
(1996) 07 P&H CK 0106

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 17585 of 1995

Prof. V.S. Jolly

APPELLANT

Vs

Guru Nanak Dev University, Amritsar

RESPONDENT

Date of Decision : 03-07-1996

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : AIR 1997 P&H 71 : (1996) 3 RCR(Civil) 644

Hon'ble Judges : M.S. Liberhan, Acting C.J.;M.L. Singhal, J

Bench : Division Bench

Advocate : Navkiran Singh, for the Appellant; P.S. Patiwalia and Ramanjit Singh, for the Respondent

Judgement

1. Petitioner, assisted by a counsel provided by Court, raised the following questions of public importance:

i) Whether change in style of examination during mid of session in the absence of Model Test Paper is permissible?

ii) Whether the examination held on the basis of discrepancy in the questions in the question papers should result in setting aside the examination in its totality or grace marks should be given?

iii) What is the consequence of not showing marks against the questions when a choices to attempt questions is provided in the question paper?

2. It would be expedient to reproduce in verbatim the juxtaposition change brought about in the style, of examination:--

"I am to inform you that with a view to increase the teaching days it has been decided that instead of two House Tests ,there should be only one-House Test in the Colleges for under-graduate students. The Syndicate vide para 40 of its meeting dated 30-6-1995 has amended Ordinance 7(d) at pages 6 and 7 of the GNDU Calendar Vol. II, Part-A, 1991.

It has also been decided that w.e.f. the examinations of April 1996 only one answer- book of 32 pages will be introduced and style of the question paper will be changed accordingly."

3. The change in style of the question paper was brought about in July 1995. Due publicity was given through newspapers as well as by writing letters to the Principals of various recognised educational institutions. Model Papers in terms of change in style were released somewhere in September, 1995. The discrepancies in the question papers for the examination held in April 1995 were referred to in the writ petition. For instance in the Compulsory English Paper for B.A./B.Sc. (III Year) Examination, in question No. 1(iii) instead of word "injected" word "infected", in Q. No. II(iv) instead of words "Murray Hal-berg" word "Malberg", and in Q. No. IV in place of word "Balu" word "Baler", in Q.No. V(ii) instead of word "vices", "vies" and for "hounds" words "bounds" and so on so forth have been used. Similar is the question in some other papers. Such type of mistakes have resulted in not answering the questions by the students in real sense as the errors changed the sense of the questions. Last though not least, although there was an option to attempt a question yet no details with respect to the marks of the questions or break up of the marks of the question were spelt out in the question paper. Students did not know how to make a choice to attempt the questions. All this resulted in prejudice to the students in general.

4. This general complaint was treated as a writ petition.

5. The respondents in the written statement took the stand that change in the format of the examination has been effected in all the Universities according to the University Grants Commission's suggestion for an objective test. The decision was taken within the powers of the authorities and new style of question paper was adopted vide University decision dated 30-6-1995. Due publicity in the newspapers and by informing various educational institutions was given. Model Test papers were circulated in November 1995, while the University was to hold examination in April 1996. All the students were similarly placed with respect to the advantage or disadvantage. The questions posed in the public interest litigation are hypothetical and is an attempt to plead individual cases under the garb of public interest litigation. It was further averred that it is for the academicians to determine the mode of examination to assess knowledge of the students and to make up for any error in the question papers from which students might have suffered, the University provide for grace marks. It was further averred that it is not a fit case to interfere in exercise of writ jurisdiction.

6. Almost all the questions raised herein, are pan materia to the questions raised in Civil Writ Petition 8709 of 1995 decided on 16-11-1995 reported Nupur and others Vs. Punjab University, wherein a Division Bench of this Court relying upon the law laid down by Hon"ble the Supreme Court in Dr Muneeb-ul-rehman Haroon and Others Vs. Government of Jammu and Kashmir State and Others, , made the following observations:

