

(2003) 03 P&H CK 0023
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 4148 of 2002 (O and M)

Ritesh Pandita

APPELLANT

Vs

Vice Chancellor, Kurukshetra University, Kurukshetra
University and Principal, Mukand Lal National College

RESPONDENT

Date of Decision : 04-03-2003

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151
Constitution of India, 1950 — Article 226, 227

Citation : (2003) 03 P&H CK 0023

Hon'ble Judges : Ashutosh Mohunta, J

Bench : Single Bench

Advocate : N.S. Dandiwal, for the Appellant; C.B. Goel, for the Respondent

Final Decision : Allowed

Judgement

Ashutosh Mohunta, J.—The present petition under Article 226/227 of the Constitution of India, has been filed for issuance of a writ of mandamus for quashing the letter dated January 4, 2002 (Annexure P4) and for issuance of directions to the respondents to accept the examination form along with examination fee and to issue roll number to the petitioner for B.Sc. Part-II (Computer Application) Examination, which was to held with effect from March 13, 2002.

2. The petitioner appeared in the 10+2 Examination of the Jammu & Kashmir State Board of School Education (for short "the Board") in March 2000. He got compartment in the subject of Chemistry. He was given provisional admission in B.Sc. Part-I (Computer Application) Course in Mukand Lal National College, Yamunanagar (for short "the College"), which is affiliated to the Kurukshetra University (for short "the University") in July 2000. At the time of admission, the petitioner was told by the University as well as the College Authorities to clear the compartment paper of the Board in two attempts. In the first chance the petitioner did not appear in the compartment examination of the Board, as he

allegedly fell ill. He appeared in the second chance of compartment examination in March/April, 2001. However, the Board cancelled the paper of the centre, where the petitioner appeared, on account of adverse reports received by the Board with regard to conduct of the said examination on April 6, 2001. A notification of the Board with regard to that is at Annexure P1. Thereafter, the examination of the said paper was conducted by the Board in October/November 2001. The petitioner appeared and passed the Chemistry paper of 10+2 Examination of the Board. The petitioner was also allowed to appear in B.Sc. Part-I (Computer Application) Examination of the University held in April 2001. However, the result was not declared by the University. Anyhow, he was also allowed admission in B.Sc. Part-II Class vide letter No. Regn./R-III/4144 dated August 21, 2001. The Principal of the College (respondent No. 3) wrote a letter dated December 10, 2001 (Annexure P3) to the University authorities to regularise the admission of the petitioner to the B.Sc. (Computer Application) Course and for declaration of result of B.Sc. (Part-I) Examination held in April 2001. However, the University authorities declined to regularise the admission and to declare the result of B.Sc. Part-I Examination of the petitioner on the ground that the petitioner could not pass the Compartment Paper of 10+2 Examination of the Board in two attempts. A copy of the letter dated January 4, 2002 written by the University authorities to the Principal of the College is at Annexure P4. It is against this decision of the University that the present writ petition has been filed.

3. It may be mentioned that at the time of issuance of notice of motion, a Division Bench of this Court allowed the petitioner to appear in the B.Sc. Part-II Examination. Ultimately, the petition was admitted vide order dated September 3, 2002. It is pertinent to mention here that the results of B.Sc. Part-II as well as of B.Sc. Part-I Examinations have not as yet been declared by the University. During the pendency of the writ petition, the petitioner filed Civil Misc. No. 253 of 2003 whereby it has been prayed that a direction be issued to the University authorities to issue the examination form pertaining to 3rd year of the B.Sc. (Computer Application) Course as well as the roll number in order to enable him to appear in B.Sc. Part-III Examination to be held in April 2003. The writ petition as well as the Civil Misc. application are being disposed of by this judgment.

4. It has been contended by the learned counsel for the petitioner that the petitioner availed of only two effective chance to pass the compartment paper of 10+2 Examination of the Board. According to him, the petitioner appeared in the second chance in the compartment paper Examination in March/April, 2001. However, due to adverse reports received by the Board the examination of the Centre, in which the petitioner appeared, was cancelled by the Board. Thus, the petitioner had to appear in the said paper in October-November, 2001, and he cleared the compartment paper. The counsel contends that the cancellation of the paper by the Board was not due to any fault on the part of the petitioner. Thus, it has been contended that as a matter of fact the petitioner availed of only two effective chances in order to clear the compartment paper of 10+2

Examination. Therefore, the petitioner should be considered to be covered under the University rules.

5. However, Mr. C.B. Goel, learned counsel appearing on behalf of the University, controverts the contention raised by Mr. N.S. Dandiwal, learned counsel for the petitioner. He contends that as per the University rules the petitioner should have passed the compartment paper in the 10+2 Examination held in March/April, 2001, which was his second attempt. As he did not pass the compartment paper in the two attempts allowed under the rules, the petitioner was not eligible to be granted admission to B.Sc. (Computer Application) Course of the University.

6. After hearing the learned counsel for the parties, I find force in the contention raised by the learned counsel for the petitioner. As per the undisputed facts of the case, the petitioner appeared in the second attempt of the Compartment Paper of 10+2 Examination in March/April, 2001. However, the paper of the Centre in which the petitioner took the Compartment Examination, was cancelled by the Board owing to some adverse reports received by it. This cancellation of the paper by the Board was not due to any fault on the part of the petitioner. The petitioner cannot be blamed for the cancellation of the paper by the Board. Thus, undisputedly, the petitioner appeared in the Compartment Examination in October/November, 2001 and passed the same. The Principal of the College (respondent No. 3) rightly recommended the case of the petitioner to the University authorities to regularise the admission of the petitioner to B.Sc. (Computer Application) Part-I. However, the University authorities without realising the ground realities, rejected the request made by the Principal.

7. Consequently, I allow the writ petition and set aside the letter dated January 4, 2002 (Annexure P4). The respondents are directed to regularise the admission of the petitioner to the B.Sc. (Computer Application) Course. The respondents are also directed to issue the examination form pertaining to the 3rd year of the Course forthwith as well as the roll number to enable the petitioner to appear in B.Sc. Part-II Examination to be held in April, 2003.