
(2013) 07 P&H CK 0718
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 15513 of 2013

Aditya Pratap Duggal and Others

APPELLANT

Vs

Panjab University and Another

RESPONDENT

Date of Decision : 25-07-2013

Acts Referred:

Citation : (2014) 1 SCT 365

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Advocate : Chetan Mittal, Mr. Puneet Gupta, Ms. Alka Sarin, in CWP No. 15513 of 2013 and Mr. Ritesh Pandey in CWP No. 15806 of 2013, for the Appellant; Amar Vivek, for the Respondent

Final Decision : Allowed

Judgement

Rakesh Kumar Jain, J.—This order shall dispose of two writ petitions bearing CWP Nos. 15513 and 15806 of 2013 as the facts and the prayer made therein are identical. However, for the sake of convenience, the facts are extracted from CWP No. 15513 of 2013. The petitioners have prayed for quashing the eligibility criteria framed by the respondents for admission to the B.Com. LL.B. (Hons.) 5 years Integrated Course as it is contrary to the criteria framed for admission to the B.Com. Course run by the University and have also prayed for issuance of directions to the respondents to fill up the seats of the B.Com. LL.B. (Hons.) 5 years Integrated Course by adopting the same eligibility criteria as provided for admissions to the B.Com. Course.

2. Although the petitioners have also made another prayer for quashing Clause IV dealing with Inter-Changeability and transfer of seats in respect of Scheduled Caste and Scheduled Tribes whereby the maximum reservation of 15% of the Scheduled Caste candidates and 7.5% for the Scheduled Tribes candidates is increased beyond the prescribed limit to the detriment of the general category candidates and for issuance of the appropriate directions directing the respondents to fill up the unfilled seats reserved for candidates belonging to the

Scheduled Castes and Scheduled Tribes categories from amongst the General Category candidates only without indulging in Inter-Changeability of the unfilled seats reserved for candidates belonging to the Scheduled Castes and Scheduled Tribes categories, yet this prayer has not been pressed at the time of arguments by the learned Senior counsel appearing on behalf of the petitioners.

3. Thus, no arguments have been raised by counsel for the parties in respect of this prayer.

4. In brief, the petitioners have passed 10+2 in the Commerce stream. The University Institute of Legal Studies, Panjab University (hereinafter referred to as the "UILS") offered 120 seats for B.A. LL.B. (Hons.) 5 years Integrated Course and 60 seats of B.Com. LL.B. (Hons.) 5 years Integrated Course at the University Centre at Chandigarh, whereas 87 seats and 60 seats have been offered by the University in the B.A. LL.B. (Hons.) 5 years Integrated Course at its Regional Centres at Ludhiana and Hoshiarpur respectively.

5. The eligibility for admission to the B.A. LL.B. (Hons.) 5 years Integrated Course, as given in the prospectus for the year 2013, is that the candidates should have passed 10+2 examination with at least 50% marks from any recognized Board/University, and for admission to the B.Com. LL.B. (Hons.) 5 years Integrated Course the candidates should have passed 10+2 examination in Commerce stream or in Arts stream with Mathematics or Economics subjects with at least 50% marks. Insofar as the B.A. LL.B. (Hons.) 5 years Integrated Course is concerned, it is open to the candidates from any of the stream, namely, Science, Commerce or Arts, but the B.Com. LL.B. (Hons.) 5 years Integrated Course is restricted for the students who have passed 10+2 examination in Commerce stream or in Arts stream with Mathematics or Economics subjects with at least 50% marks. The merit of the students aspiring for both the B.A. LL.B. (Hons.) 5 years Integrated Course and the B.Com. LL.B. (Hons.) 5 years Integrated Course was to be prepared on the basis of 50% marks of the qualifying 10+2 examination and 50% marks of the entrance test. The petitioners are all 10+2 candidates from commerce stream with their respective percentage appeared in the entrance test held on 19.05.2013 and after the result was declared, a tentative merit list has been prepared along with the students coming from Arts stream with Mathematics or Economics subjects, who have been allowed to compete with them for 60 seats of the B.Com. LL.B. (Hons.) 5 years Integrated Course. The merit of the petitioners, in terms of the criteria referred to above, is as under:-

