

(2014) 08 P&H CK 0253
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 7782 of 2014 (O&M)

Harshdeep Narang

APPELLANT

Vs

Punjab University

RESPONDENT

Date of Decision : 06-08-2014

Acts Referred:

Citation : (2014) 08 P&H CK 0253

Hon'ble Judges : Gurmeet Singh Sandhawalia, J

Bench : Single Bench

Advocate : Gurcharan Dass, Advocate for the Appellant; Amar Vivek, Ramanjit Singh, Advocates and Amit Dhawan, Advocate for the Respondent

Final Decision : Dismissed

Judgement

G.S. Sandhawalia, J.—This judgment shall dispose of four writ petitions, bearing CWP Nos. 7782 to 7784 of 2014 & 7902 of 2014, involving common questions of law and facts. However, to dictate orders, facts have been taken from CWP No. 7782 of 2014 titled Harshdeep Narang & others Vs. Panjab University, Chandigarh & others.

2. The present writ petition has been filed for directing respondents No. 1 & 2 to allow the petitioners to take the examination of the 8th semester of the 4th year of B.A.LL.B. (Hons.) 5 Year Integrated Course (hereinafter, to be referred to as the "Course"), in all the papers, as has been allowed by respondents No. 1 & 2, in the case of respondents No. 3 & 4.

3. The case of the petitioners is that they are students of the said Course and are studying in the 8th semester. They suffered shortage of lectures in the 8th semester and petitioner No. 1 is short of 91 lectures in the 5th semester due to suffering from asthma (breathing problem) whereas petitioner No. 2 suffered fracture on her ankle and is short of 80 lectures and petitioner No. 3 suffered from piles and remained under treatment and is short of 82 lectures. The medical certificates were submitted and request was made for condoning the shortage of

lectures since the examination was to be held on 22.04.2014. A joint representation was also made on the said date to the Vice-Chancellor of the University (Annexure P1) but no decision had been taken on the same though they had been marked to the Director of the Regional Centre, Ludhiana, on the said date. Reference was also made to the rules to show that deficiency could be condoned by the Head of the Department upto 30 lectures and by the Vice-Chancellor and by the Syndicate, upto 10 lectures each and in such circumstances, the present writ petition was filed. It was further pleaded that respondent No. 3, Simarjit Singh Bedi was short of 96 lectures but he had been given permission to sit in the 1st paper of the 4th semester whereas respondent No. 4-Anmol Jindal, a student of the 2nd semester, was short of 68 lectures but he had been allowed to appear and take examination of the 2nd semester.

4. Notice of motion was issued on 25.04.2014 and on account of the submission of counsel for the petitioners that advance copies have already been supplied to counsel for respondents No. 1 & 2, Mr. Ramanjit Singh, Advocate, appeared on behalf of the University and interim relief had been granted on the consent given. However, the same was only provisional and subject to the final decision of the writ petition. Even the University had also been directed to give the details of the number of students studying at Ludhiana, number of faculty members apart from the number of lectures delivered and number of lectures attended by the petitioners and by the private-respondents.

5. In the written statement filed, the details of all the shortage of lectures of the petitioners in the present case and in connected matters in Annexure R1 and even the details of Simarjit Singh Bedi and Anmol Jindal, respondents No. 3 & 4, respectively, has been given, in compliance of the orders of this Court. Relevant portion of Annexure R1 reads as under:

6. Thus, it is clear, as detailed out above, that petitioner No. 1, Harshdeep Narang, attended only 86 lectures out of 236 lectures whereas the requirement was of 75% lectures, which amounted to 177 lectures. Thus, there was shortage of 91 lectures and in his case, condonation of lectures could have been upto 30 lectures by the BOC/Chairman and another 10 lectures, each, could be condoned by the Vice-Chancellor and the Syndicate. Even after giving the said benefit, the said petitioner would remain short of 41 lectures. Similarly, the data of petitioner No. 2, Damini Sharma, would go on to show that she would have shortage of 30 lectures since she only attended 102 out of 242 lectures whereas, petitioner No. 3, Sahil Sharma attended 66 lectures out of 198 lectures and is also short of 33 lectures, even if benefit of condonation is given, as per regulations. The petitioners, in all the cases, are similarly falling short of lectures, ranging from 16 to as many as 107 lectures, after granting all the requisite benefits, which could be granted under the statute. Thus, it is apparent that there is a major shortage of lectures by the petitioners and as per mandatory requirement under the University Calendar, the said attendance cannot be condoned.

7. Counsel for the petitioners vehemently submits that due to the medical

reasons, as pleaded, there was a shortage and there was also not adequate staff.

