

2024:PHHC:165123-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(106)

LPA-3176-2024 (O&M)
Decided on: 11.12.2024

Maneet KaurAppellant(s)
Versus
State of Punjab & othersRespondent(s)

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

Present:- Mr.Tegbir Singh Dhillon, Advocate, for the appellant (s).
Ms.Arundhati Kulshreshtha, AAG, Punjab.
Mr.Vikrant Sharma, Advocate, for respondents-University.

G.S. Sandhawalia, J. (Oral) :

CM-7824-LPA-2024

Application for condoning the delay of 45 days in filing the present appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the appellant.

CM stands disposed of.

LPA-3176-2024

1. Consideration in the present appeal is to the judgment dated 17.09.2024 passed by the Learned Single Judge in CWP-31882-2019 titled *Maneet Kaur Vs. State of Punjab & others* whereby the Learned Single Judge had declined to issue writ in the nature of Certiorari for quashing the letter dated 20.09.2019 (Annexure P-5) whereby the result of the M.Ed Degree of the appellant had been cancelled.

2. The reasoning which weighed with the Learned Single Judge

of Ph.D, English which the appellant had joined in the year 2009. Apparently, she had not passed out and her result had not been declared till 20.09.2017. However, she took admission in the M.Ed Course in September, 2016, apparently, on the sole basis that her dissertation in the Ph. D Course had been submitted before the University in September, 2016. It is a matter of record that even the Viva-Voce was conducted on 04.08.2017 and then only the result had been declared on 20.09.2017. The reason which weighed with the Learned Single Judge was that there was a specific bar in the Ordinance/Statute of the University that no candidate is allowed to appear in two major examinations of the University simultaneously. Relevant Ordinance reads as under:

“13. REGISTRATION WITH THE UNIVERSITY

No candidate is allowed to appear in two major examinations of this University simultaneously or to get himself enrolled simultaneously in two Universities. Candidates are advised, in their own interest, to observe this rule strictly and not to appear in any other major examination till their result for Ph.D. degree is declared. A copy of the registration letter to be issued to the candidate will also be endorsed to the Registration Branch stating the registration number, if any, with which the candidate is already registered with this University. It will be the duty of the Registration Branch to guard against violation of this rule.”

3. The writ petition was, thus, filed for issuance of direction in the nature of Mandamus for release of the Degree as well as marks-sheet apart from quashing the order dated 20.09.2019 (Annexure P-5) whereby the result of the appellant was cancelled. It is trite law that Mandamus can only be issued where there is a statutory right or duty and a Court cannot direct Mandamus to be issued against the statute itself for the enforcement of the rights or public duty. We are, thus, of the considered opinion that

that the writ petition itself was misconceived on the relief which was prayed for and therefore, in the absence of any such power to issue Mandamus, we do not feel that the Learned Single Judge had erred in coming to the said conclusion.

4. Mr.Dhillon has vehemently submitted that the appellant was allowed to sit in the various examinations while referring to the provisional result declared in May, 2017, October, 2017, June, 2018, 12.09.2018 (Annexure P-3 Colly.).

5. A perusal of the said annexures would go on to show that when the admission was taken and examination was given in December, 2016, there was a specific endorsement made by the Registration Branch that the candidate was not fulfilling the candidature and it was only a provisional result/information. Despite that, the appellant chose to give examination and continued with the said course being well aware while giving the first examination itself that she could not have sat in the two courses and the registration could not have been there and there was an objection raised by the University at the first instance. Merely because she had taken admission with the private respondent No.5-Institute, she cannot put the University at any fault on the principle of estoppel.

6. The judgment, thus, relied upon by counsel for the appellant in **Shri Krishan Vs. The Kurukshetra University, Kurukshetra, 1976 AIR (Supreme Court) 376** would be of no avail in the facts and circumstances, once the candidature itself having been put to guard in May, 2017, she continued to give examinations at her own peril, risk and cost. It is, in such circumstances, the Learned Single Judge has also held that the judgment, as such, would not be of any help as there was no

when the first result had been declared. The case referred to pertained to shortage of lectures and it was held that it was the duty of the Head of the Department of Law before submitting the form to the University to see that the form is complete in all the requirements of law and the Department had not taken care to scrutinize the admission form and it was in such peculiar facts and circumstances the Apex Court had allowed the appeal and directed declaration of the result by quashing the order of the University. The facts and circumstances herein are totally different and therefore, the said judgment would not be applicable.

7. The appellant, is also a in-service candidate who, with open eyes and willingly, had gone to get the admission in the second course without having completed the first course and has tried to find fault in action of the University and the College on account of her own over-eagerness which has led to this predicament which she had willingly put herself in.

8. Accordingly, in view of the above discussion, we are of the considered opinion that the view taken by the Learned Single Judge does not suffer from any infirmity or illegality which would warrant interference by this Court. Resultantly, the present appeal is dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

11.12.2024
Sailesh

(MEENAKSHI I.MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No