6. The case set up by the petitioners is that the students who are doing B.Com. LL.B. (Hons.) 5 years Integrated Course would also get a degree of B.Com. after completion of 3 years course and as per University Calendar, they are entitled to the weightage which is being given to the students at the time of admission to the 3 years B.Com Course. The petitioners has also referred to a decision of this Court in the case of Arnav Sundra v. The Panjab University, Chandigarh and others, CWP No. 13905 of 2011, decided on 14.12.2012, to contend that the

degree of B.Com. LL.B. (Hons.) 5 years Integrated Course has been equated with the degree of B.Com. Course at the time of giving admission to a candidate who had come from Non-Medical background with Economics as one of the subject. It is further argued that the respondents have followed the aforesaid judgment for the purpose of changing the eligibility in 2013 by permitting the students from Arts stream with Mathematics or Economics subjects to take admission in B.Com. LL.B. (Hons.) 5 years Integrated Course, but as regards the weightage, which is available at the time of entry to the B.Com. Course, that has been illegally declined as their representation in this regard made to the University on 19.07.2013, which is part of the writ petition as Annexure P-15, has not been decided and they were orally told that the said weightage cannot be given to them.

7. It is argued by counsel for the petitioners that the prospectus of the University is no doubt sacrosanct but as per Clause 29 of the said prospectus, the eligibility condition for admission in the B.Com. LL.B. (Hons.) 5 years Integrated Course is to be governed by the respective Rules and Regulations enshrined in the Panjab University Calendar. He has also referred to the meeting notes of 22.12.2012 and 20.01.2013 in which the Senate had approved amendments in the Regulations in anticipation of the approval by the Government of India in order to highlight that the University has agreed in principal that if a student of B.A. LL.B. (Hons.) 5 years Integrated Course wishes to discontinue the studies, he can be awarded a degree of B.A. after successful completion of first 3 years degree course.

8. On the other hand, counsel for the respondents, who has filed the replies dated 23.07.2013 and 25.07.2013, has contended that under the Bar Council Rules of Legal Education, 2008, a student pursuing the Integrated Law degree cannot have a lateral exit after three years of studies and cannot claim the award of B.A. Degree. The University has been continuously following the same criteria and system for the last several years, ever since the inception of this program and there is nothing which has been introduced for the first time in the current year. The curriculum in the UILS in the B.Com. LL.B. (Hons.) 5 years Integrated Course imparts only broader knowledge of bare principles of Accountancy, Finance, Business Studies etc. and not elaborated and in-depth knowledge which is imparted in the routine B.Com. Course. He has also urged that the B.Com. LL.B. (Hons.) 5 years Integrated Course of the University primarily follows the scheme laid down by the Bar Council of India and various academic bodies like Academic Committee and Board of Studies falling under Faculty of Law. He has also raised the plea of estoppel against the petitioners on the ground that they have taken the entrance test on 19.05.2013, the eligibility criteria was published in various handbooks and the website of the University way back in March 2013, but the petitioners never raised any objection, which is now being raised at a highly belated stage much after the publication of tentative merit list when the petitioners are falling lower in the merit list. He has also submitted that the judgment in Arnav Sundra's case (supra) is not at all a precedent as the same is based upon erroneous and misplaced concession granted by the counsel, that too

without the authority vested in her.

9. It is further argued that the prospectus is the law which cannot be re-written by the Court by introducing any other eligibility condition which was not part of it. Besides this, it is also submitted that if the prayer of the petitioners is allowed, it will effect the students who are not before the Court but they have competed with them in the entrance exam and secured much more marks.

10. I have heard learned counsel for the parties and perused the record.

11. Before I advert to the respective submissions made by counsel for the parties, it would be relevant to refer to a little background of this case.

12. Admittedly, the B.Com. LL.B. (Hons.) 5 years Integrated Course has been started in the UILS from the year 2011. In the prospectus of 2011, the following eligibility criteria was prescribed:-

13. However, the merit list was to be prepared on the same pattern of 50% marks of the 10+2 examination and 50% marks of the entrance test.

