not required to give extensive and detailed reasons more so, in the present case where the petitioner was caught red handed at the beginning of the examination with material which would have helped him in the examination and was relevant to the subject of the examination. It is also contended that even the admit card of the petitioner shows that something was written at the back side of the same in his own handwriting. It is further submitted that as far as Regulation 4 is concerned, the same would only apply in a case where the authorities come to the conclusion that possession of the material was on account of inadvertence and there is no such finding by the Committee in the present case. It is submitted that as far as the plea with respect to the finding of malafide possession of the material so as to bring

the case under Regulation 5 is concerned, the facts of the present case would itself show that possession of the material by the petitioner was malafide. It is submitted that as far as the case of Abhishek Ranjan is concerned, the said candidate was found to be guilty under Regulation 11.2 which is different from Regulation 5(a) and the act committed by the petitioner cannot be compared with that of the said Abhishek Ranjan and thus, parity which is sought to be drawn is misconceived. It is also submitted that although, in appeal, action was taken against him under Regulation 4 but the grounds of appeal are not before this Court for consideration and thus, the plea of parity would not stand.

7. Learned Senior Counsel for the petitioner in rebuttal has submitted that the provisions of Regulation 32.2 would in fact favour the case of the petitioner inasmuch as per the said provision, the Vice Chancellor was only required to place the case for reconsideration before the Committee only in case he was of the opinion that the facts brought to his notice were relevant and in case same are also brought to the notice of the Committee then the decision of the Committee might be different from the decision already taken. It is submitted that once, the Vice Chancellor, in the present case, had placed the matter before the Committee again then it was not open to the Committee to not reconsider the matter by merely observing that no new facts have been brought to its notice whereas the Vice Chancellor had already formed the said opinion before placing the same before the Committee again. It is also submitted that Regulation 32.3 which follows Regulation 32.2 requires the Committee to reconsider the matter once the case has been placed before the Committee by the Vice

Chancellor and the same having not been done, the communication/letter/order dated 09.06.2023 (Annexure P-13) deserves to be set aside on the said ground alone.

8. This Court has heard learned counsel for the parties and has perused the paperbook and is of the opinion that the communication/letter/order dated 09.06.2023 deserves to be set aside and the matter deserves to be reconsidered by the respondent-authorities for the reasons which have been enumerated in the following paragraphs.

9. A perusal of the impugned communication/letter/order dated 09.06.2023 would show that the disqualification has been meted out to the petitioner under Regulation 5(a) of the Panjab University Calendar Volume-II, 2007. The relevant portion of the said Regulations has been annexed as Annexure P-16 (at page 64 of the paper book). Chapter II of the same deals with punishment for use of unfair means. Regulations 3.2, 4 and 5 of the said Regulations, which are relevant for consideration in the present case, are reproduced hereinbelow:-

“3.2. If at a University examination but before the question paper is distributed a candidate voluntarily surrenders to the Superintendent or any other member of the supervisory staff papers, books or notes in his possession and not found or detected by a member of the supervisory staff, no action may be taken against him, provided he has not made any use of them. But the case shall be reported to the Controller of Examinations.

4. If during a University examination a candidate is found having in his possession or accessible to him papers, books or notes due to inadvertence but which papers, books or notes

could be of assistance to him he may be debarred from passing in that paper as a disciplinary measure.

5. If during a University examination, a candidate is found in **malafide** possession of any material such as -

(a) Paper, books or notes; or

(b) Written notes on any part of the clothes worn by the candidate or on any part of his body, or table or desk; or

(c) Foot-rule and/or instruments like set-squares, protractors, slide rules. etc., with notes written on them;

which is relevant to the subject of the examination, he shall be disqualified from appearing in any University examination for two years, including that in which he is found guilty, if he is a candidate for an examination held once a year, or for four examinations, including that in which he is found guilty, if he is a candidate for an examination held twice a year.”

