

(2010) 08 P&H CK 0359

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Naresh Kumar

APPELLANT

Vs

Guru Jambheshwar University of
Science and Tech. and AnotherRESPONDENT

Date of Decision: Aug. 5, 2010**Acts Referred:**

- University Grants Commission (Minimum Standards and Procedure for Award of Ph.D. Degree) Regulations, 2009 - Clause 9

Hon'ble Judges: Hemant Gupta, J**Bench:** Single Bench**Final Decision:** Allowed

Judgement

Hemant Gupta, J.

The plaintiff is in revision aggrieved against the orders passed by the Courts below, whereby an application for ad-interim injunction filed by the plaintiff-petitioner seeking registration/ admission to Ph.D. programme in the session 2009-10 in Environmental Science and Engineering, has been declined.

2. The petitioner is post graduate in Environmental Science from Guru Jambheshwar University of Science & Technology, Hisar, having passed out in the year 2007. The petitioner also claims to be UGC Net qualified. The petitioner applied for admission in Ph.D. in Environmental Science and Engineering on the basis of Information Brochure, published by the University for the Session 2009-10. As per the said Brochure, the entrance test was to be held on 21.12.2009. The petitioner obtained 58 out of 100 marks in the entrance test and ranked 4th. But the petitioner was not admitted to the Course and, therefore, the petitioner filed the suit for declaration and mandatory injunction as also an application for ad-interim injunction. The said application has been declined by the Courts below, holding that the action of the University in admitting students on the basis of marks obtained in the entrance test and the marks obtained in qualifying examination, is reasonable and thus, the

petitioner is not entitled to any ad-interim injunction.

3. Before the respective contentions of the parties are considered, certain conditions from the Information Brochure are relevant and need to be extracted below:

Eligibility

3. (i) A candidate for admission to the course of Ph.D. must have obtained 55% marks at the Master's Degree level or any other equivalent examinations in relevant field or a subject allied thereto. The relevance of the subject will be decided by the Board of Studies.

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(iii) The provision of relaxation of 5% in marks for eligibility and 20% reservation in seats department-wise will be applicable for SC/ST candidates for admission in Ph.D. programme.

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Registration

4. The registration to Ph.D. programme in the teaching departments shall be made once a year through the entrance test conducted by the concerned department. The cut off date for this will be decided on year to year basis. The applications in the prescribed form shall be submitted by candidates to the office of the Chairperson of the department concerned. The entrance test will be conducted by the department.

The number of vacancies in various departments will be given on University Website and mention of the same will be made in the admission notices for information of the candidates. At the time of notifying the vacancies in newspapers, the number of vacancies for registration shall be indicated course-wise.

5.(i) There will be one scholarship of Rs. 5000/- per month for Ph.D. programme in each department to be awarded on the basis of merit in entrance test for Ph.D. The Scholarship will be for a maximum tenure of three years or the completion of Ph.D. whichever is earlier.

(ii) Various other scholarships available for Ph.D. students will be open to only those candidates who appear in entrance test and will be awarded as per the guidelines prescribed by sponsoring authority.

6. The eligible candidate shall apply for admission in the prescribed form obtainable from the Deputy/Assistant Registrar (Registration), Guru Jambheshwar University of Science & Technology, Hisar. The application shall be submitted to the office of the Chairperson of the Department concerned where it will be scrutinized and then placed before the Departmental Research Committee of the Department. The Departmental Research Committee shall consist of all the regular faculty members

of the department with Ph.D. Degree. However, outside member can be associated with the permission of the Vice-Chancellor.

Procedure for Admission

7. The procedure for admission to Ph.D. programme shall consist of the following steps:

(i) Receipt of Applications.

(ii) Scrutiny of the applications by the Department.

(iii) Entrance Test.

(iv) Selection of candidates for admission to Pre-Ph.D. course.

(v) The candidates passing the entrance test with at least 50% marks (for SC/ST 45% marks) will be eligible for registration. The candidates who have qualified UGC/CSIR (JRF), foreign students and Regular Faculty of GJUS&T will be exempted from appearing in the entrance test for Ph.D. programme.

(vi) Entrance test shall be followed by an interview to be organized by the Department/School concerned. At the time of interview, doctoral candidates are expected to discuss their research interest/area.

