

(1998) 05 P&H CK 0038
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 4316 of 1997

Maharshi Dayanand University

APPELLANT

Vs

Dr. Jitender Singh Lauria

RESPONDENT

Date of Decision : 07-05-1998

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 104, 96
Maharshi Dayanand University Act, 1975 — Section 5

Citation : AIR 1999 P&H 95 : (1998) 120 PLR 515 : (1998) 3 RCR(Civil) 112

Hon'ble Judges : Sat Pal, J

Bench : Single Bench

Advocate : Ashok Aggarwal and Subhash Goyal, for the Appellant; H.S. Gill and G.S. Gill, for the Respondent

Final Decision : Allowed

Judgement

Sat Pal, J.—By this order, I am disposing of two revision petitions bearing C.R. Nos. 4316 and 4317 of 1997 as the facts and point of law involved in both the cases are identical. For the purpose of this case, the facts of C.R. No, 4316 of 1997 have been taken.

2. This petition (C.R. No. 4316 of 1997) has been directed against the order dated 19-7-1997 passed by the learned Additional District judge, Rohtak. By this order, the learned Additional District Judge has held that the appeal filed by the petitioner-University is not maintainable as the said appeal was filed by the Registrar who has not been authorised by the competent authority (Executive Council) to file the appeal. Notice of this petition was issued to the respondents.

3. Mr. Ashok Aggarwal, learned senior counsel appearing on behalf of the petitioner submits that the learned lower appellate Court while passing the impugned order has relied upon a judgment of this Court in the case of Punjabi University v. M. R. Garg, 1996 PLR 484, but the said judgment itself has been set aside by the Hon'ble Supreme Court in Civil Appeal No. 14568 of 1996* and the order of the Hon'ble Supreme Court has been reproduced in para 5 of the

grounds of revision. He further submits that in any case, the Executive. Council during the pendency of the appeal itself, has passed a resolution dated 30-11-1996 authorising the Registrar to file a suit/appeal on behalf of the University. The learned counsel further submits that in any case, the appeal filed by the petitioner-University was against an interlocutory order passed by the learned trial Court and as such no fresh authorisation was necessary to be given in favour of the Registrar for filing the appeal. In support of this submission, the learned counsel placed reliance on judgment of this Court in the Punjabi University and Another Vs. Lal Jeet Singh, .

4. Mr. Gill, learned senior counsel appearing on behalf of the respondent, however, submits that in the case of M. R. Garg (supra), the judgment of this Court was set aside by the Hon''ble Supreme Court as in that case, the Syndicate had passed resolution on 23-4-1992 authorising the Registrar of that University to defend the case instituted against the University and to file the suit/appeal in the law Courts on behalf of the University. He further submits that in the present case, the Executive Council has passed the resolution after the appeal had already been filed by the Registrar of the University. The learned counsel further submitted that even the ratio of the judgment of this Court in the case of the Punjabi University (supra) will not apply to the facts of the present case as in that case also, the Registrar of the University was authorised to file the suit and it was held by this Court that since the Registrar was authorised to file the suit, there was no necessity for another authorisation letter to file the appeal against an interlocutory order. He submitted that in the present case, no document has been placed on record which could show that the Registrar was authorised to file the suit.

5. After hearing the learned counsel for the parties and having perused the impugned order, I am of the opinion that the impugned order cannot be legally sustained in view of the judgment of the Supreme Court in the case of M.R. Garg, 1997 (10) SCC 424 . From the records, I find that in the case of M.R. Garg (supra) also resolution dated 23-3-1992 was passed by the Syndicate of that University after the appeal had already been filed by the Registrar. In the present case also, as stated hereinabove, the University passed resolution dated 30-11-1996 when the appeal itself was pending before the learned lower appellate Court.

6. In view of the above discussion, the petition is allowed and the impugned order dated 19-7-1997 passed by the learned lower appellate Court is set aside and the matter is remanded to the learned lower appellate Court to decide the appeal on merits. Keeping in view the facts and circumstances of the case, the learned lower appellate Court is directed to dispose of the appeal on merits expeditiously preferably within three months from the date when a copy of this order is made available to the learned lower appellate Court. A copy of this order be given dasti on usual payment.