

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

212

**CWP-23514-2017
Date of Decision: 08.11.2023**

**BABA FARID UNIVERSITY OF HEALTH SCIENCES
FARIDKOT**

... Petitioner

VERSUS

PUNJAB AND SIND BANK AND ORS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Krishan Singh Dadwal, Advocate
for the petitioner.

Mr. I.P. Singh, Advocate
for respondents No.1, 4 and 5.

Mr. A.S. Kakkar, Advocate
for respondent No.3.

VINOD S. BHARDWAJ, J. (ORAL)

Prayer made in the present petition is for issuance of directions to the respondents to release the amount of Rs.85,39,304.93/- alongwith interest @ 18% per annum, which was deposited in the form of FDRs and Saving Accounts with the respondent Banks that has been withheld by the respondents without any justifiable cause.

Learned counsel for the petitioner contends that Guru Gobind Singh Medical College, Faridkot was being run by Guru Gobind Singh Educational Trust through the Trustees for promoting education in the State of Punjab. The same was affiliated to the Punjab University in the year 1976. Vide Section 3 of the Punjab Guru Gobind Singh Medical College, Faridkot (Acquisition and Misc. Provisions) Act, 1978, all properties, assets movable

and immovable including lease as well as liabilities had been vested in the Baba Farid University i.e. the petitioner in herein. The Trustees preferred an CWP No.1360 of 1981 before this High Court, which was decided vide judgment dated 01.04.1997. The prayer, made in the said petition for seeking quashing of the Punjab Ordinance No.12 of 1978 dated 14.07.1978 and Act No.32 of 1978 being violative of the fundamental rights of the petitioner as guaranteed under Article 14, 19 and 21 of the Constitution of India, was not accepted to be infringing upon any fundamental rights of the Trustees. It was held that the property of the Guru Gobind Singh Medical College belonged to the State, and in case some property of the Trustees, not belonging to the Trust, had been taken over, they could have approached the Government for release of the said properties by placing sufficient proof to the satisfaction of the Authorities. A Letters Patent Appeal was preferred against the aforesaid judgment dated 01.04.1997. The said Letters Patent Appeal was disposed of on 24.04.2006 by giving liberty to the appellant Trustees to submit their representation contending their claim to the State Government, which was required to take a decision within a period of six months.

That during the intervening period, Government of Punjab, through its Department of Medical Education Research issued notification on 31.10.2006 exercising power under Section 9(1) of the Baba Farid University of Health Sciences Act, 1998 transferring the entire College and Hospital alongwith its assets and liability to Baba Farid University i.e. the petitioner herein. Vide its order dated 05.03.2007 and in compliance to the order passed by the Divison Bench in the Letters Patent Appeal, the amount lying deposited in various branches of Punjab and Sind Bank in Faridkot, Chandigarh and New

Delhi in the shape of FDRs and Saving Accounts relating to the Guru Gobind Singh Medical College, Faridkot were also ordered to be transferred to the petitioner University, since the Trustees were unable to prove their case qua their title over the said amounts lying in the shape of the FDRs and Saving Bank Account. The said order of 05.03.2007 had attained finality and was not challenged further. Details of the respective accounts have been pleaded in the writ petition and the same are extracted as under:

Name of account holder	Kind of account	Amount	Total amount
1. GGS Medical College	(FDR) dated 04.05.1979 (SB) Acc. No.955 dated 28.01.1973 (SB) Acc. No.2161 dated 01.05.1974 (SB) Acc. No.2695 dated 26.04.1976 All accounts in Faridkot Branch	23,88,926.00 10,74,675.00 62,906.61 91.61	35,26,599.00
2. Dean College Development council, PBI, University.	(FDR) Acc No.3268 dated 20.04.1976 (Sector-17) Chandigarh Branch	12,88,333.32 <i>(Wrongly mentioned as 12,88,83.32)</i>	
A/C G.G.S. Education Trust Dean College, Dev. Council PBI, University	(FDR) Account No.1472 dated 14.11.1973 (H-Block, Connaught New Delhi)	12,09,444.53	
Registrar PBI, University	(FDR) Account No.1723 dated 24.09.1980 (H-Block, Connaught New Delhi)	11,14,445.00	36,12,222.85
3. G.G.S. Education Trust	(SB) Acc No.4328 dated 26.07.1982, (Sector 11, Chandigarh Branch)	482.24	
G.G.S. Education Trust	(FDR)	14,00,000.00	14,00,482.24

Grand Total:- 85,39,304.93

Learned counsel for the petitioner contends that the petitioner-University has been approaching the respondents for seeking release of the said amount, however, the same has not been done so far. Hence, the present writ petition has been filed.

It is also informed that vide order dated 29.03.2022, the petitioner had been granted opportunity to implead the Trustees of the Guru Gobind Singh Educational Trust without prejudice to its rights at the time of the disposal of the case. Counsel for the petitioner has informed that there is no surviving Trustee as per the Trust Deed.

