



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH
CWP-13089-2024 (O&M)
Date of Decision:17.09.2024

Rohan Rana

.....Petitioner

Versus

Panjab University and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Vishal Gupta, Advocate for the petitioner.

Mr. Akshay Kumar Goel, Advocate for respondents.

JASGURPREET SINGH PURI J.(Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari/mandamus* for quashing the result dated 20.10.2023 (Annexure P-5) whereby petitioner has been declared 'fail' by the respondent-University in B.A. LL.B. 6th Semester Paper-6 (c) Land Law and Rent Laws held in May 2023.

2. The brief facts of the present case are that the petitioner was a student of B.A. L.LB Integrated 5 years course in the University Institute of Legal Studies, Panjab University, Chandigarh. The petitioner took admission in the aforesaid course in the year 2016 which is a 05 years integrated course and which was to be finished in the year 2021. The 05 years course consists of 10 semesters. In one of the semesters which was the 6th Semester, the petitioner failed in one of the subjects namely 'Land Law and Rent Laws' which he had taken in the month of May 2019.



Thereafter, he again appeared for the aforesaid paper as a re-appear candidate in the month of May 2023. However, the University has shown his status as fail in the aforesaid re-appear paper on the basis of scaling down his marks which he obtained in the examination.

3. Apart from the aforesaid paper of the subject of Land Law and Rent Laws, the petitioner is stated to have appeared in all the papers of all the semesters and the only aforesaid paper of 6th Semester is in dispute in the present case.

4. Learned counsel appearing for the petitioner submitted that when the petitioner took admission in respondent No.3-University Institute of Legal Studies, Panjab University, Chandigarh, in the year 2016, he was governed by the Rules Regulating Admission and Promotion to B.A./B.Com. LL.B. (Hons.) 5 Years Integrated Course (1 to 10 Semesters) (hereinafter to be referred to as 'Rules'). A photocopy of the same has been supplied to this Court by learned counsel for respondent-University and the same is taken on record as Mark 'X'. While referring the aforesaid Rules which according to both the learned counsels for the parties are a part of the University Statute and are enforceable under the law, he referred to Rule 3 of the aforesaid Rules and submitted that it has been so provided therein that 'to be declared pass in a semester examination, a student, must have obtained at least 45% marks in each paper respectively' and it has been further provided that a student shall be considered as pass in a paper if he/she has secured 45% marks in internal assessment and theory paper jointly. He referred to Rule 4 of the aforesaid Rules in which it has been provided that each paper of all the 10 semesters is of 100 marks and out of this, maximum marks assigned for the theory paper shall be 60 and for the



internal assessment shall be 40 marks (w.e.f. Academic Session 2016-17). He submitted that since the petitioner took admission in the Academic Session of 2016-17, the aforesaid criteria of 60:40 marks i.e. 60 marks for the theory paper and 40 marks for internal assessment was applicable to the petitioner and regarding which there is no dispute. He further referred to Rule 5 (iii) of the aforesaid Rules which provides that 'reappear examination of both odd and even semesters shall be held with the regular examinations of each of the respective semesters'.

5. Learned counsel for the petitioner further submitted that in this way, for the petitioner who took admission in the academic session of 2016-17 admittedly the aforesaid Rules were applicable. He further submitted that, however, later on in the year 2022, the respondent-University undertook a process of amendment in the aforesaid Rules by addition and insertion of a new regulation i.e. Regulation no.7 for the aforesaid course i.e. B.A./B.Com. LL.B. (Hons.) 5 Years Integrated Course and in this regard, he referred to Item No. 5 of Minutes of Meeting of the Senate which was held on 27.03.2022 wherein the agenda item No.5 was put up with regard to addition of Regulation 7 for B.A./B.Com. LL.B. (Hons.) 5 Years Integrated Course (effective from the decision of the Faculty of Law dated 16.12.2018) which has been so appended as Annexure P-13 at page No.46 of the Paper-book and the decision which was taken with regard to the aforesaid Item No.5 has been appended at Page No.52 of the paper-book wherein it has been so provided that every candidate shall be examined in the subject as laid down in the syllabus prescribed from time to time and the internal assessment of 20% of total



marks for B.A./B.Com. LL.B. (Hons.) shall be based on the defined criteria.

