



CWP-24687-2022

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

**CWP-24687-2022
Date of Decision: 01.08.2024**

Gaurav Saxena

..... Petitioner

Versus

Maharishi Dayanand University and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. R.S. Duggal, Advocate,
for the petitioner.

Mr. Amit Rao, Advocate for
Mr. Anurag Goyal, Advocate,
for respondents No.1 & 2-University.

Mr. Nitin Kaushal, Advocate,
for respondent No.3-AICTE.

Mr. Alok Mittal, Advocate,
for respondent No.4.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for setting aside the Detailed Mark Card dated 26.09.2013 (Annexure P-2) to the extent of the result in paper Fluid Mechanics, ME-208F, subject Code 2072, IVth Semester, May 2013 wherein petitioner has been shown ABS (Absent), whereas the petitioner has already passed the said paper in May, 2012 (Annexure P-1) under Roll No.4797767, wherein the petitioner reappeared in the exam of Kinematics of Machine, ME-204F, sub Code



2036, 4th Semester, and further prayed for quashing the Annexure P-3 whereby an Unfair Means Case was registered against the petitioner shown at serial No.50 and also to set aside Annexure P-4 whereby status of the papers in which the petitioner reappeared have been shown in sub Code 2036 (Fail) and 2072 (Cancelled) by the respondents and result was revised in pursuance of UMC dated 25.09.2012. With further prayer in the nature of *mandamus* directing the respondent No.1 to correct the result of the petitioner for 4th Semester (Annexure P-2).

2. Learned counsel for the petitioner submitted that the petitioner was a student of Brown Hills College of Engineering and Technology, Faridabad (now it is AL-FALAH University, Faridabad)-respondent No.4 which is affiliated with Maharishi Dayanand University, Rohtak and he had taken admission in B.Tech., Mechanical Engineering for the session of 2010-2014. While referring to Annexure P-1 which was the result of the petitioner for 4th Semester, he submitted that the University itself declared the result of the petitioner for the 4th Semester in which it has been stated that so far as the subject code 2036, he was shown to have Re-Appear and in the remaining subjects, he was shown to have passed the exams. The aforesaid subject code i.e. 2036 was cleared by him and thereafter, he completed his course in the year 2015 but the degree was not given to the petitioner. He further submitted that the reason as to why the degree was not given to the petitioner was that after the aforesaid Annexure P-1 which is pertaining to the exam for the month of May, 2012, the University had registered a case of Unfair Means against the petitioner and Clause 4 of the Ordinance of the College which is annexed as Annexure R-1/3 has been



violated. He also submitted that till date the result of the petitioner has not been declared and it is a case where no Unfair Means were detected by the College/University where the petitioner had taken exam for the 4th Semester and even as per the University itself, it has been so written by the College that no such UMC was prepared for the paper in question and a request was made to the University vide Annexure P-13 to look into the matter sympathetically and submitted that once the College where the petitioner had taken the exam, itself had so written to the Maharishi Dayanand University that as per the available records, there seems to be no UMC for the aforesaid paper, then the University ought to have considered the case of the petitioner sympathetically and should not have declared the petitioner to have failed and cancelled his paper and therefore, a direction may be issued to respondent No.2-University to declare the result of the petitioner.

3. On the other hand, Mr. Amit Rao, learned counsel for respondents No.1 & 2-University submitted that in the present case the petitioner has referred to Annexure P-13 as aforesaid which is a letter written by the AL-FALAH University to the Maharishi Dayanand University that no UMC was prepared. He however submitted that in fact it is a case where vide Annexure P-1, the petitioner had got re-appear in the subject Code 2036 but thereafter, in the subsequent event, he took the exam of the aforesaid subject code 2036 and he cleared the same which is so reflected in Annexure P-2 and there is no dispute with regard to the same but so far as the subject code 2072 pertaining to the Fluid Mechanics ME-208F is concerned, when it was conducted, the University had sent a Flying Squad and the petitioner was caught and therefore, Unfair Means Case was

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registered against the petitioner. However, the University had declared the result with regard to the aforesaid but subsequently the Unfair Means Case Report has come vide Annexure R-1/2 wherein the cases of various other students were also considered along with the petitioner and so far as the present petitioner, who is at serial No.50, is concerned, it was decided that his paper has to be cancelled because he was indulging in practice of Unfair Means. He further submitted that although it was a mistake on the part of the University to have issued the Detailed Mark Card (DMC) but that would not confer any right upon the petitioner once the UMC Committee itself has come to the conclusion and this mistake was rectified thereafter. He also submitted that thereafter the petitioner has again taken the exam in the next session for the same subject Code i.e. 2072 and he failed in that subject and till date he has not even cleared the exam. He submitted that in this way, since the petitioner has not cleared the aforesaid exam even on the subsequent events the petitioner is not entitled for grant of degree for the aforesaid Course.