10. A perusal of the above-reproduced Regulations would show that in a situation, where a candidate voluntarily surrenders to the Superintendent or any member of the Supervisory Staff, papers/books/notes then, as per Regulation 3.2, no action is required to be taken against the said candidate provided that he has not made any use of them. A conjoint reading of Regulations 4 and 5 would show that two ingredients in the same are common, first being the candidate having been found to be in possession of books, notes etc. and the second being that the said books/notes etc. are of assistance/relevance to the said candidate for the purpose of the examination in question. Thus, in case the candidate is found in possession of paper/book/notes and the said paper/book/notes could be of assistance/relevance to the candidate in the said paper, the case of the

candidate could fall either under Regulation 4 or Regulation 5. Regulation 4 would apply in a situation where the authorities have found that the possession of the paper/books/notes was on account of inadvertence whereas Regulation 5 would apply in a case where the authorities have come to the conclusion that the possession of material was “malafide”. The penalty provided in both the said Regulations is different inasmuch as under Regulation 4, a candidate would only be debarred from passing in the paper in which he is caught as a disciplinary measure whereas under Regulation 5, a candidate would be disqualified from appearing in any University examination for a period of 2 years, including the one in which he is found guilty.

11. The communication/letter/order dated 02.05.2023 (Annexure P-9), vide which, the authorities have for the first time informed the decision with respect to unfair means case to the petitioner, is reproduced hereinbelow:-

“A case of alleged use of unfair means in the Examination Centre.

MEMO:

The unfair means case pending against you has been decided and you have been disqualified from appearing in any University Examination for two years (Four Exams) including that in which you are found guilty ie. Nov./Dec. 2022 to May/June 2024 under regulation 5(a) appearing at pages 10-14 of P.U. Cal. Vol. II, 2007.

Sd/- Assistant Registrar (UMC)”

12. A perusal of the above would show that there is no observation much less finding of the authorities holding/observing that the petitioner

was found to be in “malafide possession of any material” and thus, necessary ingredients for invoking Regulation 5(a) is missing. It is admitted case of the parties that no other order/decision has been communicated by the respondent authorities to the petitioner other than Annexure P-9 with respect to the decision taken in the unfair means case by the Committee in the first instance thus, nothing has been communicated to the petitioner to show that the respondent authorities had applied their mind to the facts and circumstances of the case in coming to the conclusion that the act of the petitioner would fall under Regulation 5(a).

13. The petitioner had filed an appeal (Annexure P-10 at page 32 of the paper book) and representation (Annexure P-12 at page 39 of the paper book), in which several issues were raised. Relevant portion of paragraphs 6, 8, 12 and 14 of the said grounds is reproduced here in below:-

“6. That on dated 24.12.2022, appellant visited the examination centre for appearing in the exam of Fluid Machinery (Code MEC - 506) of the 5th semester. When he reached at his sitting place, he found that some written notes were lying there at the table, he picked up the same just to throw outside the room and in this process, the Supervisory Staff caught the appellant by saying that he was using the notes for cheating, whereas it is admitted fact that appellant had not written even a single word on his answer sheet prior to that he was implicated in the UMC case, otherwise the appellant has nothing to do with the notes already lying there on the table. After that, the appellant tried his level best to convince the Supervisory Staff that the appellant has nothing to do with these notes and he was just throwing the same outside the room and also stated that there is not a single

word written on the answer sheet. But the Supervisor Staff did not listen the hue and cry of the appellant and the made a UMC case against the appellant.

Xxx xxx

8. *xxx xxx. The appellant was not even aware about the fact that whether the notes were relating to his subject or not. Even at that time of alleged occurrence, the appellant has not even written a single word on the answer sheet. It shows that appellant has nothing to do with the alleged notes and its all happened due to some misunderstanding.*

Xxx xxx

12. *That the appellant has been continuously attending the classes of 6th semester and had prepared by doing hard work for appearing in the exam, but University deprived the appellant to appear in the exam of 6th semester by passing the impugned order/letter dated 02.05.2023, which caused great hardship and mental agony to the appellant as he was continuously attending the class and prepared himself for the examination and now at this stage, the deprivation of the appellant to appear in the exam will caused great prejudice to the appellant.*

