

Miss Sunita Thereja Vs Punjab University, Chd., and another

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Dec. 18, 1992

Acts Referred: Constitution of India, 1950 " Article 226, 227

Citation: AIR 1993 P&H 237 : (1993) 104 PLR 198 : (1993) 2 RCR(Civil) 768

Hon'ble Judges: J.S. Sekhon, J

Bench: Single Bench

Advocate: Deepak Sibal, for the Appellant; P.S. Goraya, for the Respondent

Final Decision: Dismissed

Judgement

J.S. Sekhon, J.

Miss. Sunita Theraja through his writ petition under Articles 226/227 of the Constitution of india seeks a writ of mandamus

directing the Respondents to declare the re evaluation result of L.L.B.VI... Semester of the Petitioner expeditiously and further direction to

provisionally admit the Petitioner to the course of Master in Law (Ist year) at her own risk and responsibility subject to her passing the L. L. B.

Examination. She further seeks quashing of Clause (D) of the Prospectus for admission to the Session 1992-93 in Master of Law"s course, being

violative of Article 14 of the Constitution.

2. The brief resume of facts relevant for the disposal of this writ petition is that the Petitioner appeared in VI-Semester in LL. B. in May, 1992, the

result of which was declared on August 20, 1992. The Petitioner was given "re-appear" in paper No. 2 i. e. pleadings, draftings and conveyancing,

having secured 36% marks out of 100 as against the minimum prescribed 45 marks. The Petitioner had shown exceptional brilliance in other

subjects as under:

1. Criminal Procedure Code 62

2. High Court Rules, Professional Conduct,

Legal Ethics and Advocacy.

3. Practical work 76

4. Opt. (a) 66

The Petitioner was expecting good marks in 2nd paper also. Under these circumstances she applied for detailed marks and got the same on

7.9.1992. Thereafter on 8.9.1992, she applied for re-evaluation of 2nd paper. In the meantime, before the declaration of the result, the Petitioner

applied for admission to LL. M. Part-I Class in the Punjab University (Department of Laws) from general category, but after the declaration of her

LL. B. VI-Semester result she had become ineligible for seeking admission to LL. M. Class (1st year). The result of the re-evaluation of 2nd paper

was not declared till the filing of this writ petition. Therefore she has approached this Court for issuing direction to the Respondents to declare the

result of the re-evaluation of 2nd paper promptly in order to save one year loss in her studies. She also maintained having made representation on

8.9.1992 (Annexure P-3) to the Respondents but on getting no response she had resorted to filing this writ petition.

3. It is further averred in the writ petition that sometime a student who has done exceptionally well in the examination gets reappear in certain

paper, but on re-evaluation secures high marks in that paper She has given the example of one Sarbjit Singh in this regard in order to persuade in

Court that the fault of the Examiner in evaluation of the paper should not visit the student adversely to the extent of wasting her one year in studies

It is further averred that late admission is not barred as there is a provision in Clause (D) for admission to students whose results are revised as a

consequence of re-evaluation, but she challenges the three conditions in Clause (D) qua the availability of seat ; the merit of the candidates within

first 25% of the applicants admitted to the open category and making request for late admission before the last date, with the approval of the Vice-

Chancellor on the ground that these three conditions are totally arbitrary and violative of Article 14 of the Constitution. She further maintains that

the re evaluation of result would relate back to the original result and thus the same should have effect on the original result. If that is so then the

student should not suffer for the delay on that part of the Respondents. It is also maintained that the second condition of securing higher merit than

25% of the applicants admitted in the open category is also arbitrary as a candidate is eligible for admission if he clears the LL. B Examination, It is

further maintained that a candidate who has earlier failed in the test is not sure whether he will clear in that paper in the re-evaluation and thus

before the re-evaluation of result is received, he/she cannot apply for late admission within stipulated date with the prior permission of the Vice-

Chancellor.

4. The Respondent had resisted this writ petition through a joint return filed by the Registrar of the Punjab University raising preliminary objection

regarding its maintainability as it does not disclose any cause of action. It is further maintained that the Petitioner was not successful in LL. B.

examination as she got reappear in Paper (sic) the result of the LL. B. was declared on 20.8.1992 and the last date for admission to LL. B. Part-I

was 31.8.1992. The Petitioner having applied for re-evaluation on 8.9.1992, the Petitioner was clearly not eligible for admission to Part-I of LL.

M. Reliance was also placed in the Division Bench judgment of this Court in *Monika Garg and Ors. v. Kurukshetra University 1989* (sic) S. L. R.

