

Punjab-Haryana High Court

Mr. Ranjeev Banga vs The Principal, Punjab ... on 14 December, 1992

Equivalent citations: (1993) 103 PLR 580

Author: J Sekhon

Bench: J Sekhon

JUDGMENT J.S. Sekhon, J.

1. The petitioner was admitted in the 1st Semester for Bachelor of Engineering (Electronics) i.e. Under-Graduate Engineering Course in the Punjab Engineering College, Chandigarh, for the year 1991, from the reserved category of Scheduled Castes candidates. Unfortunately, the petitioner failed to complete the requisite lectures as he suffered from urine retention in the month of October, 1991 and remained under treatment till August, 1992. The petitioner had under-went several operations in the Post Graduate Institute, Chandigarh. The petitioner was discharged from the hospital on 12-2-1992, with the direction to continue the follow-up treatment. Again, on 6-5-1992, another operation was performed upon the petitioner.

2. On 21-2-1992, the College Authorities displayed a notice (Annexure P-3) on the Notice Board showing the petitioner as well as other student detained from appearing in the 1st Semester (Annual Session) Examination. In the said notice, the petitioner was depicted to have fallen short of lectures in the five subjects while another student, namely Ajay Pal Singh was found short in lectures in nine subjects. The petitioner contends that as per Regulation 7 of the Punjab University Regulations, if a candidate does not fulfill the attendance required in any subject, he will have to repeat the course of instruction in that subject, while Regulation 8 prescribes that such candidate shall be allowed to join the second Semester upto fourth Semester if he had undergone a regular course of studies without even passing any of those Semesters. Thus, the petitioner contends that a student, who gets admission to Under Graduate Engineering Course i.e Bachelor of Engineering he will complete his course of four years irrespective of his clearing each semester. The petitioner had fallen short of requisite lectures in five subjects only. He could be asked to repeat the subjects in those subjects of the first Semester which started w.e.f. 12. 8.1991 and ended on 12. 1.1992 while the second Semester course started on 24.3.1992.

3. On the other hand, the respondent vide Memo No 5826 dated 30.3.1992 (Annexure P-4) issued show cause notice to the petitioner as to why he was found absent from the College and did not submit the examination form to appear in the first Semester held in March, 1992. The petitioner was also called upon to show cause as why his name should not be removed from the College rolls.

4. The petitioner then submitted his reply to the notice dated 9-4-1992 (Annexure P-5) saying that being mentally perturbed he could not attend the classes regularly. Thereafter, the respondent on 29-4.1992 passed the impugned order removing the name of the petitioner from the rolls of the College w.e.f. 10.1.1992 on account of poor attendance; non-submission of examination-form of first Semester and unsatisfactory progress report, under rules 1 (a) and 12 of the Discipline and Conduct of Students figuring in the prospectus for the Session 1991-92. The petitioner contends that these rules in the prospectus are only for information and do not constitute any legal document, as per noting on the title page of the prospectus (Annexure P-6). Thus, he maintains that the petitioner

should have been allowed by the Principal of the College to repeat the course of instructions in the concerned subjects instead of striking his name from the rolls of the College. It is also maintained that the Regulation of the University with which Punjab Engineering College is affiliated would have the overriding effect over the Disciplinary & Conduct of Students rules embodied on the prospectus of the College. The petitioner filed number of representations to the concerned Authorities, but on getting no redress, he had to resort to invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

5. In the counter affidavit filed by Shri Rajnish Parkash, Principal of Punjab Engineering College, Chandigarh-respondent No. 1, it is maintained that in fact the petitioner wants re-admission to the first Semester of Electronics at Punjab Engineering College, Chandigarh which is not permissible as per rules of the College contained in the College prospectus of the Punjab University Rules, as contained in the Punjab University Calender Volume II -1988 (vii) Faculty of Engineering and Technology. It is further maintained that the petitioner having failed to submit admission-form in the first Semester examination to be held in February-March, 1992, without approval of the answering respondent and on account of poor attendance and unsatisfactory progress, his name was rightly removed from the College rolls under the relevant rules after affording him reasonably opportunity of being heard. It was further explained that the case of Ajay Pal Singh stands on a different footing as he had submitted admission form to the University. Thus, it is maintained that the petitioner is not eligible to attend the first Semester class at all till he is admitted afresh in the first Semester, on the basis of the entrance test conducted by the Panjab University, and on fulfilling other conditions for admission in the first Semester.