Xxx xxx

14. *That the above said impugned order / letter dated 02.05.2023 is totally illegal, arbitrary, discriminatory and against the principle of natural justice, as by this impugned order / letter dated 02.05.2023, harsh and maximum punishment has been awarded to the appellant, which caused great prejudice to the appellant and will spoiled bright future of the appellant. Therefore, appellant is praying to set aside the above said impugned order/ letter dated 02.05.2023 and appellant may kindly be permitted to appear in the examination of 6th semester which is going to start on 15.05.2023, so that the hard work of the appellant will bring*

fruits.”

14. A perusal of the above paragraphs would show that the petitioner while explaining the incident, had stated that he had reached the place of examination and he had found that there were some written notes lying on the table and he picked up the same just to throw the same outside the room and in the process, the supervisory staff caught the petitioner and that he had not written even a single word on his answer sheet and he had given an explanation to the supervisory staff that he had nothing to do with the said notes and he was just throwing the same outside the room. It was further averred that the petitioner was not aware about the fact as to whether the notes were related to the subject or not. On the basis of the said plea, it is the case of the petitioner that his case fell under Regulation 4. The petitioner had also raised the plea that the petitioner had been continuously attending the classes of 6th semester and had worked hard during the same but was deprived of appearing in the 6th semester examination. In paragraph 1 of the said appeal, the petitioner had highlighted that he was a bright student and always got good marks academically and also has a good character and the previous institutions have already issued character certificate to the said effect to the petitioner. In paragraph 4, it was stated that the petitioner had successfully passed the 3rd and 4th semesters examinations for the course of Bachelor of Engineering (Mechanical Engineering) from the Panjab University in the session 2021-22 and had also annexed detailed mark sheets regarding the same. Even with respect to the 5th semester, the first five examinations had been given by the petitioner.

15. As pointed out by learned counsel for the respondents, the said

appeal/representation is to be considered by the Vice Chancellor in accordance with Regulation 32.2. Regulations 32.2 and 32.3 (at page 68 of the paper book) are reproduced hereinbelow:-

*“32.2. If in a case, the Vice-Chancellor **thinks** that facts, duly reduced in writing have been brought to light within 30 days of the receipt of the decision by the candidate **which, had they been before the Committee, might have led to a decision other than the one arrived at, the Vice-Chancellor may order that such facts be placed before the Committee.***

32.3. The Committee shall then reconsider the case. A unanimous decision of the Committee shall be final. But in the event of a difference of opinion, the case shall be referred to the Vice-Chancellor who may either finally decide the case himself or refer it to the Syndicate for decision.”

16. A perusal of the above Regulations more so Regulation 32.2 would show that in case the Vice Chancellor is of the opinion that any fact which in case was brought to the notice of the earlier Committee could have meted out a decision other than the decision arrived at, then, the Vice Chancellor is empowered to put the same before the Committee for reconsideration. Regulation 32.3 provides that in case, the Vice Chancellor places the matter before the Committee for reconsideration then the Committee “shall” reconsider the case. It is not in dispute that in the present case, after the appeal/representation was made raising the above said grounds, the Vice Chancellor exercised his powers under Regulation 32.2 and placed the matter before the same Committee for reconsideration of the matter.

17. The Committee reconsidered the matter and vide

communication/letter/order dated 09.06.2023 communicated the rejection of the same to the petitioner. The said communication/letter/order has been annexed as Annexure P-13 and relevant portion of the same is reproduced hereinbelow:-

“A case of alleged use of unfair means in the examination centre.

MEMO

Request/appeal w.r.t, unfair means case, pending against you has been decide and as no new facts have been given by you hence, the earlier decision conveyed to you vide No.649/UMO dated 2.5.2023, will stand i.e. you have been disqualified from appearing in any University Examination for two years (Four exams) including that in which you are found guilty i.e. Nov/Dec. 2022 to May/June 2024 under regulation 5 (a) appearing at pages 10-14 of P.U. Cal. Vol.II, 2007.

