

**CM-1342-LPA-2022 in/and
LPA-591-2022 (O&M)**

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

**CM-1342-LPA-2022 in/and
LPA-591-2022 (O&M)
Date of Decision: 11.01.2023**

Board of School Education, Haryana

.....Appellant

Vs.

Ajay Kumar and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

**Present: Mr. K.K. Gupta, Advocate,
for the applicant-appellant.**

G.S.SANDHAWALIA, J. (ORAL)

CM-1342-LPA-2022

By this application, the applicant-appellant seeks condonation of delay of 03 days in re-filing the Letters Patent Appeal.

Keeping in view the averments made in the application, which is duly supported by an affidavit of the counsel himself, the application is allowed and the delay of 03 days in re-filing the appeal is hereby condoned.

CRM stands disposed of.

LPA-591-2022 (O&M)

The present appeal is directed against the order of the learned Single Judge dated 05.08.2021, whereby the writ petition had been allowed and the order dated 10.11.2017 (Annexure P-13) passed by the appellant has been set aside. By virtue of the said order, the writ petitioner had been asked to do internship for 01 year in addition to the 02 years of

course which had already been done which was the Diploma in Education for the the Session 2010 onwards.

The learned Single Judge noticed that the issue was whether the State Government was competent to extend the period of the Diploma in Education course by introducing one year's post course internship. Resultantly, it was held that source of such authority has not been pointed out and the memo dated 08.05.2017 (Annexure P-7) issued by the present appellant itself clarifies that the one year's internship had been abolished on 14.03.2017. Resultantly, it was held that the State Government did not have the authority to impose further conditions/criteria beyond those imposed by the Regulating Body, i.e. NCTE. Resultantly, it was held that the decision on 04.10.2010 by the present appellant was without jurisdiction and therefore, students who have taken admission to the Diploma in Education course prior to issuance of memo, dated 18.05.2017 cannot be subjected to additional one year internship post completion of the course. Resultantly, the public notice issued in September, 2017 (Annexure P-8) which was also subject matter of challenge before the writ Court was also held to be without jurisdiction.

A perusal of the paper-book would go onto show that the writ petitioner had taken the admission on the strength of prospectus-cum-application form and admission notice, wherein it was specified that the Diploma in Education was a 02 years course. The cut off date as such was prescribed as 16.08.2010 being the last date of receipt of application form. The reliance by counsel for the appellant now on the notification dated

04.10.2010 issued by providing that the Diploma in Education Course (Professional) was extended over a minimum period of three years including duration of internship was post the cut off date and therefore could not have been applied with retrospective effect to the admission which has already taken place before the cut off date. It is settled principle that the prospectus has a force of law and therefore the candidate at that time had taken admission on the basis that the course is of two years and the internship, if any, had to be within the prescribed period of 02 years. By an addition of 01 year, at a subsequent point of time the terms could not be changed to the detriment of a person who had already taken admission.

Reliance can be placed upon the judgment of the Full Bench in Amardeep Singh Sahota vs. State of Punjab and others 1993 (4) SCT 328, wherein while referring to an early Division Bench in Ravdeep Kaur vs. The State of Punjab and others, ILR (1985) 1 Punjab and Haryana 343, it was held that the prospectus issued for the entrance examination would govern the admission as it would have force of law. The said view was followed in another Full Bench in Raj Singh vs. The Maharashi Dayanand University and others 1994 (2) SCT 766 and also in Rahul Prabhakar vs. Punjab Technical University, Jalandhar and others 1997 (3) S.C.T.526 by another Full Bench. Lastly, in Indu Gupta vs. Director of Sports, Punjab and another, 1994 (4) SCT 113, the same proposition of law was laid down the notification contained in the prospectus for information Brochure would be the governing criteria. The Apex Court in Parmender Kumar and others vs. State of Haryana and

others 2012 (1) SCT 285, which is a three Judges Bench of the Apex Court also approved the said proposition.

In such circumstance, we are of the opinion that the regulations could not be put in operation with retrospective effect which has been done. For these reasons, we are of the opinion that the decision of the Board to deny the benefit of certificate as such is not justifiable.

Resultantly, for the above given reasons, we are of the considered opinion that the reasoning which has been arrived at by the learned Single Judge is justified. Even otherwise, if we examine Annexure P-7 which has been issued by the appellant Board it would also go onto show that the requirement for the three year course was for the academic Session 2014-16 onwards and the same was then itself abolished on 14.03.2017 . The relevant portion reads as under:-

“All concerned are hereby informed that vide Memo No. 3/7-2016 Diet (3) dated 14.03.217 Elementary Education Directorate, Haryana, has fixed the duration of D.Ed course as two years. During this period the first year and of sixteen weeks in the second year. For the academic session 2014-16 and subsequent years, one year was added internship as for which now has been abolished in compliance of Govt. Memo No. 3/7/2016 Diet (3) dated 14.03.2017. From the session 2016-18, for D.EL.ED. Course the examination for the first years would be held in July, 2017 on the basis of annual method as per the Annual Calendar issued by this office in the past, after completing the syllabus of fist and second semester as stop gap arrangement. For the session 2017-18,

necessary action is being taken to prescribe the syllabus, pass percentage, designing of question papers etc. Necessary information in this regard would be issued in due course after finalization of the above issues.”

Thus, from the above itself, we clear that the decision could not be put in effect with retrospective effect for the academic session 2010-12 as is now been contended.

Resultantly, we do not find any ground to entertain the present appeal.

The same is consequently, dismissed.

(G.S. SANDHAWALIA)
JUDGE

January 11, 2023
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	Yes