- i) Students have neither any constitutional right nor legal right to admission or any other right except for consideration for admission if they fulfil the conditions of eligibility;
- ii) Providing of regulation affecting their chances of admission to higher studies by itself is not a touchstone under Art. 14 of the Constitution of India;
- iii) The mere fact that change in style of paper was introduced later would be no ground to hold that method of holding examination was bad;
- iv) The complaint of notice for a change being short would affect everybody equally adversely and number of students taken the examination demonstrate everybody who had cared to sit in the examination and had an opportunity of doing so. Reference may be made to the State of Andhra Pradesh and Another Vs. Lavu Narendranath and Others etc., ;
- v) All students had the similar advantages/ disadvantages. It is for the academicians to take into consideration all the factors while introducing the change in style. Ordinarily their judgment should not be substituted by the opinion of the Court.
- (vi) It is only the mode of evaluation of the merit which has been changed which is the same for all irrespective of their categories or source.
- (vii) The eligibility test provided to evaluate the knowledge of the students cannot be struck down solely on the ground of inconvenience to those affected. It is the public interest approach which has to be given preference than to legalism, if at all any. One cannot be dogmatic or unrealistic in one's approach. There can be no litmus test or water tight compartmentalisation nor there can be any mechanical approach bereft of ground realities to judge the validity of the rules. Neither fairness in procedure, with the growth of knowledge of science of administration and public expectation in the academic fields permits nor judicial interference can be permitted, to freeze the creativity to evaluate the merit or the knowledge acquired for the University course.
- (viii) The principle of fairness which heeds bona fides honest decision bringing impartiality to one's mind on the problem. The Courts are not ordinarily expected to judge the relative merit of the new system nor validity of a rule can be tested on the touchstone of fortunes of individuals, nor principles of "just expectation" can be invoked in its rigidity, without taking into consideration the facts and circumstances of each case.
- (ix) It cannot be expected that a student would look for general rules operating at or about the time when he intensifies his preparation for the examination. Heights are reached not by sudden flight, reached by those who toil upward in night while their companions slept, competitive examinations, neck to neck race and spare no pains to achieve the coveted goal. Quite often imponderable factors and fortuitous circumstances may affect the fate.

7. The object of examination is to determine the level of knowledge acquired during the course of study by a student. There is no change brought about in the syllabus. The mode of determining level of academic knowledge acquired is fast changing in the field of education with the development of education system, and subjects. Mode of judging merit or knowledge acquired in subjects by Educational Institutions are not expected to be freezed. Right to the mode of examination is a part of administration of the University rather an important facet of it which can be regulated by reasonable regulations conducive for those who are to be governed by it. Evaluating knowledge by examination is just a method followed in academic fields. The mode or style of question papers or the nature of questions is the procedural aspect in assessing the knowledge acquired.

8. Mere fact of there being a short interval between examination and the change brought about in the system by itself is of no consequence when all the students are placed in the similar situation.

9. We cannot restrain ourselves in observing that the University authorities have treated the question papers and the clerical error in the sham and most casual, arbitrary manner with a callous attitude. The executive authorities in the University cannot be permitted to perform duty in such a casual manner. With such large number of mistakes as have been pointed out by the petitioner, merely providing of grace marks in our view is no panacea for mal-administration and lack of supervisory control over the persons responsible for setting out the papers and their printing.

10. We have no doubt that by this time, when examinations are almost over, the University must have taken appropriate steps administratively against the persons responsible for such type of mistakes. However, it will be disastrous to set aside on the judicial side whole examinations as it would amount to setting at naught the fact accomplished. Providing of adequate grace marks may be some, solace to compensate the students for the lapses committed by the university employees.

11. So far the question of inadequate time lapse between the date of change of style in question paper, publication of model test papers and holding of examinations is concerned, it by itself would not be sufficient to set at naught the examinations already held. It is the procedural change to evaluate the knowledge acquired. Otherwise also there was sufficient time i.e. from July to April to acquaint students with the new style of question papers as it was just on the beginning of the session that the change was brought to the notice of all concerned.

12. Again non-providing of details of marks in the question paper or not giving up break up of marks to the questions when discretion has been given to the students to select questions to be answered, in our considered view, may affect the students adversely while selecting the questions, but the discrepancy cannot be extended to such an extent that settled things should be unsettled. The error

can be well rectified by the University either treating all questions of equal marks or evaluating the methodology to compensate students, as has been done, i.e. grace marks to the extent of 10 marks will be given to all students irrespective of the marks obtained by them.

13. All the questions raised in the writ petition are hypothetical in nature. Suffering of student is again hypothetical. No particular case has been brought to our notice. So answers to the questions posed are academic. However, in view of the fact that we have dealt with the questions in the earlier part of the judgment, no further discussion is required on it.

14. With the observations made above, the writ petition stands disposed of accordingly. A copy of the judgment be sent to the respondent-University for taking appropriate action in the light of the observations made above.

15. Order accordingly.