6. He submitted that by way of aforesaid amendment of the Regulation and insertion of aforesaid Regulation 7, the ratio of theory paper and internal assessment was changed from 60:40 to 80:20 and in this way the maximum marks for theory paper is 80 and maximum marks for internal assessment is 20. Learned counsel for the petitioner submitted that the petitioner had taken re-appear examination of the aforesaid subject in the month of May, 2023 which was after the aforesaid amendment which was effected on 27.03.2022 w.e.f. 16.12.2018 and, therefore, when he appeared for the aforesaid exam, the total splitting of the marks in the light of the aforesaid amendment came out to be in the ratio of 80:20. In this regard, he referred to examination paper which the petitioner had taken for the aforesaid re-appear examination in the month of May 2023 which has been appended alongwith the present petition as Annexure P-4 which clearly shows that for the theory paper, the maximum marks are 80. Thereafter, the petitioner had taken the aforesaid examination and he scored 54 marks out of aforesaid 80 marks. So far as the percentage for passing marks are concerned that would remain same i.e. 45% marks and regarding which there is no dispute. In this way, since the petitioner got 54 marks out of 80 marks in the theory paper. He secured more than the passing percentage marks, but the respondent-University wrongfully declared the petitioner as 'fail' by devising a process adopted by the respondent-University on its own accord and without any provision or authority of law by scaling down the marks of the petitioner from 54 out of 80 to 41 out of 60 and in this way vide Annexure P-5 the petitioner has been shown as fail/re-appear.



7. While substantiating his arguments, learned counsel submitted that the aforesaid Regulations came into force may be by retrospective effect w.e.f. 16.12.2018 but at the time when the petitioner had taken the examination and he was subjected to the aforesaid theory paper of maximum 80 marks then in the aforesaid examination paper, he secured 54 marks which were more than the prescribed passing marks then there was no occasion for the respondent-University to have applied any other formula for scaling down the marks of the petitioner from 54 out of 80 to 41 out of 60 on the basis of the old Regulations and on the ground that the petitioner took admission for the academic session of 2016-17.

8. He further submitted that there was neither any provision of law nor any instruction by which such kind of scaling down of marks have been effected by the University, Examination Department and it was on its own that the same was done on the basis of some analogies or past practice with the result that the petitioner has been shown as fail and his one year of career has been wasted by the respondent-University without the authority of law. He submitted that the impugned result wherein the petitioner has been shown as fail/Re-appear is liable to be set aside and directions may be issued to the respondent-University to declare the petitioner as pass on the basis of the actual marks obtained i.e. 54 out of 80 and consider granting him Degree of Law thereafter.

9. On the other hand, learned counsel appearing on behalf of respondent-University submitted that in pursuance of the order passed by this Court on 13.09.2024, both the Registrar and Controller of Examination of respondent-University are present before this Court. After seeking instructions from the aforesaid officers who are present in the Court, he

2024-PHHC-124979



submitted that it is a case where the petitioner took admission in the academic session of 2016-17 and for him throughout his academic course he was to be governed by the Rules and Regulations when he was admitted in the course and in case any amendment has been effected, the same would not apply to the petitioner because the amendment was effected in the year 2022 w.e.f. 16.12.2018 and since the petitioner took admission in the year 2016, the amendment would not apply to the petitioner. He also submitted since the aforesaid amendment was carried out on 27.03.2022 w.e.f. 16.12.2018, still the ratio of 60:40 was applied after the year 2018 to the petitioner in all his remaining semesters and he was given the theory examination paper on the basis of the aforesaid ratio wherein the maximum marks of paper was 60. This was done because the petitioner was a student of the academic session of 2016-17 and, therefore, when he appeared for re-appear examination in the year 2023, the same formula will be applicable to the petitioner even if the paper which was given to the petitioner for re-appear examination had the ratio of 80:20 and, therefore, applying the aforesaid formula, his marks were required to be scaled down on proportionate basis taking it to be an examination of 60:40 instead of 80:20 and, therefore, the respondent-University was within its right to have scaled down the marks of the petitioner from 54 out of 80 to 41 out of 60.

10. He also referred to Regulation 19 of the Panjab University Calender, Volume II, Chapter VIII, 2007, regarding conduct of examination wherein it has been so provided that the internal assessment marks shall be as provided in the syllabus of the subject concerned and there is a proviso in the aforesaid Regulation 19 in which it has been so provided that in the case of private candidates, there shall be no internal assessment provided in



the syllabus of the subject concerned and the marks obtained in the external assessment of the practical examination shall be proportionately increased. He submitted that the aforesaid Regulation-19 applies with regard to proportionately increasing the marks where no internal assessment is provided and on the basis of the same analogy the marks of the petitioner were reduced because the respondent-University applied the analogy to reduce the marks proportionately.

