

(2020) 10 P&H CK 0218

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 17553 Of 2020

Deepankita Syal

APPELLANT

Vs

Syndicate, Punjab University And Others

RESPONDENT

Date of Decision : 29-10-2020

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2020) 10 P&H CK 0218

Hon'ble Judges : Jasgurpreet Singh Puri, J

Bench : Single Bench

Advocate : H.K. Aurora, Subhash Ahuja

Final Decision : Disposed Of

Judgement

Jasgurpreet Singh Puri, J

The present civil writ petition has been filed under Article 226 of the Constituion of India with a prayer for issuance of writ in the nature of certiorari

for quashing the impugned resolution dated 13.12.2019 passed by respondent No.1 i.e. Syndicate, Punjab University, Chandigarh and also Annexure

P-2 i.e. letter dated 22.5.2020 vide which it has been conveyed to the petitioner that the earlier decision of the Syndicate dated 13.12.2019 has been

reiterated.

As per the report placed on record through whatsapp message, respondent No.4 has been served, however, no one has appeared on behalf of

respondent No.4.

The factual controversy involved in the present case is that the Directorate of Higher Education, Chandigarh Administration issued an online joint

prospectus of Government and privately managed aided colleges for the year

2019-2020 (Annexure P-7) for admission to various courses in the colleges. In Clause 14 of the aforesaid online joint prospectus it has been stipulated that the compulsory subjects in the undergraduate course would be English, Punjabi/History and Culture of Punjab and Environment, Road Safety Education, Violence against Women/Children and Drug abuse. The aforesaid Clause 14 of the prospectus is reproduced as under :-

14. Compulsory Subjects for Undergraduate students

a. English

b. Punjabi/History and Culture of Punjab :Only the following students may take up History and Culture of Punjab in place of Punjabi Compulsory.

i. Candidates who are not domicile of Punjab and have not studied Punjabi at Matriculation or 10+2 level either as an elective or additional (optional)

subject (vide the Panjab University letter No.ST9595, dated 3 October, 2011).

ii. Wards of Defence Personnel and Central Government Employees who are transferable on all-India basis.

iii. Foreigners.

c. Environment, Road Safety Education, Violence against Women/Children and Drug Abuse : It is a compulsory paper, which the students

are required to pass with the least 33% marks either in 2nd, 4th and 6th semester of the course, failing which the Degree will not be issued.

The petitioner applied for admission to B.A.-I (Pass course) and preferred the subject combination of Economics, Political Science and Psychology

(described in the form as elective subjects) alongwith seven other subject combinations. Alongwith the same she was required to get the compulsory

subject under Clause 14, which included Punjabi as well. A perusal of sub-clause (b) of Clause 14 would show that in the compulsory subject of

Punjabi/History and Culture of Punjab, normally the subject of Punjabi would be compulsory but an exception is provided wherein a student can take

up the subject of History and Culture of Punjab in place of Punjabi if the student fulfils the twin conditions, firstly, the candidate, who is not a domicile

of Punjab and secondly, has not studied Punjabi at matriculation or upto 10+2 level either as an elective or additional (optional) subject (vide Panjab

University letter No.ST 9595 dated 3rd October 2011). In other words the normal interpretation of the said clause 14(b) would be that every student

will have to take up Punjabi as a compulsory subject but a departure can be made when these two conditions, which are co-existent, are satisfied. In

case one of the condition is not satisfied then in that situation there is no alternative but to take up Punjabi as a compulsory subject. The petitioner is a

candidate who had taken up Punjabi as an additional subject in 10th class (matriculation class) and therefore opted to make a representation before the

respondent University to permit her to appear in the subject of History and Culture of Punjab instead of the compulsory subject of Punjabi on the basis

of the exception created in clause 14(b). The University through its Deputy Registrar General, vide Annexure P-9 dated 25.11.2019, informed the

petitioner that the Competent Authority has allowed the petitioner who had passed Punjabi as an additional subject at 10th level to opt the paper

History and Culture of Punjab instead of Punjabi (compulsory) at graduation level. The said letter of granting of permission is reproduced as under :-

“Please refer to your application dated 13.09.2019 on the subject cited above.