14. In the year 2012, there was a little change in the eligibility criteria, which is reproduced as under:-

15. In the aforesaid criteria for B.A. LLB. (Hons.) 5 years Integrated Course, the word "from any stream" was deleted and "with at least 50% marks" was added. Similarly, for B.Com. LL.B. (Hons.) 5 years Integrated Course, it was provided that the candidate should have passed 10+2 examination in commerce with at least 50% marks. However, in the year 2013, the following criteria has been provided:-

16. As per the aforesaid eligibility criteria in the B.Com. LL.B. (Hons.) 5 years Integrated Course, the Arts stream has also been introduced with Mathematics and Economics as one of the subjects, meaning thereby a student who had opted for Arts stream in 10+2 Course, would also be eligible for admission to the B.Com. LL.B. (Hons.) 5 years Integrated Course if he/she has Mathematics or Economics as a subject.

17. During the course of hearing, it has been argued by counsel for the respondents that the students from Arts stream with Mathematics and Economics subjects are made eligible for admission to B.Com. LL.B. (Hons.) 5 years Integrated Course in terms of the decision of this Court in Arnav Sundra's case (supra).

18. Before I proceed further, I may also deal with the facts and circumstances in which the judgment in Arnav Sundra's case (supra) was delivered by this Court.

19. In Arnav Sundra's case (supra), the said petitioner passed his 10+2 examination in Non-Medical with Economics securing 75.4% marks. He applied for B.Com. LL.B. (Hons.) 5 years Integrated Course, but in the prospectus for the year 2011, the student with Non-Medical with Economics was not eligible for

admission to B.Com. LL.B. (Hons.) 5 years Integrated Course. The said petitioner appeared in the entrance test and secured 64.75% marks and after calculating 50% marks of his 10+2 examination and 50% marks of the entrance test, his total marks were found to be 70.075.

20. The argument of the petitioner in the aforesaid case was that the University is denying him admission without taking into consideration that he had cleared Economics and Mathematics and was eligible for admission to regular B.Com. Course. He, thus, prayed for amendment in the criteria for admission in order to bring it in consonance with the admission criteria for regular B.Com. Course offered by the University.

21. In the said case, it has been observed by the learned Single Judge that initially there were some issues which were joined by the University and it was noticed by the Court that there were some contradictions in the eligibility conditions. The Court noticed that Economics and Mathematics would be two subjects and, thus, the issue, which might have been agitated by the University in regard to treating the petitioner as Non-Medical Stream, may not be justified. It is also observed that the counsel for the University had not contested the plea raised by counsel for the petitioner seriously, but there were sufficient material on record and as per Rule, the petitioner has to be treated as non-medical stream candidate with Economics and Mathematics being two separate subjects and was held eligible for admission to B.Com. LL.B. (Hons.) 5 years Integrated Course, which is in consonance with the B.Com Degree Course offered by the respondent-University.

22. The writ petition was accordingly allowed and the said order has never been challenged by the respondent-University about its correctness. Thus, in the cited case, the admission criteria was basically amended by this Court by introducing a candidate from the Non-medical Stream with Economics subject on the ground that it is a subject in the regular B.Com Course offered by the University.

23. The argument of learned counsel for the petitioners is that there are many students coming from the Arts stream in one of the elective subject either Mathematics or Economics with very poor performance in the entrance test but they have got 100% marks in 10+2 examination because of the nature of subjects offered in the Arts stream. In this regard he has referred to Ramandeep Kaur who has secured 96% marks in 10+2 examination and 68.75% marks in entrance test, Charanpreet Kaur who secured 97.27% marks in 10+2 examination and 56.25% marks in entrance test, Manisha Gupta secured 100% marks in 10+2 examination and 51.5% marks in entrance test, Ekjyot Sawhney secured 100% marks in 10+2 examination and 46.75% marks in entrance test, Iltza Khatoon secured 100% marks in 10+2 examination and 45% marks in entrance test and Shevali Singh secured 100% marks in 10+2 examination and 41.25% marks in entrance test etc., whereas the petitioners coming from 10+2 Commerce Stream could not have even imagined to secure 100% marks in 10+2 only because of the nature of subjects of the Commerce but with the help of one

elective subject, the students coming from Arts stream would march ahead of them in the common merit list, therefore, the petitioners have prayed for awarding weightage which is being given to the students seeking admission in the regular B.Com. Course, offered by the University.