63, wherein it was held that the re-evaluated result till the date of interview shall be taken into consideration. It is further averred that the Petitioner

is bound by the terms and conditions qua admission contained in the Prospectus and that Clause (D) of the Prospectus regarding late admission is

not arbitrary or unreasonable.

5. I have heard the learned Counsel for the parties, besides perusing the record It is an admitted case of the parties that the result of LL. B Final

Examination was declared by the University on 20.8.1992 and that the Petitioner got re-appear in Part II and that the last date for admission to

LL. M. Part I was 31.8.1992. Meanwhile, the Petitioner had applied for admission to LL M. Part-I before the declaration of her result. This, there

is no dispute that she was not eligible for admission to LL. M. Part-I till the last date of admission i. e. 31.8.1992. Simply because the result of the

examination held in May, 1992 was declared on August 20, 1992, it cannot be said that the University was at-fault to that extent in declaring the

result late which would entitle the Petitioner to get late admission in LL. M. Part-I as the last date for admission for LL M Part-I was eleven days

after the declaration of the result of LL B. (Final). The delay in re evaluation of the paper is also of no consequence since the Petitioner had applied

for re-evaluation on 8.9.1992, much after 31.8.1992, the last date for admission. The observations of the Division Bench of this Court in *Monika*

Garg's case (supra) can be safely referred to in this regard. In that case admission to technical course on the basis of improved marks in the

qualifying examination obtained after filing the admission form but before the interview were held to be relevant if the re-evaluation is done till the

date of the interview.

6. Faced with the above situation, the learned Counsel for the Petitioner relying upon the ratio of the Division Bench of *Bhagat Ram Sharma Vs.*

The Himachal Pradesh University and Others, , contended that the re-evaluation of the paper would relate back to the date upon which the result

of all the candidates including the Petitioner was declared and thus by necessary implication the Petitioner was eligible on the basis of re evaluation

of Paper-II for admission to LL. M. Part I. The observation of the Division Bench of Himachal Pradesh High Court are not applicable to the facts

of the case in hand as in that case, the application of the amended Ordinance before the communication of the result of the re-evaluation qua the

grant of scholarship and gold medal on the basis of un-amended Ordinance was involved, it was held in para 17 of the judgment that the Appellant

had secured more marks than Respondent No 4 in re-evaluation and was entitled to scholarship and gold medal under the unamended Ordinance

of the University, although the re-evaluation of the paper was done after the issuing of the amended Ordinance.

7. The question then arises whether the provisions of Clause (D) contained in the prospectus for late admission of candidates who have secured

high merit on the basis of re-evaluation is violative of Article 14 of the Constitution being arbitrary and unreasonable. Clause (D) reads as under: -

(D) Admission of students whose results are revised as a consequence of re-evaluation can be made only if-

(i) seats are available ;

(ii) the candidate's merit falls within the merit of first 25% of the applicants admitted in the Open Category ; and

(iii) the request is made before the last date for late admission with the prior approval of the Vice-Chancellor, as already laid down.

A bare glance through the same leaves no doubt that in super-speciality no late admission is desirable if seats are not available. Thus Sub-clause (i)

of Clause (D) cannot be said to be arbitrary. Sub clause (ii) of Clause (D) providing for merit of such candidate should be within the first 25%

applicants admitted to the open category, cannot also be said to be arbitrary as it has close nexus with the object sought to be achieved i e for

improving the standard of education in super speciality. Sub-clause (iii) of Clause (D) is co-relative with the availability of seats because if the

request for late admission is received from a brilliant student before the last date of late admission then the Vice-Chancellor can order the keeping

of certain seats vacant for such candidates Thus Clause (D) relating to late admission for candidates on the basis of revised result as a consequence

of re-evaluation subject to fulfilling these three conditions cannot be said to be arbitrary or unreasonable.

8. The observations of the Division Bench of this Court in C W. P. No. 14157 of 1992, Jagpal Kaur v. D. P. I College, Chandigarh Admn. and

others C. W. P. 14157 of 1992, decided on 18.11.1992 are also of no help to the Petitioner in the case in hand as therein the Petitioner has

secured good marks in the combined entrance-test for admission to B. ED. course while she had failed in B A. (Final) but on re-evaluation she

was declared pass with 51.40% marks. Under these circumstances. It was held that the Petitioner in that case was entitled to admission as she had

cleared the qualifying examination on the basis of re-evaluation of her result, whereas in the case in hand, there was no joint enhance test for

determining the merit of the Petitioner.

9. For the reasons recorded above, there being no merit in this writ petition, it is ordered to be dismissed.