It is to inform you that the competent authority has allowed that Ms. Deepankita Syal d/o Mrs. Monika, who has passed Punjabi as an

additional subject at 10th level may opt the paper History and Culture of Punjab instead of Punjabi (Compulsory) at graduation level.”

Thereafter on the basis of the permission granted by the University itself, the petitioner appeared in B.A. 1st semester in the paper of History and

Culture of Punjab instead of Punjabi compulsory in accordance with the permission so granted by the University. Thereafter she was promoted to 2nd

semester of B.A. Part-1 again with History and Culture of Punjab instead of Punjabi as compulsory subject. She attended the classes of History and

Culture of Punjab in the second semester and never studied Punjabi in both the semesters. Thereafter she appeared in the second mid semester again

in History and Culture of Punjab but her roll number was shown in both the subjects i.e. Punjabi and History and Culture of Punjab.

However, her result was marked absent in the paper of Punjabi and her result in the History and Culture of Punjab was not shown or declared. The

University did not declare the final result of second semester of any of the student. Thereafter, the petitioner was promoted to third semester with the

condition that she will have to pass the paper of Punjabi (compulsory) for first semester and so on as deficient subject. Now the examination for the

third semester is again fixed for 3rd of November which is also subject to change as informed by the University.

Learned counsel for the petitioner has argued that in the present case the petitioner made representation to the University and the University took a

conscious decision by granting permission to the petitioner for appearing in the subject of History and Culture of Punjab instead of Punjabi

(compulsory) while making the departure from the basic rule that the Punjabi (compulsory) is to be taken where a candidate has passed Punjabi in

10th or 10+2 class. He has submitted that once such a decision was taken by the competent authority then the University cannot take 'U' turn and now

jeopardize the career of the petitioner by asking her to appear for Punjabi (compulsory) right from the first semester itself which has caused acute

stress to the petitioner. Learned counsel for the petitioner has further argued that action of the University is totally illegal and perverse as the

University has played with the career of the petitioner who was left in anomalous situation where she was supposed to prepare for both the

examinations without even knowing as to in which examination she would ultimately be required to appear.

After notice of motion was issued in the present case, the University has filed reply in the present case. In the reply, which has been filed by the

Registrar of the University it has been admitted that vide Annexure P-9, the petitioner was allowed to opt History and Culture of Punjab in lieu of

Punjabi but the same was conveyed on the basis of recommendation of the Committee constituted by the then Registrar of the University, which was

approved by the Vice Chancellor but the recommendations of the Committee were referred to the Syndicate, which is the competent body, which did

not approve the recommendations of the said committee to be contrary to the statutory regulations as is patent from the minutes dated 13.12.2019

which have been attached as Annexure R-1/1.

Shri Subhash Ahuja, learned counsel for the respondent University has argued that in the regulations of the University i.e. Panjab University Calendar

Regulation 2.2 appearing as page 37 of the Panjab University Calendar Vol.2, 2007 as well as regulation meant for B.A./B.Sc (General and Honours)

(Semester System), it has been categorically provided that the said three categories of students shall be entitled to take option of History of Culture of

Punjab in lieu of Punjabi as a compulsory subject, namely, students who are not domiciled in Punjab and have not studied Punjabi upto Class 10th ,

secondly, wards of/and Defence Personnel and Central Government employees who are transferable on all India basis, and thirdly, foreigners. The

aforesaid Regulation is reproduced as follows :-

the following categories of students shall be entitled to take the option of History of Culture of Punjab in lieu of Punjabi as a

compulsory subject :

- Students who not domiciled in Punjab and have not studied punjabi upto class 10th.

- Wards of/and Defence personnel and Central

Government employee/s who are transferable on all India basis.

- Foreigners.