24. In order to appreciate this argument, it would be relevant to refer to the method of eligibility, inter-se merit and the formula of calculation of marks in the case of regular three years Degree B.Com. Course, which is reproduced as under:-

The admission to B.Com Course from the session 2013-14 shall be made according to the provisions, PU calendar Vol. II, 2007, Page 324, Para 3.1

3.1(A) Admission to the first year of B. Com (General) degree course shall be open to a person who has passed one of the following examinations conducted by a recognized board/council/university:

(i) +2 Examination or B.Com Part I (old scheme) of Panjab University with three of the following subject securing at least 40 % marks in aggregate.

? Commerce (or theory of commerce, or foundation course in commerce)

? Accountancy (or Book keeping and Accountancy)

? Economics Mathematics (or statistics)

? Business Organization (or Business Management, or Theory and Practices of Management)

? Insurance (or General Insurance or Life Insurance)

? Banking and Trade Commercial Geography

? Office Management and Secretarial Practice (or Office Organization and Management)

? Mercantile Law (or Company law)

? Auditing Typewriting and Stenography/Computers (for type writing)

(ii) +2 Examination or B.Com Part I (old scheme) of Panjab University with at least two of the following subject mentioned in 3.1 A (i) securing at least 45 % marks in aggregate. (iii) +2 examination or B.A. Part I/B.Sc. Part I/Pre-Engineering/Pre Medical Examination of the Panjab University under the old scheme not covered in 3.1 A(ii) securing at least 50% marks.

(iv) Any other examination recognized by the University as equivalent to 3.1 A (i) or 3.1 A (ii) or 3.1 A (iii) as given above with requisite percentage of marks given under each clause.

3.1 (B) DETERMINATION OF MERIT

(i) Merit is to be determined on the basis of score for which the percentage of

marks obtained by the candidate in the qualifying examination is the basic or starting score. The percentage should be worked out to the advantage of student. Where a student has appeared in more papers than the number of papers required to qualify the examination, best marks should be taken.

(ii) Weightage under 3.1 B(ii) should be given for all the papers cleared from the list of papers mentioned in 3.1 A (i) restricting the maximum weightage score to 16. The score is to be added, even if, the paper is an additional paper passed by the candidate.

"EXAMPLE FOR CALCULATION OF MERIT MARKS

A student from CBSE/ICSE has appeared in 6 papers instead of 5 with following marks:

English (Compulsory) 70

Elective

Economics 75 Business Studies 75 Accounting 80 Maths 60 Physical education 80

Step (i) Calculation of basic scores:

English compulsory 70

Add best four out of electives

Economics 75

Business Studies 75

Accounting 80

Physical Education 80

Total 380 out of 500

Basic score = $380 \times 100 / 500 = 76\%$

Step (ii) a) Identification of papers (listed subjects)

b) Number of papers passed from the list is 4 (Economics, Business studies, Accounting, Maths), therefore Score to be added is 16%.

Step (iii) Total score for merit is $76\% + 16\% = 92\%$

25. Counsel for the petitioners has submitted that even 3 different categories of eligibility have been provided for the admission to regular B.Com. as a student having passed 3 subjects of Commerce is required to have at least 40% marks in 10+2 examination in aggregate to be eligible, a student having passed 2 subjects of Commerce is required to have at least 45% marks in 10+2 examination in aggregate and a student who does not have any Commerce subject but intend to do B.Com. Course, is required to have at least 50% marks in 10+2 examination in aggregate. In the matter of determination of their inter-

se merit, as per Clause 3.1, referred to above, weightage is provided for all the papers cleared, as mentioned in 3.1(i), restricting the maximum weightage score up to 16 and the formula to calculate the weightage has been specifically prescribed in order to avoid any confusion. According to this specific and clear weightage formula, if a student is coming from Commerce Stream and has passed Commerce subjects, he would be given weightage for 4 subjects up to the extent of 16%, meaning thereby 4% weightage to each subject of Commerce.