Mr. I.P. Singh, Advocate has contended on behalf of the respondents No.1, 4 and 5 i.e. Punjab and Sind Bank that the petitioner has failed to refer to any admissible document that would establish that the FDRs are lying in possession of the Bank. Reference was, however, made to the averments contained in the reply, which are extracted as under:

“9. That the Respondent Bank has made earnest efforts to locate the FDRs and the accounts as per details given in Para No.10 of the writ petition, however, there is no FDR and account in the Punjab & Sind Bank Branch Office, Sector-17-B and Punjab & Sind Bank Sector-17-C, Chandigarh. So far as the Punjab & Sind Bank, Sector-11 Branch, Chandigarh is concerned, there is no FDRs of Rs.14 lakhs as alleged in Para No. 10 and apart from this, there are no details of any such FDR. As per the old record of the Punjab & Sind Bank, Branch Office, Sector-11. Chandigarh, the S.B. Account No.4328 has been traced and the balance in the said account is 'zero' for the last many years. A copy of the Statement of Account in this regard is annexed herewith as ANNEXURE R-5/1. The Respondent No.5 had also informed earlier to the Petitioner in this regard vide

their letter dated 16.08.2017 (Annexure P-6). The letter of Punjab & Sind Bank, Sector-17-B, Chandigarh and Sector-17-C, Chandigarh dated 21.01.2020 and 21.01.2020 are ANNEXURE R/5-2 & R/5-3 respectively. The Punjab & Sind Bank, Branch Office, H-Block, Connaught Circus, New Delhi, vide its letter dated 20.01.2020, has communicated that one FDR in favour of Dean, College, Development for a sum of Rs.12,09,445/- has been traced. The FD Account is frozen and classified under Overdue Fixed Deposit since 1987. The copy of the said letter dated 20.01.2020 is ANNEXURE R-5/4. Thus, there is no other record available pertaining to the details mentioned in Para No.10, Column-2 & 3."

A separate reply has also been filed by respondent No.3, wherein in paragraph No.10, it has been averred as under:

"10. That para no. 10 of the writ petitioner is wrong and denied. The amounts as mentioned in this paragraph alleged to relate with respondent no.3 is wrong and denied. Except the account and amounts mentioned in preliminary objections no other amount is lying deposited with respondent no.3. The account nos. mentioned may be wrong however account no.2161 is now 00891000001161 with credit balance of Rs.1,33,749.61 as on 31.08.2018 and account no.955 is now saving account no. 00891000000955 with credit balance of Rs.23,41,989.52p as on 31.08.2018 which the respondent no.3 has never refused to writ petitioner to be withdrawn.

It is pertinent to mention here that the name and address of respondent no.3 has been wrongly mentioned and it should have been "Branch Incharge, Punjab & Sind Bank, The Mall, FARIDKOT" as account no.955 & 1161 are with Punjab & Sind Bank, The Mall, FARIDKOT.

FDR account 04.05.1979 cannot be traced, let the writ petitioner produce the original FDR so that the same can be replied to.

There is no account no.2695 with the answering respondent no.3."

The counsel for the respondents have argued that as per instructions issued by the Reserve Bank of India, the amount in question cannot be encashed or credited to the petitioner in the absence of the original document/FDR.

Counsel for the petitioner has argued that insofar as Saving Bank Accounts No.955 and 2161, as mentioned in the Table, are concerned, the respondents acknowledge the existence of the said accounts and also the amount lying therein to their credit. The FDR account dated 04.05.1979 is, however, stated to be untraceable alongwith the account No.2695 with the respondent No.3. He further refers to the reply filed on behalf of respondents No.1, 4 and 5, wherein it is informed that however, two FDRs reportedly issued by H-Block Branch, New Delhi, they could trace one FDR for a sum of Rs.12,09,445/- bearing Account No.00131400002696 which had been frozen and classified under Overdue Fixed Deposits. A reference is further made to the communication dated 16.08.2017 as per which the respondents submitted that account No.4328 is showing zero balance with them and that there is no FDR in the name of the Trust for an amount of Rs.14,00,000/- claimed to be outstanding.

He submits that notwithstanding the respondents dispute the remaining accounts, however, there is no dispute with respect to the accounts No.955 and 2161 as well as the FDR for an amount of Rs.12,09,445/- which are directly relatable to FDR No.1472 dated 14.11.1973. He argues that the petitioner is ready and willing to furnish an adequate indemnity bond to make good the loss of the Bank in the event of any claim being lodged for the said

amount; and that the original FDRs are not in possession of the petitioner owing to the fact that the property/assets and liabilities of the Guru Gobind Singh Medical College had been transferred by virtue of a notification issued by the Punjab Govt. and the Trustees had not transferred the original FDRs to the petitioner. Insofar as the remaining accounts/FDRs as are being claimed, the reply of the respondents does not acknowledge or admit the existence of such FDRs/Saving Bank Accounts, hence, it is contended that he may be permitted to pursue his alternative remedies as disputed question of facts have been raised by the respondent, in accordance with law.

Counsel for the respondents fairly submits that in the event of indemnity bonds undertaking to make good the claim, if any and/or by way of submission of original FDR, they would have no objection to the release of the said amount.

Having heard learned counsel for the respective parties and taking into consideration the facts noticed above, the present petition is disposed of with following directions:

- (i) So far as the amounts lying in Saving Bank Account No.955 dated 28.01.1973; Account No.2161 and FDR No.1472 in H-Block, Connaught Place, New Delhi are concerned, the petitioner shall furnish the indemnity bonds and/or original documents (FDR) to the respective branches, whereupon, the amount lying in the said accounts, shall be credited to the account of petitioner-University.
- (ii) The amount lying against the said accounts/FDRs shall be released in favour of the petitioner alongwith interest that may

have accrued thereupon as per the prevalent norms/instructions/
guidelines of the Reserve Bank of India.

- (iii) Insofar as the remaining accounts/FDRs are concerned, the
petitioner may, if so advised, pursue the alternative remedy to
establish the said amount before a Competent Court of Law.

Petition stands disposed of accordingly.

NOVEMBER 08, 2023
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(VINOD S. BHARDWAJ)
JUDGE

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