11. I have heard learned counsels for the parties.

12. It is a case where the petitioner is aggrieved by the action of the respondent-University whereby at the time of assessment of marks the respondent-University had adopted different criteria for the examination of the subject 'Land Law and Rent Laws', in which the petitioner appeared as a re-appear candidate in the month of May 2023. Before proceedings further, it would be just and proper to reproduce both the un-amended and amended provisions of respondent-University. As per Mark 'X', at the time when the petitioner took admission in the aforesaid course, the relevant portions of the provisions contained in Regulations 3, 4 and 5 are reproduced as follows:-

“3. To be declared pass in a semester examination, a student, must have obtained at least 45% marks in each paper respectively.

Explanation: *A student shall be considered as pass in a paper if s/he has secured 45% marks in internal assessment and theory paper jointly. However, the student has to submit the written Project Report/Moot Memorial/Term paper, as the case may be, personally by the date stipulated. Only then the student shall be allowed to make presentation or participate in Viva-Voce or Group Discussion, as the case may be.*



4. Each paper of the 10 semesters is of 100 marks. Of this 60 marks shall be for theory paper and 40 marks shall be for internal assessment (w.e.f. Academic Session 2016-17).

xxx xxxx xxxx xxxx

5(i and ii) xxx xxx xxx xxx

5(iii) The reappear examination of both odd and even semesters shall be held with the regular examinations of each of the respective semesters.”

13. An amendment was carried out in the aforesaid Regulations which have been appended alongwith the present petition at Annexure P-13. The relevant provision in Item No.5 is reproduced as under:-

“Item 5

Addition of following Regulation 7 for B.A./B.Com. LL.B. (Hons.) 5-Years Integrated course. (effective from the decision of the Faculty of Laws dated 16.12.2018).”

“Item 5

Addition of following Regulation 7 for B.A./B.Com. LL.B. (Hons.) 5-Years Integrated course (effective from the decision of the Faculty of Law dated 16.12.2018):-

7. Every candidate shall be examined in the subject as laid down in the syllabus prescribed from time to time.

The internal assessment of 20% of total marks for B.A./B.Com. LL.B.(Hons.) shall be based on the following criteria:

- | | | |
|------------------------|---|------|
| (a) Mid-Semester Test | : | 10% |
| (b) Project/Assignment | : | 05% |
| (c) Presentation | : | 05%” |

14. The aforesaid amendment was made on 27.03.2022 by giving retrospective effect w.e.f. 16.12.2018. The examination which the



petitioner had taken in the month of May 2023, question paper of the same has been attached as Annexure P-4. Relevant portion of question paper (Annexure P-4) is reproduced as under:-

“(i) Printed Pages :3

Roll No.

(ii) Questions :9

Sub.Code:

4	8	6	3
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Exam. Code:

0	6	7	7
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B.A./B.Com. LL.B. (Hons.) 5 Year Integrated Course 8th Semester (2053)

LAND LAW AND RENT LAWS (Same for B.Com.LL.B.)

Paper : V (c)

Time Allowed: Three Hours

[Maximum Marks :80]”

15. At the time when the petitioner took admission in the aforesaid 05 years integrated Course in the year 2016, the Rules and Regulations provided in the aforesaid Mark ‘X’ would apply to the petitioner. A perusal of the same would show that the pass percentage marks are 45% in a paper and the marks of theory and internal assessment are to be taken jointly. Both the learned counsels for the parties also submitted that the aforesaid 45% marks are the aggregate of the marks for both the theory and internal assessment and even if a student gets zero marks in the internal assessment and secured more than 45 % marks in the theory paper, he will be deemed to be a pass candidate and regarding which there is no dispute. Furthermore, they also stated that the aforesaid minimum pass percentage marks of 45% is the same as of today and there is no amendment carried out with regard to the same. On the aforesaid two

2024-PHHC-124979



points this Court had specifically raised a query to learned counsel for respondent-University to which he after taking instructions from the Registrar and Controller of the Examination of the respondent-University stated that the aforesaid position is the correct position, and there is no dispute with regard to the aforesaid position.