26. Counsel for the petitioners has submitted that since the Degree of B.Com. LL.B. (Hons.) 5 years Integrated Course is equated with the Degree of regular B.Com. Course, then the same formula has to be applied in the case of the petitioners for the purpose of giving them the weightage even if it is not mentioned in so many words in the prospectus but as per Clause 29 of the Prospectus, the respective rules/regulations as enshrined in the Panjab University Calendar are applicable to the petitioners, which is an integral part of the prospectus. Therefore, there is no question of this Court to re-write the prospectus for the benefit of the petitioners, as the guidance is already provided therein. He has also submitted that the issue raised by the respondents that the syllabi of the B.Com. LL.B. (Hons.) 5 years Integrated Course has been fixed by the academicians is incorrect because it has been provided in the Bar Council of India Rules in Schedule II which deals with the academic standards and the subject of the Course to be studied. Insofar as the issue of lateral exit which has been raised by counsel for the respondents by referring to the Bar Council of India Rules, there is a prohibition provided for awarding the Degree of B.Com. after completion of successful 3 years Course in B.Com. LL.B. (Hons.) 5 years Integrated Course, but it is not applicable because the University itself has been giving Degrees of B.A. to the students of B.A. LL.B. (Hons.) 5 years Integrated Course.

27. The question thus involved in this case is as to "whether the petitioners have been put to loss by allowing the students from Arts stream having either Mathematics or Economics as one of the subject to compete for 60 seats meant for the B.Com. LL.B. (Hons.) 5 years Integrated Course offered by the UILS without giving weightage to them which is being given to the regular B.Com. Course".

28. Although the issue of weightage was not there in Arnav Sundra's case (supra) but this Court held the student coming from Non-Medical stream with Economics subject to be eligible for admission in the B.Com. LL.B. (Hons.) 5 years Integrated Course despite the fact that the eligibility was only of 10+2 with Commerce. The decision was taken holding the petitioner in that case to be eligible for admission to B.Com. LL.B. (Hons.) 5 years Integrated Course treating it to be in consonance with the regular B.Com. Course offered by the University. This judgment has not been challenged by the University and perhaps that student was given admission. If the University has treated a student from Non-Medical with Economics and a student from 10+2 Commerce Stream as

equivalent and the Court had directed to grant him admission treating the B.Com. LL.B. (Hons.) 5 years Integrated Course at par with the regular B.Com. Course, then in that circumstance, formula for determining the inter-se merit for the admission of the students to the regular B.Com. Course is required to be followed and accordingly weightage has to be given even if it is not provided in so many words in the prospectus that the weightage meant for the students seeking admission to regular B.Com. Course would be available to the students of 10+2 Commerce Stream aspiring for admission to the B.Com. LL.B. (Hons.) 5 years Integrated Course, because in terms of para 29 of the prospectus, the same treatment has to be given to the petitioners. In this regard, it would be relevant to refer to para 29 of the prospectus, which reads as under:-

29. Notwithstanding anything contained in this prospectus, the eligibility conditions for admission to B.A./B.Com. LL.B. (Hons.) 5 Years Integrated Course, shall be governed by the respective rules/regulations as enshrined in the P.U. Calendar, and/or the General Guidelines for Admissions/Hand Book of Information issued by the University and/or decisions of the University Senate/Syndicate/Vice-Chancellor. In case of any conflict or inconsistency between the prospectus on the one hand and the aforesaid Panjab University Rules and Regulations/Guidelines/Hand Book of information/decisions of Senate/Syndicate/Vice-Chancellor, on the other, the latter shall prevail.