8. The said submission cannot be accepted. There is nothing on record to show that the petitioners, at any stage, prior to when the examination was taking place, made any such proper representation that they were running short of lectures or there was shortage of staff so that the University could make some alternative arrangement. It is at the last moment that this Court was approached and an interim order was passed by serving advance copies and by making mention and getting the cases listed on the same day. The University has also filed application for withdrawal of the said consent on the ground that a wrong concession had been given. The note of the regulation reads that such permission is to be asked for within 7 days of hardship being over. It reads as under:

2. The Syndicate may, for reasons to be recorded, make further relaxation up to 10 lectures delivered in various paper(s) in cases of extreme hardship beyond the limit/s stipulated in (1) above. Note: For condonation of lectures on the ground of extreme hardship cases, information to the effect along with supporting documents, if any, should be sent to the Department within seven days after the hardship is over.

9. The Apex Court in *Regional Engineering College, Hamirpur and Another Vs. Ashutosh Pandey*, had set aside the order of the High Court whereby the shortage of lectures beyond the permissible limit had been allowed against the regulations. Relevant observations read as under:

8. A perusal of the Regulation shows that a candidate should first have 75% of minimum attendance in that course under Regulation 4.1. Regulation 4.2 mentions the circumstances under which further exemption can be granted by the Principal. The Principal can give further credit upto an extent of 10% of the total classes held in each course during the period of a student's participation in the programmes/competitions mentioned in Regulation 4.2. The Principal can exempt upto 10% of the total classes only in contingencies as mentioned in Regulation 4.2. Thus, 10% is the maximum in addition to 25%.

9. In addition, Regulation 4.3 is specific that the condonation on account of reasons listed under (4.2) shall not exceed 10% of the total lectures delivered during the semester. It also states that a candidate will have to apply to the concerned Head of Department on prescribed pro forma along with the reasons and documents in proof of his absence. Condonation can be granted by the concerned Head of the Department with the prior approval of the Principal. Thus, 10% in excess of 25% alone, is the maximum that can be condoned.

10. In the present case, the respondent did not make any application in the prescribed pro forma. Therefore, it is not possible to say whether his case comes within the contingencies mentioned in Regulation 4.2. It is no doubt stated that the respondent had gone to Delhi to appear in the examination/interview, but it is not clear whether that was an examination/interview held by a Government

Organization/Public Limited Company. In any event, admittedly after deducting admissible 25% exemption, further absence of the respondent comes to 11% which is more than the permissible discretionary percentage granted to the Principal. Therefore, the Principal was right in saying he had no power to condone the absence in excess of 10% in addition to 25%.

11. We are, therefore, of the opinion that the High Court fell into an error in permitting condonation of absence beyond 10% in addition to 25%. We, therefore, set aside the judgment of the High Court and the directions given therein.

12. Pending this appeal there was stay of the impugned order and this Court also observed that it would be open to the respondent to appear in the examination in December, 1998 provided he had complied with all other requirements for appearing in the supplementary examination.

10. Similarly, in *A.P. Christians Medical Educational Society Vs. Government of Andhra Pradesh and Another*, the Apex Court held that direction could not be issued to the University to do something which it is forbidden from doing, under the University Regulations and even if the students had to lose money and lose one or two years of his career but they were to be blamed themselves for that. Relevant observation reads as under:

We are unable to treat what the University did in the case of the Daru-Salaam Medical College as a precedent in the present case to direct the University to do something which it is forbidden from doing by the University Act and the regulations of the University. We regret that the students who have been admitted into the college have not only lost the money which they must have spent to gain admission into the college, but have also lost one or two years of precious time virtually jeopardising their future careers. But that is a situation which they have brought upon themselves as they sought and obtained admission in the college despite the warnings issued by the University from time to time. We are happy to note that the University acted watchfully and wakefully, issuing timely warnings to those seeking admission to the institution. We are sure many must have taken heed of the warnings issued by the university and refrained from seeking admission to the institution. If some did not heed the warnings issued by the university, they are themselves to blame.

11. Accordingly, in such circumstances, due to the gross shortage of lectures, it is apparent that the petitioners are not qualified and not entitled to sit in the said examination as they do not have the basic eligibility and they failed to attend the necessary requisite classes and they have not got sufficient practical experience. Submission of counsel for the petitioners that respondents No. 3 & 4 have been granted necessary benefit is also of no help to the petitioners as separate writ petition has also been filed by respondent No. 4-Anmol Jindal, which is pending before a Co-ordinate Bench of this Court, which shall be decided on the strength of its merit. Respondent No. 3-Simarjit Singh Bedi, as per chart, is short of 96

lectures and after being considered for benefit, will still fall short of 46 lectures and his candidature has not been recommended by the University.

12. Accordingly, in such circumstances, all the writ petitions are, hereby, dismissed. All the interim orders shall stand vacated and the University shall not be under obligation to declare the result of any examinations, which were held under the interim orders of this Court. As the writ petitions itself are being disposed of, no further orders are required to be passed in the pending CM applications.