Sd/-

Assistant Registrar (UMC)”

18. It is admitted case of the parties that other than the said communication, no other decision/communication with respect to rejection of the appeal/representation has been communicated by the respondent authorities to the petitioner. In Annexure P-13, there is no observation that the possession of the material by the petitioner was malafide so as to bring the case within the parameters of Regulation 5. Nothing has been communicated to the petitioner to show that the respondent authorities had applied their mind to the grounds taken by the petitioner in his appeal/representation and the reasons for the rejection of the same and also for not considering the case of the petitioner under Regulation 4. Once, the Vice Chancellor, after applying its mind as per Regulation 32.2 had placed

the matter before the Committee then it was incumbent upon the Committee to have reconsider the matter as per the mandate of Regulation 32.3 and could not have simply rejected the case by stating that no new facts have been mentioned without even rejecting the pleas raised in the appeal/representation. By virtue of the impugned letters/communications/orders, the petitioner who is a student of Mechanical Engineering, has been debarred for two years from appearing in any university examination including the examination in which he is found guilty and the same has caused serious prejudice to his future and thus, it was incumbent upon the authorities to have at least communicated the reasons for the said rejection and for applying Regulation 5 and not Regulation 4.

19. In paragraphs 19 and 20 of the writ petition, specific reference has been made to the case of one Abhishek Ranjan which, as per the case of the petitioner, is on a similar footing as that of the present petitioner and in whose case, initially the same disqualification as has been ordered in the case of the present petitioner, was ordered vide communication/letter/order dated 02.11.2022 but in appeal, the same has been reduced and the said candidate has only been debarred from passing the examination in question. Paragraphs 19 & 20 of the writ petition are reproduced hereinbelow:-

“19. That it is relevant to mention here that a similar matter came up before the University in the B.E. Mechanical Engineering examination held in June/July 2022 and in the said examination a candidate namely Abhishek Ranjan was found with unfair means and he was also awarded the same punishment of de-barring for two years under Regulation 11.2

of Panjab University Calender. The provisions of Regulation 11.2 are reproduced here below for the ready reference of this Hon'ble Court:

11.2. A candidate found guilty of passing on, or attempting to pass on during the examination, a copy of a question set in the paper or the question paper itself, or a part thereof, or a solution of a question set in the question paper, to anyone, shall be disqualified for two years including that in which he is found guilty.

Copy of the order dated 02.11.2022 passed in the case of the said student namely Abhishek Ranjan is annexed herewith as Annexure P-14.

20. That thereafter the said candidate also filed the appeal before the Vice Chancellor and during the decision of the said appeal, the University by taking lenient view, reduced the punishment from debarring for 2 years to debarring from passing in the examination in which he was found with unfair means. Copy of the order dated 12.12.2022 is annexed herewith as Annexure P-15.”

20. The response to the said averments made in the writ petition is in paragraph 4 (at page 47 of the paper book) of the short reply filed on behalf of respondent Nos.1 to 3. Para 4 of the said reply is reproduced hereinbelow:-

“4. That even as per the CWP itself (para 19,) action against Abhishek Ranjan (non-party to this CWP) was taken under Regulation 11.2 (a different provision) for a different kind of act on different facts.”

21. Since no parawise reply has been filed thus, the averments in paragraphs 19 and 20 of the writ petition have been rebutted by the plea taken in paragraph 4 and as per the said plea, the stand taken is that

