
(1994) 01 P&H CK 0035
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3100 of 1993

Rajesh Verma

APPELLANT

Vs

The Director, Technical Education and Others

RESPONDENT

Date of Decision : 20-01-1994

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (1994) 106 PLR 720

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

Bench : Single Bench

Advocate : Arvind Singh and Sanjay Singh, for the Appellant; Arihant Jain, A.A.G., for the Respondent

Final Decision : Allowed

Judgement

R.S. Mongia, J.—While admitting the writ petition, Respondent No. 2 was directed to permit the petitioner to appear in the "re-appear" paper of the 2nd Semester of the Diploma Course in Civil Engineering. An application (Civil Misc. No. 131 of 1994) was moved for directing the said respondent to declare the result of the re-appear papers. Instead of deciding the application. I considered it appropriate to dispose of the main case itself, and, consequently, I heard arguments of the counsel for the parties in the main case.

2. The brief facts of the case are that in September, 1991 the petitioner had joined Diploma Course in Civil Engineering (Three Years Course) at Mehar Chand Polytechnic, Jalandhar City, which is affiliated with the State Board of Technical Education, Punjab (In short Punjab Board). This Three Years" course is divided into six Semesters. The petitioner cleared the examination of Ist Semester held by the Punjab Board. The petitioner then appeared in the 2nd Semester examination held by the said Board in August, 1992 and before his result was declared, he applied for being migrated to Haryana Polytechnic, Nilokheri, which is affiliated to the State Board of Technical Education, Haryana (In short Haryana Board). The migration was allowed and the petitioner joined at Nilokheri.

However, when the result of the 2nd Semester was declared by the Punjab Board, the petitioner got "re-appear" in two papers, which, according to the learned counsel for the petitioner, the petitioner could clear in three more chances. Since the petitioner by that time had migrated to Nilokheri, he submitted his examination forms for clearing the two papers of 2nd Semester at Nilokheri. The Haryana Board declined the prayer of the petitioner to clear those two papers, on the ground that since the petitioner had failed to clear two papers from the Punjab Board, he was required to clear those papers from that Board and not from the Haryana Board. During this period, when the petitioner was running from Haryana Board to Punjab Board, he lost his first chance to clear the two papers in the examination held in December, 1992, by the Punjab Board. The petitioner was not allowed to appear in the said examination by the Punjab Board in order to clear the two re-appear papers of the 2nd Semester. This led the petitioner to file the present writ petition. The Motion Bench while admitting the writ petition on 10th May, 1993, directed the Punjab Board to permit the petitioner to take up the examination of re-appear papers. In pursuance of the said order, the petitioner has reappeared in those two papers.

3. The learned counsel for the petitioner submitted that since the petitioner had appeared in the 2nd Semester examination held by the Punjab Board and was migrated to Nilokheri institution after appearing in the 2nd Semester examination held by the Punjab Board, he is entitled to clear all or any of the papers of the 2nd Semester from that Board as for all intents and purposes he would be a student of 2nd Semester of Mehar Chand Polytechnic, Jalandhar City, which is affiliated to the Punjab Board, A failed/re-appear student is entitled to re-appear in those papers in the examination held by the Punjab Board and simply because the petitioner was migrated to Nilokheri Institution, would not. take away the right of the petitioner to re-appear in those papers, in which he had been declared so by the Punjab Board.

4. The learned counsel for the respondent could not seriously rebut the arguments of learned counsel for the petitioner. The only stand taken is that since the student had sought migration to Nilokheri Institute, he could not be allowed to appear in any examination held by the Punjab Board.

5. After hearing the learned counsel for the parties, I am of the view that there is considerable force in the arguments of the learned counsel for the petitioner. The petitioner was migrated in the 3rd Semester in the Nilokheri Institute, which is affiliated with the Haryana Board. As far as the examinations prior to that are concerned, the petitioner was required to pass the same from the Punjab Board and since he had already appeared the 2nd Semester in the examination held by the Punjab Board and got re-appear in two papers, he was entitled to re-appear in the re appear papers in the subsequent examinations which were held by the Punjab Board. For all intents and purposes prior to his migration to Nilokheri Institute, the petitioner will be deemed to be a student of Jalandhar Institute, which is affiliated to Punjab Board and he was required to clear the examinations

prior to the migration from the said Board, i.e. Punjab Board. The Punjab Board was not justified in declining permission to the petitioner to appear in the re-appear papers of the 2nd Semester. It may be observed here that the petitioner had already cleared 3rd, 4th and 5th Semesters from the Haryana Board while studying in Nilokheri Institute.

6. For the foregoing reasons, this writ petition is allowed and it is held that the petitioner was entitled to clear the re-appear papers of the 2nd Semester in the examinations which were to be held by the Punjab Board. Since by virtue of the interim order of this Court, the petitioner has already appeared in the re-appear papers of the 2nd Semester, let his result be declared forthwith. There will be no order as to costs.

7. A copy of this judgment be given Dasti on payment to the learned counsel for the parties.