4. Learned counsel for respondents No.1 & 2 further submitted that the writ petition filed by the petitioner is hopelessly barred by delay and laches. He also submitted that the aforesaid action was taken by the UMC Committee in the year 2012 and the present petition has been filed after 10 years i.e. in the year 2022 and rather the aforesaid course ought to have been completed in the year 2014 and even after 2014, there was a delay of 8 years. He further submitted that as per the Ordinance of the University which has been annexed as Annexure R-1/3, there is a specific provision in Clause-20 that the record/files of the decided cases shall be disposed of, two



years after the period of disqualification and in this case also, after a period of two years, the record of the case has been destroyed and the aforesaid Annexure R-1/2 is a photocopy of the Agenda for the meeting of the Standing Committee where the result of the petitioner was declared as fail as paper cancelled. He also submitted that the University was within its right to have sent any flying squad and the petitioner has not challenged any of the proceedings of the aforesaid Committee but has chose to remain silent for a period of 10 years and now he has come to this Court and filed the present petition which is hit by the bar of limitation as well.

5. Mr. Alok Mittal, learned counsel appearing on behalf of the Brown Hills college of Engineering and Tenchnology, Faridabad-respondent No.4 submitted that so far as the Annexure P-13 is concerned, the College has only conveyed to respondent Nos.1 & 2-University that at the end of the College, there was no Unfair Means Case but they only requested to respondents No.1 & 2 that the matter be taken up sympathetically.

6. During the course of the arguments, a specific query was raised to Mr. Alok Mittal, learned counsel for respondent No.4-College as to whether any Unfair Means had taken place with regard to the aforesaid paper on the basis of which the petitioner has been declared as fail as the paper cancelled to which he submitted that the University had sent a flying squad and it was the University, who had done the aforesaid but the College had not made any case qua the UMC. Therefore, as per learned counsel for respondent No.4-College even though they have not filed reply in the present case but the aforesaid position has been clarified by stating that the University had sent the raiding team which caught the petitioner using unfair

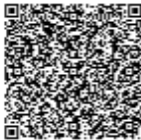


means.

7. I have heard the learned counsel for the parties.

8. It is a case where the respondent Nos.1 & 2-University has taken a specific plea with regard to delay and laches. The aforesaid subject matter of the Unfair Means is of the year 2012. The present petition has been filed in the year 2022. As per the learned counsel for the respondents No.1 & 2 while referring to Clause 20 of the Ordinance (Annexure R-1/3), the record are destroyed after two years and as per the counsel for the respondent Nos.1 & 2, the record is not available except for the Agenda for the meeting of the Standing Committee (Annexure R-1/2) whereby the result of the petitioner was declared as fail as paper cancelled. The petitioner has not chosen to challenge the action of the University for a period of 10 years. Even the Course ought to have been completed by the petitioner in the year 2014 and he kept silent for another 8 years. The argument which has been raised by the learned counsel for the petitioner that the petitioner had been sending letters and representations to the University will be of no consequence because it is a settled law that repeated representations/letters are of no consequence in case the writ petition is hit by delay and laches. It is not understandable as to why for 8-9 years, the petitioner kept silent and now he has chosen to file a writ petition after a lapse of such an unreasonable time. Apart from the above, even otherwise also, the counsel for the respondent-University stated that after the aforesaid paper was cancelled for the subject code 2072, the petitioner again appeared for the same subject only once and he did not clear that paper.

9. In view of the aforesaid facts and circumstances, this Court



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does not deem it fit and proper to interfere in exercise of jurisdiction under Article 226 of the Constitution of India and the present petition is not only devoid of merit but is also liable to be dismissed on the ground of delay and laches.

10. Dismissed.

01.08.2024

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |