

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204

CWP-26774-2023
Date of decision: 10.09.2024

SOURABH ..Petitioner

Versus

MAHARISHI MARKANDESHWAR UNIVERSITY AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

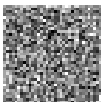
Present: Ms. Prarthana Duggal, Advocate
for Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Brijender Kaushik, Advocate
for respondents.

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SHEEL NAGU, C.J. (Oral)

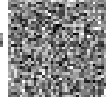
1. The present petition has been filed seeking writ of certiorari for quashing of Annexure P-8 dated 19.07.2022, issued by Vice-Chancellor of Maharishi Markandeshwar (Deemed to be University), Mullana-Ambala, cancelling the admission of the petitioner in B.Sc (Hons.) Agriculture, four years course, which had taken place in March, 2018.
2. It is pertinent to point out while taking cognizance of this matter that, this Court by an interim order passed on 30.11.2023, had stayed the operation of the said impugned order (Annexure P-8) dated 19.07.2022, which continues to subsist till date.



3. It is further not disputed at the Bar that the petitioner had attended the classes of the said course but the petitioner had not been permitted to appear in the final year examination.
4. Though, learned counsel for the petitioner submits that the petitioner was allowed to appear in B.Sc (Hons.) Agriculture four years course examination but the result has been withheld by the respondent-University.
5. The minimum eligibility criteria for seeking admission for B.Sc (Hons.) Agriculture four years course is prescribed in the prospectus as follows:-

<i>B.Sc Agriculture (Hons.)</i>	<i>The candidates should have passed Senior Secondary (10+2) examination from recognized Board/University with 5 subjects including English as one of the subjects or equivalent examination with Physics, Chemistry, Biology/Mathematics or Agriculture stream with 50% marks (45% for SC/ST categories).</i>
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6. Reply filed by the respondent-University reveals that the petitioner has passed his class 12th examination from Haryana Council of Open Schooling, which is not a recognized school as per the instructions issued by the Central Government and therefore, petitioner was held to be not eligible for admission to the said course.
7. The only submission made by learned counsel for petitioner is that the petitioner has now completed the entire course and only his examination result has been withheld and therefore, if the petition is dismissed, the petitioner would be losing precious four years of his academic career.



8. On the other hand, learned counsel for respondent-University has relied upon ***Mahatma Gandhi University and another Vs. Gis Jose and others, 2008 (17) SCC 611, Minor Sunil Oraon through Guardian and others Vs. C.B.S.E. and others, 2006 (13) SCC 673 and Regional Officer, CBSE Vs. Sheena Pethambaran, 2003(7) SCC 719.***

9. The relevant portion of the said judgments are reproduced below:-

“Mahatma Gandhi University and another Vs. Gis Jose and others:

9.The misplaced sympathies should not have been shown in total breach of the Rules. In our opinion, that is precisely what has happened. Such a course was disapproved by this Court in Regional Officer, CBSE vs. Ku. Sheena Peethambaran and Others [(2003) 7 SCC 719]. In paragraph 6 of the Judgment, this Court observed as follows:

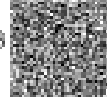
6. This Court has on several occasions earlier deprecated the practice of permitting the students to pursue their studies and to appear in the examination under the interim orders passed in the petitions. In most of such cases, it is ultimately pleaded that since the course was over or the result had been declared, the matter deserves to be considered sympathetically. It results in very awkward and difficult situations. Rules stare straight into the face of the plea of sympathy and concessions, against the legal provisions..... ”.

Minor Sunil Oraon through Guardian and others Vs. C.B.S.E. and others:

13. Now, we would refer to the law settled by this Court in various Judgments to the effect that interim orders of the nature passed in the present case are detrimental to education and its efficient management. As a matter of course, such interim orders should not be passed, as they are aberrations and it is subversive of academic discipline.

In Regional Officer, CBSE v. Sheena Pethambaran, [(2003) 7 SCC 719], at page this Court has observed:

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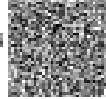
In the case of C.B.S.E. & Anr. v. P. Sunil Kumar & Ors. [(1998) 5 SCC 377], the institutions whose students were permitted to undertake the examination of the Central Board of Secondary Education were not entitled to appear in the examination. They were, however, allowed to appear in the examination under the interim orders granted by the High Court. In that context the Supreme Court observed:

"4 "But to permit students of an unaffiliated institution to appear at the examination conducted by the Board under orders of the Court and then to compel the Board to issue certificates in favour of those who have undertaken examination would tantamount to subversion of law and this Court will not be justified to sustain the orders issued by the High Court on misplaced sympathy in favour of the students.

In the case of Guru Nanak Dev University v. Parminder Kr. Bansal [(1993) 4 SCC, 401] the Supreme Court observed that such interim order is subversive of academic discipline. The relevant observations are as under:

"We are afraid that this kind of administration of interlocutory remedies, more guided by sympathy quite often wholly misplaced, does no service to anyone. From the series of orders that keep coming before us in academic matters, we find that loose, ill-conceived sympathy masquerades as interlocutory justice exposing judicial discretion to the criticism of degenerating into private benevolence. This is subversive of academic discipline, or whatever is left of it, leading to serious impasse in academic life. Admissions cannot be ordered without regard to the eligibility of the candidates... The courts should not embarrass academic authorities by themselves taking over their functions."

Yet in another case i.e. in the case of A.R Christians Medical Educational Society vs. Govt. of A.P. [(1986) 2 SCC 667] this Court held that:



"We cannot by our fiat direct the University to disobey the statute to which it owes its existence and the regulations made by the University itself. We cannot imagine anything more destructive of the rule of law than a direction by the court to disobey the laws."

In the case of State of Tamil Nadu v. St. Joseph Teacher's Training Institute [(1991) 3 SCC 87] this Court observed that the direction of admitting the students of unauthorized educational institutions and permitting them to appear at the examination has been looked on with disfavour and the students of unrecognised institutions who are not legally entitled to appear at the examination conducted by the Educational Department of the Government cannot be allowed to sit at the examination and the High Court committed an error in granting permission to such students to appear at the public examination.

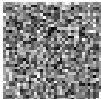
In the case of Central Board of Secondary Education v. Nikhil Gulati [(1998) 3 SCC 5], this Court deprecated the practice followed by the High Court to issue direction and also observed that such aberrations should not be treated as a precedent in future.

In Krishna Priya Ganguly v. University of Lucknow [(1984) 1 SCC 307], the Supreme Court observed:

"3 Whenever a writ petition is filed provisional admission should not be given as a matter of course on the petition being admitted unless the court is fully satisfied that the petitioner has a cast-iron case which is bound to succeed or the error is so gross or apparent that no other conclusion is possible."

In State of Maharashtra v. Vikas Sahebrao Roundale (1992) 4 SCC 435], it was held that the students of unrecognized and unauthorized educational institutions could not have been permitted by the High Court on a writ Petition being filed to appear in the examination and to be accommodated in recognized institutions. This Court observed:

"12. Slackening the standard and judicial fiat to control the mode of education and examining system are detrimental to the efficient management of the education."



10. From the aforesaid, it is obvious that mere sympathy and compassion cannot be made basis for grant of relief by judicial forum. The Apex Court has termed such kind of attempt by the writ Court as misplaced sympathy.

11. This Court is in full agreement with the law laid down by Apex Court that grant of any relief to the petitioner would be granting relief to an ineligible person, who does not even hold the minimum requisite educational qualification for being admitted to the B.Sc (Hons.) Agriculture four years course and therefore, the question of the petitioner having completed the course by attending the classes on the basis of an interim judicial order does not make any difference or make the case better.

12. In view of above, this Court declines interference and dismisses the petition without cause.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

September 10th, 2024
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>