16. In the facts of the present case, initially when the petitioner took examination for the aforesaid 6th Semester for the subject of Land Law and Rent Laws, and even thereafter, the petitioner had got zero marks in the internal assessment. As the facts of the present case would reveal that the petitioner took examination for 6th Semester in the aforesaid paper in the month of May, 2019 wherein marks assigned to him for internal assessment were zero and his marks in the theory paper were also below the minimum percentage of passing marks and, therefore, he failed in the aforesaid paper. He thereafter appeared as a re-appear candidate in the aforesaid examination in the month of May, 2023 and for that also, for the internal assessment, the marks were zero but in theory paper, he secured 54 marks out of 80 marks. In this way, 54 marks out of 80 marks were definitely more than 45% marks. However, despite the fact that he obtained 54 marks out of 80 marks which were more than minimum prescribed passing marks, he has been failed in the examination by the University on the ground that for the purpose of evaluating the result, the aforesaid marks are required to be downgraded and reduced by applying the formula of 60:40 because the petitioner was a student who took admission in the year 2016 and the amended Rules and Regulations would not apply to him and, therefore, his marks ought to have been reduced from 54 to 41 by proportionately reducing it by converting the formula from 80:20 to 60:40 and that was the

2024-PHHC-124979



reason as to why according to learned counsel for respondents the marks of the petitioner have been reduced.

17. This Court raised a query to learned counsel for the respondent-University, Registrar and Controller of Examination of University, who are present in the Court that as to how and under what provision of law they have reduced and scaled down the marks of the petitioner by converting the criteria from 80:20 to 60:40 and as to whether there is any instruction by any officer of the University or there is any provision of law under which the University can do the same, to which the aforesaid officers and the learned counsel for respondent-University were unable to answer the query pertaining to as to whether there is any express provision of law or even any instructions or guidelines with regard to the same. The only answer which they have given to this Court is that it is a past practice and by virtue of the same, they have been converting the criteria/formula for assessment of marks of their own at the clerical and superintendent level but there is no instructions or any provision of law of University despite the fact that the petitioner was subjected to an examination paper in which the maximum marks as reproduced above were 80.

18. The petitioner admittedly was governed by the Rules and Regulations of 2016 which were the unamended regulations. The University thereafter amended the Regulations and changed the formula from 60:40 to 80:20. The aforesaid amendment was made effective from 16.12.2018 and at that time the petitioner was almost halfway through his five years integrated course. It is a case of the respondent-University as so stated by learned counsel for the respondent-University that after 2018 with

2024-PHHC-124979



regard to the remaining semester i.e. 4th and 5th years, the petitioner was subjected to the examination paper of 60:40 ratio because he was the student of the academic session of 2016 and the amended rules would not apply to the present petitioner because of the aforesaid reason and as such when he appeared as a re-appear candidate in the month of May, 2023, then since he was subjected to a paper of the ratio of 80:20 instead of 60:40, as such his marks have to be reduced proportionately.

19. The reasoning given by learned counsel for the respondent-University as well as officers of the University who are present in the Court appears to be absolutely unsustainable and perverse in nature. When a student has been subjected to his examination paper carrying maximum marks of 80 and he passes the examination by securing 54 marks then in case the University needs to scale down and reduce the marks on proportionate basis then the same has to be done by adopting any formula prescribed under any law. There is nothing on record nor it has been shown to the Court and rather it has been so stated by the officers who are present in the Court and learned counsel for the respondent-University that there is no formula designed and there is no law or source of power by which such a power was exercised by the examination department of the University. It was on their own whims and fancies that the respondent-University converted the marks of the petitioner and reduced the same which resulted the petitioner failing in one paper namely, 'Land Law and Rent Laws' of the aforesaid 5 years integrated course. Had it been a case that for the purpose of scaling down or reducing of the marks there was any provision of law which would be applicable to those students who are governed by old regulations of the University then it would have been a different

2024-PHHC-124979



situation but in the absence of any power or any authority of law the exercise has been conducted by the clerical staff on their own without any guidelines or any rules and regulations. Such an action of respondent-University which had an effect on the career of a student is not only illegal and perverse but it is also deprecated by this Court.

20. Much emphasis was laid by learned counsel for the respondent-University on Regulation No.19. As per the aforesaid Regulation No.19, the same has got no application in the present case. It only pertains to the proportionately increasing of marks obtained in the internal assessment of the practical examination in various contingencies. The reason as to why the aforesaid provision was referred to by the learned counsel for the respondent-University is that, since in some other context there can be an increase or decrease in marks proportionately then in the present case also the same can be done by way of analogy. Such kind of reliance upon the provision which is not even applicable to the facts and circumstances of the present case deserves to be rejected. The civil rights of a candidate or a student of the University cannot be jeopardized by such kind of artificial analogies being created by the University. If the respondent-University wanted to exercise some power to reduce the marks of the petitioner, the same could have been done by the authority of law and not by way of analogies.