6. It is further maintained that the petitioner in his representation, Annexure P-5, has not at all disclosed his admission in the Post Graduate Institute, Chandigarh, for medical treatment, but it only gives the reason of his being mentally disturbed due to family circumstances. Thus, it is maintained that the reason of medical ailment has been concocted later on. It was also asserted that the Principal under rule 1 (a) and rule 12 of Rules had the discretion to remove the name of the student from the rolls of the College on the grounds contained therein. It was also maintained that there was no discrimination between the petitioner and Ajay Pal Singh as the latter had submitted the University examination-form but the petitioner had not done so.

7. During the course of arguments, at the asking of the Court, the petitioner had produced medical certificate, Annexure P-12, of Dr. S. K. Sharma and history sheet Annexure P-13 of his treatment in the P.G. I.

8. I have heard the learned counsel for the parties, besides perusing the record. No doubt, in the representation, Annexure P-5, the petitioner had not specifically stated that he was earlier admitted in the P.G.I, for treatment of his urine retention what to say of disclosing the period of his confinement in the hospital, but on the other hand, has stated that he was mentally perturbed due to family circumstances yet all the same it is not of much consequence as the perusal of medical certificate Annexure P-12, discharge follow-up card, Annexure P-1, Medical Certificate Annexure P-2 as well as history sheet Annexure P-13 do reveal the petitioner met with an accident on 23-6-1991, resulting in fracture of his pelvic bones and complete disruption of his urinary past age and as a

result thereof urine had to be diverted by making a hole in the bladder from abdomen-side, which restricted his mobility The tube (catheter) had to be changed every three weeks and in the meantime he underwent several major endoscopic and open surgical procedures to set his urinary passage right. Perusal of the history-sheet Annexure P-13 further shows that the petitioner remained admitted in the P.G. I, from 3-6-1991 till he was discharged on 9-7-1991 with advice to attend urology minor OT after four weeks for change of catheter The petitioner thereafter continued his treatment in the P. G. I, in the months of August, September, October, December, 1991 and thereafter from January, 1992 to July, 1992 for change of catheter and treatment of urethra as well as for nailing of his fractured pelvis The certificate, Annexure P-2, given by Dr. S. K. Sharma, Professor and Head, Department of Genito-Urinary Surgery (Urology Post Graduate Institute of Medical Education and Research, Chandigarh also shows that the petitioner remained under treatment in his department for about ten months since October, 1991. Under these circumstances there is no escape but to conclude that the shortage of lectures in five subjects of the petitioner occurred due to his ailment i.e. as a result of circumstances beyond his control. If that is so, then his case squarely falls under rule 1(a) for giving concession by the Principal from any disciplinary action or expulsion et cetera envisaged therein Relevant portions of Rule 1(a) and rule 12 contained in Annexure R-1 read as under :-

(1) (a) All students must conform in every respect of the rules of the College and are under the disciplinary control of the principal. Breach of rules, misconduct, poor attendance idleness if in the opinion of the Principal reasonable progress and application in work and studies are not being shown will render a student liable to expulsion or other disciplinary measures which the Principal may order. Any absence from lecture tutorial practicals or workshop classes without previous sanction which will be given only in case of illness or unavoidable reasons will be viewed very seriously and disciplinary action taken against defaulter.

(2) to 11 xx xx xx xx xx.

(12) The name of the student who fails to submit the University Examination form for the semester in which he is studying without the approval of the principal shall be removed from the rolls of the College."

No doubt, it cannot be said that the Principal had wrongly rejected the representation Annexure P-5 of the petitioner as therein the details of the ailment were not mentioned yet all the same it is a case of non-application of mind by the respondent, as due to the above referred ailment mental disturbance is likely to crop up. Faced with this situation, the learned counsel for the respondent obliquely con-ceded that it was a case wherein due to unavoidable circumstances the shortage of lectures had occurred.

