

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

(Sr. No. 271)

LPA No.830 of 2022

Date of decision : 26.07.2023

Dheeraj Kumar Karmania and others

.....Appellants

Versus

Pt. B. D. Sharma University of Health Sciences, Rohtak and others

.....Respondents

**CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present : Mr. S. K. Verma, Advocate for the appellants.
Mr. Sanjiv Kumar Aggarwal, Advocate and
Mr. Tejas Bansal, Advocate for respondents No.1 to 3.
Mr. Ravi Sharma, Standing Counsel
For the National Medical Commission.

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DEEPAK SIBAL, J. (Oral)

(1) The present intra Court appeal filed under Clause X of the Letters Patent is directed against the judgment dated 07.09.2022 passed by the learned Single Judge dismissing the appellants' writ petition.

(2) The appellants were admitted to the MBBS course in the academic session 2019-2020. They appeared in the 1st year final examinations in September, 2020 but failed to clear the same. Thereafter, they re-appeared in the supplementary examinations held in November 2020, January 2022 and April 2022 but failed to clear their 1st year MBBS

examinations. The appellants wanted another attempt to clear their MBBS 1st year examinations but the respondent-University, on the basis of a notification of the Medical Council of India dated 04.11.2019, did not permit them to do so as by such notification the Medical Council of India had restricted the number of attempts to clear the examinations to four. The appellants knocked the doors of this Court seeking another attempt to clear their MBBS 1st year primarily on the ground that when they were admitted to their course there was no restriction on the number of attempts to clear their examinations and that the notification dated 04.11.2019, through which such restriction was introduced for the first time, would apply prospectively and therefore, not to them as they were admitted much prior to its issuance. The appellants' writ petition was dismissed by a learned Single Judge of this Court on 07.09.2022 through the judgment challenged in the instant appeal.

(3) During the pendency of this appeal the National Medical Commission (for short - the Commission) issued a Circular dated 12.05.2023 through which all MBBS students like the appellants who had been admitted during the academic year 2019-2020 and who could not pass their 1st year MBBS examinations in four attempts, as a one time measure, were granted one additional attempt. Relying on the said circular, the appellants filed an interim application, seeking issuance of directions to the respondent-University to permit them to take the additional attempt. Through order dated 05.01.2023, this Court allowed the said prayer and accordingly, in February 2023 they appeared in what was their 5th attempt for clearing their 1st year MBBS course. On 04.07.2023, this Court directed the respondent-University to produce the appellants' result in a sealed cover, which was done. The sealed cover was opened and it was found that

appellants No.1, 2 and 4 have failed to clear their 1st year MBBS examinations even in their 5th attempt, whereas appellant No.3 has been successful in doing so.

(4) Learned counsel for the respondent-University as also the Commission state that in the light of the above, appellant No.3 shall be promoted to the MBBS 2nd year but appellants No.1, 2 and 4 would be declared to have finally failed.

(5) In view of the above joint statement, learned counsel for the appellants does not press the appeal.

(6) Disposed of.

(DEEPAK SIBAL)
JUDGE

26.07.2023

Amandeep/sunil yadav

(SUKHVINDER KAUR)
JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No