29. According to the aforesaid paragraph, it is provided that the eligibility conditions for B.Com. LL.B. (Hons.) 5 years Integrated Course shall be governed by the respective rules/regulations as enshrined in the P.U. Calendar and/or the General Guidelines for Admissions/Hand Book of Information issued by the University and/or decisions of the University Senate/Syndicate/Vice-Chancellor and in case of any conflict in the prospectus on one hand and the University Rules, on the other, the latter shall prevail, meaning thereby, the rules/regulations as enshrined in the P.U. Calendar and/or the General Guidelines for Admissions/Hand Book of Information issued by the University would have precedence over and above the prospectus. Since it is provided in the Panjab University Calendar that weightage has to be given for the purpose of admission in regular B.Com. Course and this Court had equated the B.Com. LL.B. (Hons.) 5 years Integrated Course with the regular B.Com. Course while amending the eligibility criteria of the prospectus for the year 2011, which has not even been challenged by the respondent-University, therefore, the net result, which comes out from it, is that the same treatment is required to be given to the petitioners as is being given to the candidates seeking admission in regular B.Com. Course offered by the University by giving them weightage as provided therein.

30. Insofar as the argument raised by counsel for the respondents that the petitioners are now estopped by their own act and conduct to make this prayer at this stage when the tentative merit list has been prepared is concerned, a pertinent question was put to the counsel for the respondents that when the petitioners had made a representation to them in this regard on 19.07.2013,

then why it has not been decided either way till date, but there was no satisfactory reply to this question.

31. Be that as it may, the fact remains that the tentative merit list has been prepared and the petitioners have prayed for quashing of the eligibility criteria to bring it in consonance with the criteria for admission to the regular B.Com. Course offered by the University. It may also be highlighted that a student has to choose his academic stream as soon as he enters in 10+1 class. If a student chooses Medical stream, he is to study particular subjects of Medicine. Similarly, if he chooses Commerce stream, he has to study Commerce subjects in which Accountancy is one of the major subject which is not being taught to the students coming from Arts or Medical or Non-Medical streams, who though have an elective subject either Mathematics or Economics but a student coming from Arts stream with elective subject either Mathematics or Economics may not be able to get admission in regular B.Com Course because his eligibility percentage is fixed higher as the student having passed all subjects of Commerce is required to have at least 40% marks, with two Commerce subjects at least 45% marks and without any Commerce subject at least 50% marks, and in order to promote the students from the Commerce subjects, the weightage system has been provided to the extent of 4% for each Commerce subject.

32. Thus, after 3 years of studies, the student will get Degree of Commerce, whereas the same student is getting the Degree of Commerce after 3 years while doing the B.Com. LL.B. (Hons.) 5 years Integrated Course, as has been decided in the meeting of the Senate dated 22.12.2012 and 24.01.2013 in which it has been approved that "if a student of 5-Year B.A. LL.B. (Honours) Integrated Course wishes to discontinue his/her studies, he/she be awarded the degree of B.A. After successful completion of the first three years of the course". This decision of the Senate is contrary to what has been argued by counsel for the respondent-University that the Bar Council of India has prohibited lateral exit by bifurcating the two Degrees of B.A. And LL.B. If the University itself has decided to give Degree after completion of successful 3 years Course to the B.A. LL.B. (Hons.) 5 years Integrated Course students, the same Degree shall be awarded to the B.Com. LL.B. (Hons.) 5 years Integrated Course as well but that stage has not come as the B.Com. LL.B. (Hons.) 5 years Integrated Course has started only in the year 2011 and the 3 years would be over in 2013-14 only.

33. Thus, there is hardly any substance in the arguments made by counsel for the respondents to discriminate two sets of students who are pursuing the Degree of B.Com. LL.B. (Hons.) 5 years Integrated Course and the Degree of regular B.Com. Course offered by the University, by not giving weightage to the candidates seeking admission to the B.Com. LL.B. (Hons.) 5 years Integrated Course.

34. In view of the aforesaid discussion, I find merit in the present writ petitions and accordingly the same are hereby allowed. The respondents are directed to give weightage to the petitioners while preparing their final merit list for the

purpose of admission to the B.Com. LL.B. (Hons.) 5 years Integrated Course, as is being given by them to the students who are seeking admission in the regular B.Com. Course offered by the University. A copy of this order be given to the counsel for the parties under signatures of the Special Secretary attached to this Bench.