

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-6925-2019
Date of decision : 01.03.2024

Dr.Bikramjit Singh

... Petitioner

Versus

Baba Farid University of Health Sciences, Faridkot and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.R.K. Malik, Senior Advocate with
Mr.Kartikey Chaudhary, Advocate
for the petitioner.

Mr.Nitin Kaushal, Advocate
for the respondents.

VIKAS BAHL, J.(ORAL)

1. This is a civil writ petition filed under Article 226 of the Constitution of India for issuance of a writ in the nature of certiorari to quash the action of the respondent-University to adopt e-evaluation system without granting proper training to the examiners and further direction be issued to the respondent-University to evaluate the papers of M.D. General Medicine of the petitioner manually and thereafter declare the result.
2. Learned senior counsel for the petitioner has submitted that the petitioner had appeared in M.D. General Medicine in the months of May/June 2018 as well as November/December 2018. It is further submitted that the theory papers of the said examination were evaluated by e-evaluation system instead of manual evaluation and no training of e-evaluation has been imparted to the examiners and without proper training

of examiners in e-evaluation, there was a high element of risk as per expert opinion (Annexure P-3). It is argued that as per the expert opinion, the evaluators should be given level-I computer training where they can learn the use of a computer before implementing e-evaluation and University should have arranged a proper “Hand on Training” for evaluators through an expert trainer and only after getting positive feedback, they could authorise the evaluators for the said work and the respondent-University had not taken any step to train the examiners in e-evaluation and without training, the examiners had conducted e-evaluation of the papers. It is submitted that the issue is squarely covered by various judgments of this Court. The first judgment, which has been referred to, is the judgment of the Coordinate Bench passed in *CWP-14439-2017* titled as “**Dr.Avinash Asaram Ghatge vs. Medical Council of India and others**” decided on 15.11.2017, in which case after considering the same prayer made by the petitioner therein, the writ petition was allowed and the University was directed to get all the papers attempted by the petitioner therein evaluated manually and get a fresh result declared. It is submitted that in the said judgment, reliance was placed upon the judgment dated 15.03.2017 passed in *CWP-18429-2016* titled as “**Dr.Raj Bahadur Singh and others vs. Medical Council of India**”. Learned senior counsel for the petitioner has submitted that the case of the petitioner is squarely covered by the judgment of the Coordinate Bench of this Court in the case of **Dr.Avinash Asaram Ghatge** (supra) and the present petition be also disposed of in terms of the said judgment. It is pointed out that the averments made in paragraph 3 of the writ petition with respect to no proper training having been imparted to the evaluators for carrying out e-evaluation has not been refuted in the reply

filed on behalf of the respondents.

3. Learned counsel appearing for the respondents has submitted that the petitioner had already passed the examination in the Session of May/June 2019 and thus, the present petition has been rendered infructuous as no cause survives. However, the counsel has not been able to dispute the fact that in similar circumstances, the Coordinate Bench of this Court in the case of ***Dr.Avinash Asaram Ghatge*** (supra) had allowed the petition of the petitioner therein.

4. Learned senior counsel for the petitioner, in rebuttal, has submitted that even in the case of the ***Dr.Avinash Asaram Ghatge*** (supra), it was contended on behalf of respondent no.3 therein that the petitioner therein had given subsequent examinations and that it did not lie in the mouth of the petitioner therein to claim that the original papers be evaluated again but the said objection was rejected and the writ petition of the said petitioner was allowed. It is submitted by learned senior counsel for the petitioner that merely because in the year 2019 the petitioner has passed would not make the present writ petition infructuous inasmuch as the present petition has been filed in the month of March 2019 whereas the examinations for the year 2019 were given in the month of May/June and in case the petitioner was to pass in the year 2018 examinations after manual evaluation, then the same would be to the credit of the petitioner of having passed the M.D. examination in the year 2018 itself.

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

6. The Coordinate Bench of this Court in the case of ***Dr.Avinash Asaram Ghatge*** (supra) had in similar circumstances allowed the writ

petition of the petitioner therein who was similarly placed as the present petitioner. The relevant portion of the said judgment is reproduced hereinbelow:-

“.....However, as regards the 2nd grievance, he would not press the same but the fact remains that the last grievance which was accepted by this Court in the aforesaid case applies to the petitioner. His prayer is that all the papers which were attempted by him be got manually evaluated.

Counsel for the respondents are not in a position to deny that the last grievance which was raised in CWP No.18429 of 2016 (supra) applies to this case also in so much as the papers were evaluated by e-evaluation and some papers containing 10 answers were evaluated within seconds. Counsel for respondent No.3, however, points out that the petitioner has given subsequent exams also and, therefore, it does not lie in his mouth to claim that his original papers be evaluated again. Counsel for the petitioner has argued and rightly so that the subsequent exams were taken without prejudice to the right of the present petitioner.

Resultantly, this writ petition is allowed and respondent No.3-University is directed to get all the papers attempted by the petitioner evaluated manually and fresh result of the petitioner be declared within two months from the receipt of a certified copy of this order.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.”

7. Learned counsel for the respondents has not been able to dispute that the judgment in the said case applies on all force to the present case. Moreover, in paragraph 3 of the writ petition, the petitioner had made the following averments:-

“3. That it is necessary to mention here that theory papers were evaluated by e- evaluation system instead of manual

evaluation. It is further necessary to mention here no training of e-evaluation has been imparted to the examiners and without proper training of examiner in e-evaluation there is a high element of risk and as per the expert opinion copy of which is attached as Annexure P-3. As per the expert opinion Evaluator should be given level-I computer training where they can learn the basic use of Computer before implementing e-evaluation and University should have arrange proper "Hand on Training" for Evaluators through an expert trainer and only after getting positive feedback they can authorize the Evaluators for this work. But, the respondent university has not taken any step to train the Examiners in e-Evaluation and without training the examiner has examined the papers of the petitioner by way of e-Evaluation.”

The said averments have not been specifically disputed in the reply dated 03.10.2023.

8. Keeping in view the abovesaid facts and circumstances, the present petition is allowed in the same terms as **CWP-14439-2017** titled as **“Dr.Avinash Asaram Ghatge vs. Medical Council of India and others”** and the respondent authorities are directed to get all the papers attempted by the petitioner in M.D. General Medicine in the months of May/June, 2018 and November/December 2018, evaluated manually and fresh result of the petitioner be declared within two months from the date of the receipt of the certified copy of the present order.

(VIKAS BAHL)
JUDGE

March 01, 2024
Davinder Kumar

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