He has submitted that the regulations of the University, which have statutory force are very clear to the extent that a candidate who has studied upto

10th class would not be entitled to seek an exemption from Punjabi as compulsory subject. In other words any candidate who has studied upto 10th

class will have to take Punjabi as compulsory subject and cannot take up the option of History and Culture of Punjab as a substitute for Punjabi

(compulsory) subject. He has further submitted that both the conditions, namely, students were not domiciled in Punjab and secondly, who have not

studied Punjabi upto 10th class are conditions which are co-existent of each other and both of them have to be satisfied in case any departure is to be

made. In the present case, according to learned counsel for the University the second condition that the candidate has not studied upto 10th class is

not satisfied and therefore the permission granted by the University earlier to the petitioner was contrary to the statutory regulations apart from being

contrary to the prospectus and therefore there is no vested right in the petitioner for continuing with the option of History and Culture of Punjab in lieu

of Punjabi as compulsory subject.

Learned counsel for the University has further elaborated upon as to how the course of events have been adopted till the time when the case of the

petitioner was rejected by the Syndicate. He has referred to the reply which has been filed by the respondent-University wherein the

recommendations on the basis of which the permission was granted to the petitioner have been reproduced. The recommendations dated 18.10.2019

and 15.11.2019 are reproduced as under :-

Recommendations dated 18.10.2019 :

Resolved that since there is no provision in the Regulations for the candidates who have passed Class 10th with Punjabi as an additional subject,

such candidates may opt any of the subjects i.e. Punjabi or History and Culture of Punjab at the graduation level. Further Resolved that the

similar cases may be treated at par with and the minutes of this Committee, after getting the approval of the Vice-Chancellor, be circulated to the

concerned quarters.

Recommendations dated 15.11.2019 :

(i) Once the decision is taken by a Committee that consists of 4 Senate/Syndicate members, obviously that decision has superintendence over the

decision taken by the previous Registrar. Therefore, in this particular case the student be allowed to opt for History and Culture of Punjab.

(ii) In order to make it a Regulation/Rule for future, the proceedings of the Committee be sent to the Syndicate for approval.

The recommendations of the Committee dated 15.11.2019 approved by the Vice-Chancellor.

A perusal of the above shows that the Committee which had recommended the approval for the petitioner categorically stated that since there is no

provision in the regulation for the candidates who have passed class 10th with Punjabi as an additional subject, such candidates may opt any of the

subject i.e. Punjabi or History and Culture of Punjab at graduation level and further in the recommendations dated 15.11.2019, it states that once the

decision is taken by the committee that consists of 4 Senate/Syndicate members, obviously that decision has superintendence over the decision taken

by the previous Registrar and therefore in this particular case the student be allowed to opt for History and Culture of Punjab. Further it has also been

stated that the recommendations of the committee are being approved by the Vice-Chancellor. Therefore, the recommendations, which were made by

the committee for grant of exemption to the petitioner, were approved by the Vice-Chancellor. Shri Ahuja, learned counsel for the University further

submitted that even if the recommendations were made by a Committee and

approved by the Vice-Chancellor the same could not have been made in violation of the statutory provisions which are contained in the regulations which have been reproduced above. He has further submitted that no prejudice has been caused to the petitioner in view of the fact that now the Syndicate while disapproving the recommendations of the Committee has permitted the petitioner to appear in the Punjabi examination semester one as a deficient subject/paper.

I have heard learned counsel for the parties at length.

The core issue involved in the present case is that once a candidate makes a representation to the University for grant of exemption for opting out from the Punjabi compulsory subject and when the Vice-Chancellor of the University approves the same then whether the Syndicate can reject the approval granted by the Vice-Chancellor so as to come within the parameters of the statutory regulation or not. The petitioner has admittedly studied Punjabi subject in Class 10th. However, the petitioner did not study the Punjabi subject as an elective subject but studied the subject of Punjabi as an additional subject. A perusal of the regulations shows that it has been provided that 'only those candidates who have not studied Punjabi upto 10th Class', can apply for option of History and Culture of Punjab. These regulations do not speak anything as to whether the subject is studied as an elective subject or an additional subject and no distinction has been made in the said regulations. It appears that in the prospectus which has been issued vide Clause 14(b) the scope of the aforesaid regulations was interpreted and enlarged to include those students who have not studied Punjabi at matriculation or 10+2 level either as an elective or an additional (optional) subject. A comparison of both the statutory regulations and the provision mentioned in Clause 14(b) of prospectus, would show that there does not seem to be any inconsistency between the two. However in Clause 14(b), 10+2 level as well as the expression elective or additional (optional) subject has been used. However, a perusal of both the regulations as well as Clause 14(b) would show that one condition is sine qua non or a condition precedent namely that in case candidate has studied Punjabi at 10th class then he will not be entitled for choosing the subject of History and Culture of Punjab instead of Punjabi (compulsory). In the present case the petitioner has admittedly studied Punjabi at 10th class, however, the same was as an

