**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

205 **CWP No. 22669 of 2019**
Date of Decision: January 06,2020

Dr. Mohini Garg and Ors. .....Petitioners

versus

State of Punjab and Ors. .....Respondents

CORAM:- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Ms. Avin Kaur Sandhu, Advocate and
Mrs. Harparteek Singh Sandhu, Advocate
for the petitioners.

Ms. Sakshi Bakshi, AAG, Punjab.

Mr. Kamal Sharma, Advocate for
Mr. Nitin Kaushal, Advocate
for respondents No.2 and 3.

Mr. Manpreet Singh Longia, Advocate
for respondent No.4.

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SUDHIR MITTAL, J. (ORAL)

At the very outset, learned counsel for the petitioners submits that the writ petition on behalf of petitioners No.2 to 10 has been rendered infructuous as the said petitioners have qualified the M.D. course in the supplementary examinations held in December 2019.

Ordered accordingly.

So far as petitioner No.1 is concerned, the writ petition is being decided on merits as she has failed to qualify the supplementary examination as well.

Petitioner No.1 is a student of M.D. course in the Discipline of Pathology in Government Medical College, Patiala. On completion of the course, she was subjected to an examination in May-June 2019 in which she has failed, leading to the filing of the present writ petition.

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Learned counsel for the petitioner No.1 has relied upon Regulation 14 (1) (b) of the Post Graduate Medical Education Regulation, 2000 (herein referred to as 2000 Regulations) to submit that Sub-Clause (b) of the said Regulations mandates that an examinee is to be evaluated by 04 examiners, 02 of whom are external examiners and 02 are internal examiners. In exceptional circumstances, the number of examiners can be reduced to 03 with the prior consent of the Medical Counsel of India as specified in Sub-Clause (c) of the same Regulations. In the instant case, the answer books of petitioner No.1 have been evaluated by 02 examiners, 01 of whom was an external examiner and other was the internal examiner and thus the mandatory requirement of the 2000 Regulations has been violated. The answer books of petitioner No.1 thus deserve to be evaluated afresh by 04 different examiners as provided in Regulation 14 (1) (b) of the 2000 Regulations.

Learned counsel for the respondent-University submits that in fact the answer books of petitioner No.1 have been evaluated by 04 different examiners in accordance with Regulation 14 (1) (b) of the 2000 Regulations and thus there is no illegality in the evaluation process. He submits that the writ petition deserves to be dismissed.

Learned counsel for respondent No.4 i.e. Medical Counsel of India affirms that Regulation 14 (1) (b) of the 2000 Regulations mandates that the answer books of each Post-Graduate student have to be evaluated by 04 examiners.

Regulation 14 (1) of the 2000 Regulations is reproduced below for ready reference:

> *(a) All the Post Graduate Examiners shall be recognised Post Graduate Teachers holding recognised Post Graduate qualifications in the subject concerned.*
> *(b) For all the post Graduate Examinations, the minimum number of*

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examiners shall be four, out of which at least two (50%) shall be External Examiners, who shall be invited from other recognised universities from outside the State. Two sets of internal examiners may be appointed one for M.D. /M.S. and one for diploma.

(c) Under exceptional circumstances, examinations may be held within 3 (three) examiners provided two of them are external and Medical Council of India is intimated the justification of such action prior to publication of result for approval. Under no circumstances, result shall be published in such cases without the approval of Medical Council of India.

(d) In the event of there being more than one centre in one city, the external examiners at all the centres in that city shall be the same. Where there is more than one centre of examination, the University shall appoint a Supervisor to coordinate the examination on its behalf.

In paragraph No.6 of the writ petition it has been specifically averred that the answer books of petitioner No.1 were evaluated by 02 examiners only. There is no denial thereto in the corresponding para of the written statement of the respondent-University. However, in Para No.3 of the reply there is an ambiguous assertion. Initially, it is said that 04 examiners checked the answer sheets whereas subsequently it has been stated that petitioner No.1 has not been prejudiced in any manner as her answer books were evaluated by 02 examiners.

On an overall perusal of the written statement, it is apparent that the stand of the respondent-University is that the answer books of petitioner No.1 have been evaluated by 02 examiners and the said evaluation is valid and legal.

It is not in dispute that the 2000 Regulations are binding upon all universities and the provisions thereof have to be fulfilled in letter and spirit. Thus, it is mandatory for the answer books of the Post-Graduate students to have been evaluated by 04 different examiners, 02 of whom have necessarily to be external examiners. The respondent-University has thus violated the prescribed procedure for evaluation of answer books.

The writ petition is accordingly allowed and it is directed that the answer books of petitioner No.1 be evaluated once again by 04 different

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examiners of whom 02 are external examiners. Thereafter, the result of petitioner No.1 be declared. The exercise be carried out within a period of 04 weeks from the date of receipt of a certified copy of this order.

January 06, 2020 **[SUDHIR MITTAL]**
manju **JUDGE**

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No

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