
(1993) 04 P&H CK 0010
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1720 of 1993

Meenakshi Kapila and Others

APPELLANT

Vs

Punjabi University and Others

RESPONDENT

Date of Decision : 26-04-1993

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1993) 104 PLR 174

Hon'ble Judges : R.S. Mongia, J

Bench : Single Bench

Advocate : J.S. Toor, for the Appellant; Gur Rattan Pal Singh, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Mongia, J.—This judgment of mine will dispose of C. W. P. Nos. 1720, 2445, and 2638 of 1993, as common questions of law and fact arise in all these cases.

2. According to the Ordinances of the Punjabi University, Patiala, for getting admission in B. A. Part I, B-Com. Part I, B. Sc. Part 1 (Three years" course), a candidate is required to have passed the Plus 2 examination of Punjab School Education Board or any other examination recognised as equivalent thereto. On 28th July, 1992, the Assistant Registrar (Colleges) of the University issued a letter to all the Principals of Arts and Science Colleges, which are affiliated to the Punjabi University, Patiala, intimating that the Vice-Chancellor of the University in application of the approval of the Academic Council/Syndicate, had directed that those candidates who had got re-appear/compartament in the 10+2 examination of the Punjab School Education Board or its equivalent may be admitted provisionally to B. A./H. Sc./B. Com Parti, subject to such candidates clearing 10+2 examination by September, 1992, failing which their admission to B A./B Sc./B. Com. Part I, as the case may be, would stand cancelled. This decision of the Vice-Chancellor was to be made applicable for the Session 1992-93.

3. The petitioners in all these cases had got compartment/reappear in one paper of 10+2 examination and by virtue of the decision of the Vice Chancellor, they were provisionally admitted in various Colleges in B. A./B. Sc./B. Com. Part I. It may be observed here that the decision of the Vice-chancellor, referred to above, was approved by the Syndicate in its meeting held on 31st August, 1992. It is not disputed that all the petitioners failed to clear their compartment/re-appear paper 10+2 in the supplementary examination held by the Punjab School Education Board somewhere in September, 1992. The University held the petitioners to be ineligible for appearing in B. A./B. Sc./B. Com Part I examination, which was to be held in March/April, 1993. This led the petitioners to file the present writ petition.

4. The Motion Bench while admitting the writ petitions on March, 12, 1993, ordered that the petitioners be permitted to take the practical examination, which was to be held on 14th of March, 1993, which was, however, subject to the decision of the writ petition. It was further ordered that the writ petitions be listed for final hearing on 22nd March, 1993. This case was listed before me, but on 31st March, 1993, I had observed that it may not be possible for this Court to decide the main case itself before 8th April, 1993 as between 31st March and 8th April, 1993 there were only three working days. The examination was to commence on 8th April 1993. Consequently, this Court had directed the University to allow the petitioners to take B. A. /B.Sc. /B.Com. Part I examination, provisionally subject to the final decision of the writ petition.

5. The argument of the learned counsel for the petitioners is that the Punjab School Education Board gives two chances to clear re-appear/compartment paper, of 10+2 examination. It has further been argued that the petitioners have been allowed by the College Authorities to complete their entire course of 1st year and it will be too harsh if at the fag end of the course of the 1st year their admission to B. A. B.Sc./ B.Com. Part I examination is cancelled. According to the learned counsel, the Authorities are estopped from canceling the admissions at this stage, especially when by virtue of the interim order of this court all the petitioners have appeared provisionally in B. A. /B.Sc. /B.com. Part I examination.

6. On the other hand learned counsel appearing on behalf of the University submitted that strictly in accordance with Ordinances of the University, provisional admission to B.A. /B.Sc. /B.Com. Part I was not possible of these students who had got re-appear/ compartment in the 10+2 examination, was Ordinance, only a candidate who had passed 10+2 examination, was entitled to seek admission in Part I of B.A. /B.Sc. B.Com. According to the learned counsel. It was a concession shown by the university to the candidates who had got re-appear/compartment in the 10+2 examination to get provisional admission subject to their passing the re-appear/compartment paper of the said examination to be held by the Punjab School Education Board. According to him the Concession shown by the university has to be strictly construed and its scope cannot be widened by this court. If the concession was to the extent that

provisional admission would last only till September, 1992. subject to the candidate's clearing the re-appear/compartement of 10+2 the petitioners cannot now claim that they should be allowed to continue in B.A. / B.Sc. / B.Com. Part I, till the chances allowed by the Punjab Scholl Education Board are exhausted by the candidates. he further went on to submit that the University is not concerned as to how many chances the other examining body (Punjab School Education Board in this cases) gives to the candidate to clear the particular re-appear/compartment paper. The candidates are to be governed only by University Ordinances/Instruction issued by it.

7. After hearing the learned counsel for the parties, I do not find any merit in these writ petitions. The petitioner have not shown me any right in them to continue their studies in B.A. /B.Sc. B.Com. part I after they had failed to clear the compartment /re-appear of 10+22 till September, 1992. As observed earlier, in fact, according to the university Ordinances, Such candidates had no right to seek admission in B. A/B. Sc/B. Com. Part I Classes. It was only by virtue of the decision of the Vice-Chancellor/candidate that the candidates who bad got re-appear/compartement in 10 + 2, were given the concession of seeking provisional admission to B. A./B. Sc./B. Com. Part I and their admission was liable to be cancelled if they failed to clear the re appear/compartement paper by September, 1992. If there is no Ordinance/Instruction of the University to extend the provisional admissions till the candidate exhausts all the chances granted by the Punjab School Education Board or other examining authority to clear the re-appear/compartement paper, to my mind, this Court cannot extend the concession granted by the University to a limited extent. The concession has to be strictly construed and implemented in the terms the same is given.

8. I am not oblivious of the fact that the petitioners have appeared in B. A./B. Sc./B Com Part I examination provisionally by virtue of the interim orders of this Court, but that was all provisional and subject to the decision of the writ petition. This Court cannot legislate for the University and lay down that the University should not cancel the result of B. A /B. Sc./B. Com examination till the chances allowed by the Punjab School Education Board to clear the re-appear/compartment are exhausted by the candidate. On the basis of the concession shown by the University, the petitioners very well knew that their admissions were liable to be cancelled if they failed to clear the re-appear/compartement examination of B A./B. Sc./B. Com. Part I [They took admission on that understanding. Consequently, they cannot make any grievance of the fact, as to why their admissions are being cancelled.

9. A special mention be made of the petitioner Sandeep Kumar Singla in C. W. P. No. 2638 of 1993. In this case, the petitioner had appeared in the reappear/compartment paper of 10 + 2 examination under Roll No. 372004, held by the Punjab School Education Board in September, 1992, but had failed to clear the same. In this case the petitioner had applied for re checking. Needless to mention that if on re-checking, the petitioner is declared pass, then his

admission of" B. A. Part I, would not stand cancelled and his result of the said examination would be declared by the Punjabi University. It would be in the interest of justice that the revaluated result of the petitioner is declared by the Punjab School Education Board within four weeks from the receipt of the copy of the order.

10. For the foregoing reasons, these writ petitions are dismissed. However, there will be no order as to costs.