



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(119) LPA-2833-2024 (O&M)
Decided on : 12.11.2024

Gaurav Saxena

.....Appellant(s)

Versus

Maharishi Dayanand University & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr.Naresh Chhokar, Rajender Singh Duggal, Advocates
for the appellant.

G.S. Sandhawalia, J.(Oral)

1. Consideration in the present appeal is to the judgment dated 01.08.2024 passed in CWP-24687-2022 whereby the writ petition was dismissed by the Learned Single Judge.

2. The Learned Single Judge came to the opinion that the examination for the subject code No.2036 was held in 2012 and the writ petition had been filed in 2022. As per Clause 20 of the Ordinance (Annexure R-1/3), the record was to be destroyed after 2 years and was not available except for the Agenda for the meeting of the Standing Committee (Annexure R-1/2) whereby the result of the appellant was declared as 'fail'.

3. The writ petition was thus held to be hit by delay and laches and was accordingly dismissed by noticing that the course was completed in the year 2014 and the appellant had kept silent for a period of 8 years. Merely on account of filing repeated representations, the limitation could not be extended and therefore, it was held that the cancellation of the paper for subject code 2072 was justified and the appellant could again appear in the same and therefore, the Learned Single Judge declined to interfere by exercising jurisdiction under Article 226 of the Constitution of India.

4. Counsel for the appellant has tried to convince us that the judgment of the Learned Single Judge is liable to be interfered with as there was no specific notice issued regarding the Unfair Means Case.

5. The prayer in the writ petition was for setting aside the Detailed Mark Card (Annexure P-2) issued on 26.09.2013 wherein the appellant had been shown as 'Re-appear' and challenge had been made to the Agenda dated 25.09.2012 (Annexure P-3) whereby the appellant was shown at Sr.No.50, in the list of candidates who had resorted to unfair means. The averments made in the petition would go on to show that the allegations were that it was behind his back without issuing show cause notice and therefore, prayer was made for setting aside the same.

6. Once the writ petition itself was filed after a period of 10 years, we are of the considered opinion that the Learned Single Judge was well justified in dismissing the writ petition on account of delay and laches. The respondent-University, in its reply filed, had taken the plea that the record was maintained for a period of 2 years and the old answer-sheets were disposed of after 4 months of declaration of results. It was in such circumstances, they were not in a position to supply the information. The University Rules are appended as Annexure R-1/6, Chapter 21 of the same talks about preservation/destruction of the records. In such circumstances, we are of the considered opinion that the delay was fatal as a prudent person would have immediately questioned the action of the University within a reasonable period.

7. The allegations apparently as per the record thus attached is on account of cheating which was detected and the material was thrown out of the window, as per the endorsement made against the roll number. The appellant

is not the only one against whom action was initiated were lodged and the list would go on to show that there were as many as 72 students against whom there were various allegations where there was case of keeping mobile phones and use of calculators. Mainly because the record is not available now, at this stage, would not be a ground to contend that proper procedure was not followed and notice was not issued.

8. The University had submitted that notice was issued to the appellant but he chose not to appear. In such circumstances, we are of the considered opinion that on account of not approaching for redressal, the appellant cannot take advantage of having benefitted for his own wrong. The legal notice apparently was only served for the first time on 10.04.2017 whereby plea was taken that the examination had taken place in the year 2012 and he had been shown as 'fail', which had been duly replied on 19.05.2017 that the UMC Committee had revised the result from 'Pass' to 'Re-appear' in the subject code 2072. The writ petition was filed 5 years later, after giving of the reply, which would go on to show that the appellant was taking advantage of the delay which had occurred on his own account.

9. Resultantly, in view of the above discussion, finding no ground to interfere in the well reasoned judgment of the Learned Single Judge, the present appeal is hereby dismissed. All pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

12.11.2024
sailesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No