Regulation 11.2 is a different provision and action taken is on different facts. Regulation 11.2, which has been reproduced in paragraph 19 of the writ petition and is also reproduced hereinabove, would show that the said Regulation would apply in case the candidate is found guilty of passing on or attempting to pass on during examination a copy of the question set in the paper or the question paper itself or the solution of a question set in the question paper to anyone and for the same, is to be disqualified for 2 years including the one in which he is found guilty. The said Regulation when juxtaposed with Regulation 5 cannot be stated to apply for an act less grave than the act for which a candidate would be liable for under Regulation 5. In the present case, it is not in dispute that the petitioner was caught with the material before writing anything on the paper. Regulation 11.2 would apply in a situation where the act has been done during examination and would also include a situation where the solution of the question set is sought to be given by a candidate to another candidate. For Abhishek Ranjan who was initially disqualified for 2 years including for the exam in which he was caught under Regulation 11.2, a lenient view has been taken in the subsequent proceedings by the competent authority vide communication/letter/order dated 12.12.2022 and the authorities have only debarred him from the paper in which he was caught by applying Regulation 4. The argument of learned counsel for the respondents to the effect that the said instance is completely irrelevant cannot be accepted. The authorities thus, while reconsidering the matter would also consider the case of the said Abhishek Ranjan and the circumstances under which the disqualification imposed upon him was reduced and in case the authorities

are of the view that there is parity between the two cases then to treat them accordingly.

22. Even as per the minutes (Annexure R-3 at page 55 of the paper book) sought to be relied upon by the respondents which admittedly were not communicated to the petitioner would also show that the Committee members were stated to be of the view that the petitioner could not copy from the recovered material. Even in the final decision of the said Committee reflected in the minutes, there is no finding that the petitioner was in malafide possession of any material. Relevant portion of the said minutes (Annexure R-3) is reproduced hereinbelow:-

“RESOLVED

The Committee members were of the view that though he could not copy from the recovered material but the slips were related to the subject matter. therefore, the above examinee Dev Sehgal is found guilty. The committee unanimously decided to disqualify him from appearing in any university examination for two years (Four Exams.) including that in which he is found guilty i.e. Nov/Dec. 2022 to May/June 2024 under regulation 5(a) appearing at pages 10-14 of P.U. Cal. Vol. II, 2007.”

23. No such finding of “malafide possession” is even reflected in the minutes dated 08.06.2023 (Annexure R-4 at page 56 of the paper book) which also were never communicated to the petitioner. The fact that the petitioner had not written even a single word in the answer sheet before the incident took place and that no cheating was done by the petitioner from the said material is not disputed. The petitioner having passed the first 4 semesters is also not in dispute and even the fact that the petitioner had

given five out of six exams of the fifth semester without there being any issue of any unfair means, is also not disputed. There is no earlier instance of the petitioner having indulged in any unfair practices. The result card of the petitioner which has been annexed as Annexure P-1 would show that he had got SGPA of 9.42 in the first semester and SGPA of 9.53 in the second semester and thus, has been performing well academically. The petitioner has already been penalized inasmuch as apart from the fact that the petitioner has not been able to pass the 6th examination of the 5th semester on account of the incident in question, the petitioner, although had attended the classes of the 6th semester, could not give the examinations of the said semester on account of the passing of the impugned order/communication/letter. Thus, while reconsidering the matter, the competent authority would consider all the said aspects also.

24. The Hon'ble Supreme Court of India in *M/s Kranti Associates Pvt. Ltd.'s case* (Supra), while summarizing the principles which are required to be followed while passing administrative orders/decision as well as judicial and quasi judicial orders, have laid emphasis on the fact that reasons are required to be recorded with respect to the same. Paragraph 51 of the said judgment is reproduced hereinbelow:-

“51. Summarizing the above discussion, this Court holds:

a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the

wider principle of justice that justice must not only be done it must also appear to be done as well.

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or `rubber-stamp

reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harvard Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to [Article 6](#) of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

25. A perusal of the above judgment would show that it was observed that recording of reasons is also necessary while passing administrative orders/decisions so as to rule out any arbitrariness and that recording of the reasons has become an indispensable component of the decision making process even by an administrative body. It has further been observed that reasons given in support of the decision must be cogent, clear and succinct and 'rubber-stamp reasons' are not to be equated with a valid

decision making process.

26. Hon'ble the Supreme Court of India in ***Chairman Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank's case*** (Supra) has held as under:-

*“5. In our opinion, an order of affirmation need not contain as elaborate reasons as an order of reversal, **but that does not mean that the order of affirmation need not contain any reasons whatsoever.** In fact, the said decision in Prabhu Dayal Grover case has itself stated that the appellate order should disclose application of mind. **Whether there was an application of mind or not can only be disclosed by some reasons, at least in brief, mentioned in the order of the appellate authority.** Hence, we cannot accept the proposition that an order of affirmation need not contain any reasons at all. That order must contain some reasons, at least in brief, so that one can know whether the appellate authority has applied its mind while affirming the order of the disciplinary authority.*

6. The view we are taking was also taken by this Court in Divl. Forest Officer v. Madhusudhan Rao (vide SCC para 20: JT para 19), and in M.P. Industries Ltd. v. Union of India, Siemens Engg. & Mfg. Co. of India Ltd. v. Union of India (vide SCC para 6: AIR para 6), etc.

7. In the present case, since the appellate authority's order does not contain any reasons, it does not show any application of mind.”

27. A perusal of the above order would show that it has been held that even when the Appellate Authority is passing its order and is affirming the decision of the first authority then also brief reasons are required to be given so as to reflect application of mind.

28. This Court is aware that the respondent-university at the time

of considering the case of a candidate with respect to unfair means is not required to give any elaborate reasons for passing the order of punishment to the candidate, but is at least required to briefly state the facts of the case and the reasons more so, when the matter has been referred by the Vice Chancellor to the Committee for reconsideration and communicate the same to the candidate so as to indicate that the Committee has applied its mind to the grounds raised by the candidate. In the present case, after the Vice Chancellor had placed the matter before the Committee for reconsideration, the only communication/letter/order issued to the petitioner is Annexure P-13 dated 09.06.2023 and a perusal of the same would show that none of the grounds/pleas raised by the petitioner in his grounds of appeal/representation have been considered by the respondent authorities. Regulation 5 has been invoked without there being any observation that the petitioner was found to be in “malafide possession” of material which was relevant for the subject of the examination. The question as to whether Regulation 4 or Regulation 5 would apply in the present case has also not been considered although, in case the pleas taken in the grounds of appeal are taken to be correct then in the prima facie opinion of this Court, Regulation 4 would apply. The said aspects were required to be considered by the respondent authorities which have not been considered in the present case. This Court is aware that the Court in its writ jurisdiction under Articles 226/227 of the Constitution of India is not to act as a Court of appeal and to substitute the opinion of the authority by giving its own opinion on merits, thus, keeping in view the facts and circumstances of the present case, the ends of justice would be met in case

communication/letter/order dated 09.06.2023 (Annexure P-13) is set aside and the respondent authorities are directed to reconsider the matter after taking into consideration the observations made in this order. Accordingly, the present writ petition is partly allowed and the order/communication dated 09.06.2023 is set aside and the respondent authorities are directed to reconsider the matter in light of the observations made in this order as expeditiously as possible preferably within a period of three weeks from the date of receipt of certified copy of the present order.

29. Learned Senior Counsel for the petitioner, at this stage, has made a request that since, the seventh semester classes have started thus, the petitioner be permitted to attend the said classes totally at his own responsibility. It is submitted that in case any fee is to be deposited, the petitioner is ready to deposit the same.

30. Learned counsel for the respondents has submitted that the permission to the petitioner to attend the classes should not create any equity in favour of the petitioner and the further course of action should depend upon the decision taken by the Committee.

31. This Court has considered the said request made by learned Senior Counsel for the petitioner and finds the same to be reasonable and thus, the petitioner is permitted to attend the classes of seventh semester subject to the following conditions:-

- i) The petitioner would not claim any equity for having attended the said classes.
- ii) The petitioner would deposit any fee in case so required and would not claim any refund of the same.

iii) The said continuance of the petitioner in the seventh semester would be till the time the decision is taken by the competent authority in pursuance of the present order passed and future course would depend upon the decision taken by the Committee subject to the rights of the petitioner to challenge the same.

06.09.2023
Pawan

(VIKAS BAHL)
JUDGE

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