
(2000) 01 P&H CK 0067

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 16344 of 1999

Miss Mandeep Kang

APPELLANT

Vs

Punjab University and Others

RESPONDENT

Date of Decision : 14-01-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2000 P&H 149 : (2000) 126 PLR 153 : (2000) 2 RCR(Civil) 85

Hon'ble Judges : V.K. Bali, J;Swatanter Kumar, J

Bench : Division Bench

Advocate : A.K. Walia, for the Appellant;

Final Decision : Dismissed

Judgement

V.K. Bali, J.—Miss Mandeep Kang through present petition filed by her under Article 226 of the Constitution of India seeks writ in the nature of mandamus directing the respondents to grant her admission to the 1st semester of the L.L.B. (Three Years Course) for the sessions 1999-2000 either at Amritsar or at Chandigarh on the dint of her improving upon marks in the qualifying examination on re-evaluation. Concededly, as on date when considered she did not have requisite marks necessarily required for admission to the course under contention and therefore, the only question that needs adjudication in the present writ petition is as to whether if on re-evaluation a candidate obtains requisite marks in the qualifying examination for the course in question, even though the said candidate did not qualify even for consideration, such improvement in marks can be taken into consideration for admission in the course.

2. Relevant facts giving rise to this petition reveal that petitioner passed her matriculation examination in the year 1993 and plus two examinations in the year 1995. She joined three years degree course in Government College, Chandigarh in the year 1997. She appeared in B.A. Part III examination in the year 1999. The respondent University in April, 1999 gave a public notice for

holding entrance test for admission to LL.B. (Three Years Course) which was common for Department of Laws, Punjab University, Chandigarh and Punjab University Regional Central, Muktsar. Petitioner appeared in the entrance test held on 17-6-1999 result whereof was declared on 30-6-1999. The petitioner got merit position No. 1303. However, the result of petitioner of the examination of B.A. Part III was declared on 22-7-1999. She obtained 1061 marks in three degree course which was concededly, less than 45% marks. After declaration of the result of entrance test, petitioner submitted separate application forms for admission to respondents 2 and 3. Her case for admission was not considered as she had not obtained minimum 45% marks in aggregate in the qualifying examination i.e. B.A. Petitioner applied for re-evaluation of B.A. Part III examination and in Nov. 1999, the University declared the result of re-evaluation of B.A. Part III examination. Petitioner improved on her marks from 332 to 354 and in this manner aggrieved marks became more than 45%, thus, making the petitioner eligible for admission to the LL. B. (Three Years Course). On improvement of marks as mentioned above, the petitioner submitted a representation to the Punjab University Regional Centre, Mukatsar, respondent No. 3, with a copy to the Vice Chancellor pleading therein that in view of the re-evaluation of marks in the qualifying examination she was entitled to admission in LL.B. (Three Years Course) and that her case for admission may now be considered. When the representation of the petitioner evoked no interest with the respondent, present writ petition for the relief as detailed above was filed.

3. Before we might proposed to deal with the only question that needs determination in the present case and which has been noted above, it is relevant to mention that it has been pleaded and so argued by the Counsel representing the petitioner that as per rules and regulations of the University, in case of re-evaluation of marks, the case of a candidate is to be reconsidered for admission. However, no rule or regulation has either been pleaded in the writ petition nor brought to the notice of the Court during the course of arguments. Sans such a rule or regulation, the matter needs to be determined on the basis of provisions contained in the prospectus and in particular Rule 1 according to which candidates who had appeared/re-appeared in the qualifying examination as applicable under the relevant course during the academic session 1998-99 were also eligible to take entrance test but their admission to the test was purely provisional and was to stand cancelled if they did not pass the qualifying examination securing the prescribed percentage of marks. It may be mentioned at this stage that even though Rule 1 has not been reproduced but mention thereof has been made in para 5 of the writ petition. The writ is silent with regard to cut off date after which no admissions were to be made to the course under contention. It is significant to mention at this stage that whereas entrance test was held, on 17-6-1999, result, thereof was declared on 30-6-1999, the result of B.A. Part III was declared, on 22-7-1999. Still further, petitioner had applied for re-evaluation of her marks in B.A. Part III in July, 1999 result whereof was declared in Nov. 1999. In the declaration of result of the entrance test till

such time result of re-evaluation of marks was declared, there was a time lag of about five months. It is also significant to mention that by the time the result of entrance test was declared, the petitioner was not eligible for admission to LL.B. (Three Years Course) as the result of her qualifying examination had not been declared by then.

4. It is in the circumstances, as have been fully detailed above, that when the matter came up for motion hearing on Nov. 29, 1999, the following interim order was passed :--

"Learned Counsel prays for time to cite authorities in support of his proposition that even in the case of entrance test, the candidate would be entitled to relief on the basis of re-evaluation result in the qualifying examination, although, he was not qualified at the relevant point of time."

