



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(206)

CWP No. 30854 of 2024

Date of Decision : 18.01.2025

Zuhair Shah

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Kunal Dawar, Advocate with
Ms. Shruti Mandhotra, Advocate and
Mr. Shashi Kant, Advocate for the petitioner.

Mr. Vipul Aggarwal, Sr. Panel Counsel for respondent No. 1.

Mr. Ravi Sharma, Advocate and
Mr. Rajwant Kaushik, Advocate for respondent No. 2.

Mr. Ishvinder Singh, Advocate and
Mr. Sylvester Stephen, Advocate for
Mr. Alok Mittal, Advocate for respondents No. 3 and 4.

Harsimran Singh Sethi J. (Oral)

1. In the present petition, the grievance being raised by the petitioner is that he has not been able to clear his first year of the MBBS even so, he should be promoted to the next year so as to allow him to attend the Class.

2. Learned counsel appearing on behalf of the petitioner submits that while appearing for first year, the petitioner could not clear the examination in the subject of Anatomy as he has scored only 108 marks out of 300 and was directed to appear in the supplementary examination, which



comprised of two theory and one practical examination. Learned counsel for the petitioner also submits that the petitioner had been issued the Admit Card for the supplementary examination, which was scheduled to be held on 28.09.2024, 30.09.2024 and 03.10.2024 but the petitioner could not take the part of examination schedule for 30.09.2024 and 03.10.2024 as he fell seriously ill and, therefore, was not in a position to clear the supplementary in the subject of Anatomy.

3. Learned counsel for the petitioner submits that non-clearance is not due to the capability of the petitioner but, due to the fact that petitioner was not well and admitted in ICU, AIIMS, New Delhi on the date of examination due to his ill-health. Learned counsel further submits that though, under the rules governing the issue, a candidate can only be allowed to attend the 2nd year course in case, if he/she has cleared the first year but in the facts and circumstances of the present case, the petitioner should be promoted to the 2nd year subject to his clearing of the supplementary examination in the subject of Anatomy.

4. Learned counsel for the respondents submits that once the rule does not permit the entrance to the 2nd year unless and until the student has cleared the first year examination, the prayer of the petitioner cannot be accepted as, all the students who have re-appear in the first year, will claim the same relief by pretending to be sick. Learned counsel for the respondents further submits that as of now, 05 months of study the 2nd year has already been concluded, hence, even otherwise, the petitioner cannot be allowed to join the 2nd year at this stage.



5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. Once, it is a conceded fact that as per the rules governing the University, a candidate is required to pass first year examination before being promoted to the 2nd year, the petitioner's claim that he should be allowed to join the 2nd year without even clearing the first year examination cannot be accepted. The rules are to be adhered to under all the circumstances.

7. Though, it is unfortunate that on the date of the supplementary examination, the petitioner fell sick but it is a matter of fact that he has yet to clear his supplementary examination in the subject of Anatomy, which is a major subject in the course of MBBS studies. That being so, the petitioner's claim that he should be allowed to study in the 2nd year subject to his re-appearing in the examination in the subject of Anatomy of first year, cannot be accepted.

8. Learned counsel for the petitioner submits that All India Institute of Medical Sciences, Rajkot, Gujrat is promoting the students of the first year to the 2nd year in case in which the student has only one re-appear. Learned counsel submits that the said rule should also be brought in operation qua the respondent-University as the rules are silent in case of the respondent-University.

9. Learned counsel appearing on behalf of the respondent-University submits that they are governed by the directions issued by the National Medical Commission, according to which, the student who has failed to clear the first year examination cannot be promoted to 2nd year so as to allow to study in the 2nd year.



10. That being so, once the University is following the particular rule, which is not in dispute, merely that another University is following another rule, the said rule will not be brought into the University where the petitioner is studying so as to grant the relief.

11. No ground is made out for any interference by this Court in the facts and circumstances of the present case.

12. Dismissed.

January 18, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No