21. One of the pleas which has been taken by learned counsel for the respondent-University and the officers present in Court is that this practice is going on for the last number of years and, therefore, based upon the past practice the marks of the petitioner were reduced. This Court is of the considered view that if there is a past practice which is going on and

2024-PHHC-124979



which is not supported by any provision of law, the same cannot be followed in the present case as well. If errors or illegal actions have been committed by the respondent-University, the same cannot be applied to the present case merely because the same is a past practice. The respondent-University is always within its rights to incorporate any provision having a force of law to exercise a power for the purpose of creating any equality or proportionate distribution of marks which is absent in the present case. However, the same cannot be done only on the basis of precedents which ultimately deprives the rights of their own students. Students of the University cannot be left to the whims and fancies of the staff of the University as they on their own create their own law. The rule of law has to prevail in all circumstances. In the Indian Legal System the old analytical school of thought which was propounded by Austin, stated that law is a command of the sovereign, will not apply to the Indian Legal System after attaining of independence. Indian Legal System is governed by rule of law in which the Constitution of India is supreme. Particularly, the students cannot be dealt with on the whims and fancies of the administrative staff of an educational institution which is a known esteemed institution. The effect of scaling down of marks has severely jeopardized the career of the petitioner and this Court will never approve of such a practice which is not supported by any law.

22. The aforesaid amendment came into force w.e.f.16.12.2018 and for the remaining semesters even as per learned counsel for the respondent-University, the petitioner was subjected to the examination paper which had 60:40 ratio then what prevented the university from applying the same formula by subjecting him to examination of 60:40 ratio

2024-PHHC-124979



and once he has been subjected to the examination paper of 80:20 ratio then the marks could not have been reduced without any authority of law.

23. This Court rather raised a specific query to the officers who are present in Court as to why the petitioner was subjected to the 80:20 ratio of paper when according to them the petitioner was governed by the unamended provisions to which they stated that earlier there was a practice of giving two sets of papers to the students for avoiding the aforesaid difficulties but it was because of the complication of work and workload that the petitioner was subjected to the aforesaid paper of 80 marks. Such a justification given by respondent-University is again rejected and is unsustainable because the mere fact that the respondent-University will be burdened with some more work would not mean that they can be permitted to act in violation of law and without the authority of law. If the respondent-University is to deploy any infrastructure or any manpower for the preservation of their own rules and regulations and in the interest of students then they should do the same but cannot affect the career of the students by reducing the marks as aforesaid.

24. From above, it is also clear that the University was well aware that the petitioner ought to have been given theory paper of 60 marks but instead was given paper of 80 marks to avoid their own work load. But the consequence of the same was that the marks of petitioner were reduced by scaling down from 54 to 41 which resulted in less than 45% marks and failed the petitioner. Such scaling down by the administrative staff of examination branch was without any provision or authority of law.

25. In view of the aforesaid facts and circumstances, the present petition is allowed. The result of the petitioner (Annexure P-5) is hereby

2024-PHHC-124979



set aside. The respondent-University is directed to issue the DMC of the aforesaid paper of 6th semester to the petitioner on the basis of the marks actually obtained by him i.e. 54 marks and, thereafter, to process the grant of degree to him. The aforesaid exercise be completed within a period of two months from today.

26. Considering the seriousness of the aforesaid pleas taken by the respondent-University based upon the past precedent and not based on any law wherein the career of students is being affected, it is directed that the Vice Chancellor of the respondent-University will look into this issue and take corrective measures within a period of two months from today.

27. Since the career of the petitioner has been affected because of wrongful action of the respondent-University, he is entitled for exemplary costs in the nature of compensation which are assessed as Rs.1,00,000 (rupees one lac only) which shall be paid by the respondent-University to the petitioner within a period of two months from today. The aforesaid amount shall be paid by the respondent-University at the first instance to the petitioner and thereafter, the Vice Chancellor of the respondent-University shall be at liberty to conduct an enquiry into the aforesaid issue and also to fix the responsibility of the official(s) concerned and shall also be at liberty to recover the aforesaid costs from the official(s) concerned in accordance with law.

(JASGURPREET SINGH PURI)
JUDGE

17.09.2024
shweta

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