5. Counsel for the proposition that relief on the basis of re-evaluation result in the qualifying examination can be given relies upon a Division Bench judgment of this Court in *Amit Sharma v. Kurukshetra University* C.W.P. No. 16432 of 1998 decided on Feb. 8, 1999. The facts of *Amit Sharma v. Kurukshetra University* (supra) reveal that petitioner in the said case had passed matriculation and 10 + 2 examinations in the first division. He then joined Bachelor of Commerce course and secured 1101/1800 marks cumulatively in Part I and Part II examinations. He also appeared in the final year of the said examination in April, 1998 and on declaration of the result was shown to have secured 1666/2800 marks. As he was not satisfied with the result of B.Com. final year examination, he applied for re-evaluation and on declaration of result of re-evaluation, he was shown to have secured 1719/2800 marks. On 12-7-1998 he appeared in the common entrance test of MBA programme for the years 1998-2000 and the result thereof was declared on 31-3-1998. He was called for Interview on 13-8-1998. He appeared before the interview committee and maintained that he had consistently good academic record and, thus, should be granted weightage of 5 marks as per Clause (c) of Chapter 5 of the prospectus dealing with University weightages. He pointed out to the concerned authorities that he had obtained first division in matric and also in 10 + 2 whereas in the B.Com. final year examination he had obtained 59.5% marks which were a fraction short of first division. The University short listed the petitioner and along with other candidates, he was called for counselling on 3-9-1998 before the Chairman, Department of Management. The petitioner's result after re-evaluation was declared on 2-9-1998 and was duly conveyed to the Chairman of the Counselling Committee on that very date i.e. 2-9-1998. Concededly, re-evaluation result had put the petitioner in first division. The petitioner accordingly requested the Chairman of the Counselling Committee to take into consideration re-evaluation marks and give weightage of 5 marks to the petitioner for consistently good academic performance. This request was declined on the ground that the revised marks could not be taken into consideration on 3-9-1998 as admission had been finalised on 13-8-1998 after the group discussion and interview. It is in the wake

of facts, as have been detailed above, that the writ petition in this Court was filed which was allowed.

6. After taking into consideration the contention of the learned Counsel representing the parties aforesaid. Division Bench framed the question for adjudication which runs thus:--

"It is significant that the petitioner's eligibility is not in issue and the solitary question that remains to be answered is whether a weightage of 5 marks is due to him or not ?

7. After noticing some judicial precedents, the Division Bench, came to the conclusion that as the petitioner's revised result was declared and conveyed to the Chairman. Counselling Committee on 2-9-1998 and the counselling had taken place on 3-9-1998, a day later, the petitioner was entitled to take benefit of revised result. In the judicial precedents that were relied it was held that though admission to educational courses has to be made on the basis of marks available at the time of filing of the application form but there were certain exceptions to this rule and one of these exceptions was that marks on re-evaluation could be taken into consideration at later stage as earlier marks had been awarded on a mistake committed by the examining agency which required to be rectified.

8. After hearing the learned Counsel representing the petitioner at some length; we are, however, of the view that the judgment of the Division Bench in *Amit Sharma v. Kurukshetra University* (supra) cannot come to the rescue of the petitioner in the facts and circumstances of this case. The marked difference between *Amit Sharma v. Kurukshetra University* (supra) and one in hand is that whereas petitioner in *Amit Sharma v. Kurukshetra University* (supra) was eligible for admission to the course under contention, even on a date when result of the entrance test was declared on the basis of the qualifying examination, in the present case the result of the petitioner of the qualifying examination having not been declared on the relevant date, he was not eligible for admission at all. It may be reiterated that even though candidates who had appeared in the qualifying examination could take the entrance test but their admission to the course under contention was dependent upon their having passed the qualifying examination, Further, whereas in the case in *Amit Sharma v. Kurukshetra University* (supra), counselling had taken place a day after the result of the re-evaluation was declared, the re-evaluation result in the case in hand was declared after four months of the declaration of the entrance test. The petitioner has not taken the Court into confidence in giving the cut off date for admission which can well be presumed to be before the re-evaluation result was declared. Naturally, the process of admission has to come to an end at some stage, failing which barring aside admission of few topper other admissions shall always be uncertain. It is for that precise reason that last date for admission is prescribed in prospectus itself. As mentioned above, this Court has not been appraised of that crucial date and this omission does not appear to be intentional. In the facts

and circumstances of this case, we, thus, hold that the decision rendered by the Division Bench of this Court in Amit Sharma v. Kurukshetra University (supra) cannot be pressed into service for seeking the desired relief in the writ petition.

9. This petition is, thus, dismissed. Petition dismissed.