9. The question then arises whether under rule 12. reproduced above, the failure of a candidate to submit admission form for University Examination in first Semester without the approval of the Principal shall entail removal of the student from the rolls of the College. In this regard, it is noteworthy that all the Disciplinary and Conduct Rules as embodied in the prospectus, have to be read as a whole and not in isolation. Thus, if illness is one of the circumstances not to expel the

student on the ground of poor attendance et cetera, then the non submission of the admission form to the University for the examination of first Semester would also stand justified on the ground of illness, especially when during the course of arguments, it is conceded by the learned counsel for both the parties that the last date for submission of admission form to the University for first semester was 23-11-1991, whereas with late-fee upto 8-12-1991, and during this period, the petitioner remained under treatment of the P. G. I for setting the fracture of pelvis as well as treatment of his urethra. Consequently, the petitioner would not be in a fit state of mind to submit an admission form as contemplated under rule 12, *ibid*. Thus, there appears to be sufficient reason for condoning the lapse of the petitioner in non-compliance with rule 12 of the College due to his illness.

10. The last question then arises whether the petitioner had to repeat the course of instructions in those subjects wherein he had not completed the requisite lectures as contained in Regulation 7 of University Calendar, or he has to seek re admission in first semester by qualifying the joint entrance test conducted by the University and fulfilling other conditions. In this regard, it is noteworthy that the Engineering College being affiliated with the Panjab University, it has to abide by the rules and regulations of the University in the matter of completion of lectures and repeating the course of instructions in the relevant subjects. Regulation 7 of the Panjab University Calendar Volume II, 1988, reads as under :-

"7. A candidate who does not fulfill the attendance requirements in any subject will have to repeat the course of instruction in that subject.

8. A candidate shall be allowed to join :

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|-----------------------|---|
| (i) Second Semester   | Provided that he has undergone a regular course of studies of First Semester as provided under the regulations.   |
| (ii) Third Semester   | Provided that he has undergone a regular course of studies of First Semester as provided under the regulations.   |
| (iii) Fourth Semester | Provided that he has undergone a regular course of studies of First, Second and Third semesters as provided under the regulations in sequential order.  |
| (iv) Fifth Semester   | Provided that he has undergone a regular course of studies of First, Second, Third and Fourth Semesters, as provided under the regulations in sequential order and has passed the first semester examination.                   |
| (v) Sixth Semester    | Provided that he has undergone a regular course of studies of First, Second, Third Fourth and Fifth semesters, as provided under the regulations in sequential order and has passed the First and Second semester examinations. |
| (vi) Seventh Semester | Provided that he has undergone a regular course of studies of First, Second, Third, Fourth Fifth and Sixth semesters as provided under  |

the regulations in sequential order and has passed First, Second and Third semester examinations.

- (vii) Eighth Semester Provided that he has undergone a regular course of studies of First, Second, Third, Fourth, Fifth, Sixth and Seventh semester as provided under the regulations in sequential order and has passed, First, Second, Third and Fourth semesters examinations.
- (viii) Ninth Semester xx xx xx."

A bare glance through the same leaves do doubt that the petitioner has simply to repeat the course of instructions in those subjects wherein he had fallen short of the requisite lectures and had not to seek re-admission to the first Semester in Bachelor of Engineering

11. However, there is no force in the contention of Mr. Sarwan Singh, the learned counsel that the petitioner should be allowed to attend the classes of second Semester also as per Regulation 8 of the University because a candidate is allowed to join the second Semester if he has undergone regular course of studies in first semester, but the petitioner had not admittedly undergone regular course of studies.

12. Consequently, for the reasons recorded above, there is no option but to hold that respondent No. 1 had not applied his mind to the facts and circumstances of the case while removing the name of the petitioner from the rolls of the College and thus, it is a clear case of non-exercise of jurisdiction vested in the Authority under rule 1 (a) of the Rules. Therefore, the impugned orders Annexures P-7 and P-11 removing the name of the petitioner from the rolls of the College are hereby quashed by accepting this petition & issuing directions to the respondent to allow the petitioner to repeat the course of instructions in those subjects wherein he had fallen short of the lectures in the first Semester (Bachelor of Engineering in Electronics). It is ordered accordingly. In the peculiar circumstances of the case, there is no order as to costs.