

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.119

LPA-995-2024 (O&M)

Date of decision: 24.04.2024

Baba Farid University of Health Sciences, Faridkot and others
....Appellants

Versus

Dr. Bikramjit Singh
....Respondent

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

Present: Mr. Nitin Kaushal, Advocate
for the appellants.

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DEEPAK SIBAL, J. (Oral)

1. The present intra court appeal is directed against the judgment dated 01.03.2024 passed by a learned Single Judge of this Court allowing the respondent's writ petition filed by him to quash the action of the appellant-University of adopting the e-evaluation system for evaluating the Post Graduate MD/MS Examinations with a further prayer for issuance of directions to the appellant-University to manually examine the respondent's answer sheets.

2. The respondent was admitted to the Post Graduate M.D. (General Medicine) Course in the appellant-University. In May/June 2018, he appeared in the final examinations of the said course. The appellant-University evaluated the respondent's answer sheets by the recently introduced e-evaluation system. The respondent was declared to have passed in his theory papers but fail in the practical examinations. The respondent re-appeared in November/December 2018. This time too he was evaluated by the e-evaluation

system and declared to have passed his practical examinations but fail in the theory papers. Aggrieved by the checking of his answer sheets through the e-evaluation system, the respondent approached this Court through filing of a writ petition. The primary ground taken by the respondent was that the appellant-University had introduced the system of e-evaluation of answer sheets without giving proper training to its examiners and therefore, sought issuance of directions to re-evaluate his answer sheets by resorting to manual checking. In support of his claim, the respondent relied upon the judgment of this Court dated 15.11.2017 passed in **CWP-14439-2017 – Dr. Avinash Asaram Ghatge vs. Medical Council of India and others** and dated 15.03.2017 in **CWP-18429-2016 – Dr. Raj Bahadur Singh and others vs. Medical Council of India and others.**

3. On being put to notice, the appellant-University filed a response through which it sought issuance of orders to dispose of the respondent's petition having been rendered infructuous as according to the appellant-University, while the respondent's petition was pending before this Court, in May/June 2019 he had again appeared and passed the final examinations of his Post Graduate Course. The respondent rebutted the appellant-University's stand by submitting that even if the respondent had appeared and passed the final examinations of his Post Graduate Course in May/June 2019 he would still be entitled to press for getting his answer sheets of the earlier examinations re-examined because if he is declared to have passed his examinations in the year 2018 he would be considered to have passed his Post Graduate Course in the first attempt which fact would have a bearing on his career.

4. After considering the afore rival submissions, the learned Single Judge was of the view that the case of the respondent was fully covered in his favour by the judgment of this Court in *Dr. Avinash Asaram Ghatge's case (supra)* and therefore, allowed the respondent's writ petition in the same terms. Such direction was issued after the appellant-University had not been able to distinguish the applicability of *Dr. Avinash Asaram Ghatge's case (supra)* to the respondent's case.

5. Learned counsel for the appellant-University has been heard and with his able assistance the record of the case has also been perused.

6. Through his petition the respondent had questioned the evaluation of his answer sheets by the appellant-University by resorting to the e-evaluation method primarily on the ground that before adopting such method the appellant-University had not trained its examiners. On being put to notice of the respondent's petition the appellant-University appeared before the learned Single Judge and filed its response through which the only stand taken by it was that since the respondent had appeared in a subsequent examination and passed his MD/MS Course, his petition had been rendered infructuous. In rebuttal, the respondent submitted that in spite of having passed his MD/MS Course in a subsequent examination, he would still be entitled to press for getting his answer sheets of the earlier examinations re-examined manually because if he is declared to have passed his examinations in the earlier year, he would be considered to have passed his MD/MS Course in the first attempt which would favourably affect his academic career.

7. The respondent placed reliance on the judgment of this Court in *Dr. Avinash Asaram Ghatge's case (supra)* the relevant portion of which

reads as follows:-

“.....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.” (emphasis supplied)

8. The judgment of this Court in **Dr. Avinash Asaram Ghatge's case (supra)** was not challenged by the appellant-University. The same attained finality. The directions given therein fully apply in the case of the respondent not even an attempt has been made on behalf of learned counsel for

the appellant-University to distinguish Dr. Avinash Asaram Ghatge's case (supra). Therefore, the learned Single Judge is found to have rightly follow Dr. Avinash Asaram Ghatge's case (supra) to allow the respondent's petition.

9. Dismissed.
10. All pending miscellaneous application(s), if any, also stand disposed of.

(DEEPAK SIBAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

April 24, 2024
Jyoti 1

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