(vii) Only the predetermined number of students will be admitted to Ph.D. programme in a Department/School.

(viii) After having been admitted, each Ph.D. student shall be required to pass Pre Ph.D. course work of one semester.

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Allocation of Supervisor/Co-Supervisor

8. The Board of Post-Graduate Studies and Research shall decide the case of Registration and shall finally approve the name of Supervisor or any Co-Supervisor (Intra-Departmental/Inter- Departmental/External, if desirable).

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4. Learned Counsel for the petitioner has vehemently argued that registration of a candidate is treated analogous to admission to Ph.D. course. If a candidate obtains 55% marks in the Master Degree level, he is eligible to appear in the entrance test. He then needs to qualify the entrance test with atleast 50% marks. It is contended that all candidates, who have obtained 55% marks in the qualifying examination, are to be assigned order of merit in terms of the marks obtained in the entrance test. It is pointed out that the petitioner has obtained 58 marks in the entrance test and thus, ranks 4th in the entrance test and, therefore, he is entitled to

registration/admission in preference to the candidates, who have secured less marks than the petitioner in the entrance test.

5. On the other hand, learned Counsel for the respondent-University has argued that the petitioner ranks 11th in the merit list prepared on the basis of marks obtained in the qualifying examination and in the entrance test. It is contended that the guidelines to determine the merit on the basis of the marks obtained in the qualifying examination and the entrance test were circulated before the entrance test and, therefore, the petitioner cannot dispute the merit list prepared by the University.

6. It is well settled that the University cannot deviate from the conditions published in the Information Brochure. Such is the view taken by the Full Bench of this Court in *Amardeep Singh Sahota v. The State of Punjab Etc.* 1993(2) PLR 212. Learned Counsel for the respondent-University could not point out any condition in the Information Brochure reserving the right to determine merit by taking into consideration marks in the qualifying examination. The relevant clauses from Information Brochure extracted above, would show that the procedure for admission is in two phases. Firstly, a candidate must have obtained 55% marks in the qualifying examination to be eligible to appear in the entrance test and secondly, a candidate, who obtains 50% marks in the entrance test, is eligible for registration. Therefore, the action of the respondent-University in determining merit by compounding the marks obtained in the qualifying examination and the entrance test, is not supported by the conditions in the prospectus. In fact, Clause 5(i) of the Prospectus, as reproduced above, shows that one scholarship shall be awarded "on the basis of merit in the entrance test for Ph.D." The said condition is clearly determinative of the fact that the merit in the entrance is relevant for the purpose of registration/admission to Ph.D. course.

7. Though the respondents have relied upon UGC (Minimum Standard and Procedure for Awards of M. Phil/Ph.D. Degree Regulations, 2009, but Clause 9 of such Regulation points out that all University Institutions deemed to be Universities and Colleges/Institutions of National Importance shall admit M. Phil Doctoral students through an entrance test conducted at the level of individual University etc. and that the University may decide separate terms and conditions for those students who qualify UGC/CSIR (JRF) examination/SLET/GATE/teacher fellowship holder or have passed M. Phil programme for Ph.D. entrance test.

8. The Courts have found that in terms of such guidelines, the University has decided to consider the marks obtained by the candidates in qualifying examination and in the entrance test to determine the order of merit.

9. The said finding recorded by the Courts below is not sustainable as the terms of the Brochure do not give liberty to the University to determine merit on the basis of qualifying examination. The guidelines permissible under 2009 Regulations should

have been made part of the prospectus or that such guidelines should have been adopted by the University. Having failed to do so, the respondent-University, cannot be permitted to determine order of merit by taking into consideration marks obtained in qualifying examination. Such action of the University is against the terms of the published prospectus and thus, not sustainable in law.

10. In view of the above, the order passed by the Courts below suffer from patent illegality and irregularity. The University cannot be permitted to act against the terms of the prospectus, which have the force of law, to adopt the criteria, which was not made part of the prospectus.

11. Consequently, the present revision petition is allowed. The impugned orders passed by the Courts below are set aside. The respondent-University is directed to register/admit the petitioner to Ph.D. course in the subject of Environmental Science and Engineering, in accordance with law.