additional subject. While applying Clause 14(b), the position becomes very clear that even if she has studied Punjabi as additional subject in 10th class, still she will not be entitled for exemption and will not be entitled to choose Punjabi as compulsory subject. Similarly, by applying Regulation 2.2, it becomes clear that in case a candidate has studied Punjabi upto 10th class, then, the candidate will not be entitled to the exemption for taking up the option of History and Culture of Punjab as no distinction has been made between elective or additional subject.

In the present case the petitioner made a representation to the University and the Vice-Chancellor of the University granted the approval to the petitioner to appear for History and Culture of Punjab instead of Punjabi by making a departure from the rule contained in the Regulation 2.2 and the Clause 14(b) of the prospectus. The stand taken by the University in the written statement is that such a recommendation and approval was contrary to the statutory provisions and therefore no prayer can be granted in violation of the statutory provisions by the Court. Therefore, in the present case two issues arise, which need consideration as follows :-

1. Whether a vested right accrued on the basis of an approval granted by an officer of the University in violation of the Statutory Regulations and the prospectus or not ?
2. Whether the conduct of the University officials entitles the petitioner to continue with the subject of History and Culture of Punjab or not ?

So far as issue No.1 is concerned it is a settled law that an action of an official if it is in derogation and in violation of the statutory provisions of law or a prospectus, the same cannot be sustained and perpetuated as no right can be vested in a candidate in that regard. Learned counsel for the University has placed reliance upon Full Bench judgment of this Court in Raj Singh vs. The Maharshi Dayanand University 1994(2) PLR 32 wherein it was held that the eligibility for admission to a course has to be seen according to the prospectus issued before the entrance examination and admission has to be made on the basis of instructions given in the prospectus.

So far as the second issue is concerned, the petitioner although was permitted by the University to take an examination in History and Culture of Punjab, but the same was reversed by the Syndicate and therefore she would not be entitled to continue with the subject of History and Culture of

Punjab as there can be no estoppel against law.

In view of the above, there seems to be force in the arguments raised by learned counsel for the respondent-University that an action of an officer of

the University in violation of the prospectus as well as the statutory regulations cannot vest any right on a candidate to seek a relief contrary to the

statutory provisions of law. There can be no estoppel against the law. Therefore, the prayer of the petitioner that she should be permitted to continue

with the subject of History and Culture of Punjab in lieu of Punjabi as compulsory subject is declined. Since the permission has already been granted

by the Syndicate to the petitioner to appear in the Punjabi examination (semester one) as a deficient subject/paper, the same can certainly be availed

by the petitioner to cope up with the deficiency as approved by the Syndicate.

However, at this juncture, looking at the action and conduct of the University in first granting approval to the petitioner for appearing in the subject of

History and Culture of Punjab, in which she appeared in two semesters and out of the semesters result of semester one was declared as pass and she

was promoted to the second semester and in view of the fact that the University itself has taken up stand in para 2 of the reply that the

recommendations of the Committee as approved by the Vice Chancellor were contrary to the statutory regulations, this Court would certainly consider

the imposition of costs upon the University in this regard. The petitioner was allowed by the University itself although contrary to the statutory

regulations but the same being approved by the Vice Chancellor, she was left in dilemma for two years and therefore not only her career was

jeopardized but also posed psychological stress upon the petitioner.

Therefore, considering the facts and circumstances of the present case, the University is burdened with a cost of Rs.25,000/- which the University

shall pay to the petitioner within a period of 30 days from today.

In view of the above, the present petition stands disposed of.