



CWP-14256-2020 (O&M)

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

**CWP-14256-2020 (O&M)
Date of Decision: 15.07.2024**

Pooja Gupta

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Naveen Siwach, Advocate for
Mr. J.S. Saneta, Advocate,
for the petitioner.

Mr. Jatin Kaushal, Advocate for
Mr. Arvind Seth, Senior Panel Counsel,
for respondent No.1-UOI.

Mr. Vivek Singla, Advocate,
for respondents No.2 & 3.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari/mandamus* or such other appropriate writ, order or direction thereby quashing the action of the respondent/institute conveyed vide email dated 06.06.2020 (Annexure P-9) and also to direct the respondent to declare the result of the petitioner for term-6 (PGP) Batch-9 (2018-2020) which has already been declared on 09.03.2020, whereas the result of the petitioner has been withheld without any intimation to her and also release the security money i.e. Rs.30,000/- withheld by the respondent-Institute.

2. The facts of the present case so stated by the learned counsel for

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the parties in brief are that the petitioner was a student of Indian Institute of Management, Rohtak and was pursuing her Post Graduation Programme (PGP) for 2018-2020 Batch. The aforesaid course was of 2 years, which consists of six trimesters. As per the learned counsels for the parties, while the petitioner was in her 6th trimester, she made a complaint to the Director of the Institute alleging sexual harassment by another student and also by some of the officials. Thereafter, the matter was not only sent to the Internal Complaints Committee but also to the police for enquiry. The police, however, came to the conclusion that the allegations made by the petitioner are not sustainable. The aforesaid Committee also came to the conclusion later on that the allegations made by the petitioner are not sustainable and are false.

3. However, the subject matter and the controversy involved in the present case is only to the extent pertaining to the prayer made by the petitioner for directing the respondents to declare the result of the petitioner of Term-6 i.e. 6th Trimester of Batch 2018-2020, which has been withheld and also to release the security money of Rs.30,000/- which was withheld by the respondents.

4. Learned counsel appearing on behalf of the petitioner submitted that the petitioner had admittedly applied for PGP Batch-9 for the year 2018-2020 Course and she was in the final trimester when the aforesaid controversy took place and vide impugned order dated 06.06.2020 (Annexure P-9), an order of punishment has been inflicted upon the petitioner in terms of the Academic Handbook under Clause 7.5.3 directing the petitioner for repeating the Term-6 of PGP and also with a direction to



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tender an apology in writing as well as in visual format. Learned counsel further submitted that after the aforesaid order of punishment was passed, the result of the petitioner for 6th Trimester was not declared by the respondent-Institute and in this way, more than four years have elapsed and that the petitioner, who is a student, has not been able to pursue her further studies nor could apply for any job and her entire career has been spoiled by the respondent-Institute because of passing of the aforesaid impugned order (Annexure P-9) which is not only illegal and erroneous but also without the authority of law.

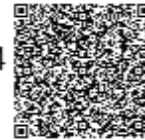
5. While substantiating his arguments, he submitted that the petitioner was admittedly a student of Batch No.9 which is of the year 2018-2020, regarding which, there is an Academic Handbook which has been attached with the present petition as Annexure P-10 issued by the Indian Institute of Management, Rohtak which governs the terms and conditions of the Batch with respect to the students. He also submitted that in the next year, a fresh Academic Handbook was issued for Batch No.10 for the year 2019-2021 which has been attached as Annexure R-2/8 by the respondent-Institute along with the reply. He further submitted that a perusal of the impugned order (Annexure P-9) would show that a punishment has been inflicted upon the petitioner in terms of Clause No.7.5.3 of the Academic Handbook for the year 2019-2021 which is not existing in the Academic Handbook (2018-2020) which is applicable to the present petitioner because the petitioner was admitted in Batch No.9 for the year 2018-2020 and the aforesaid provision did not even exist in the aforesaid Academic Handbook. He further submitted that after one year of the next Batch i.e. Batch No.10, a

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fresh Academic Handbook has been issued vide Annexure R-2/8 which pertains to the years 2019-2021 in which a fresh provision was incorporated i.e. Clause 7.5.3 wherein various types of punishments have been provided. Learned counsel for the petitioner further submitted that the aforesaid Academic Handbook (Annexure R-2/8) is for Batch No.10 for the year 2019-2021 and is not applicable to the petitioner. The same neither operates retrospectively nor there is any other provision in the aforesaid Academic Handbook for making the same retrospective in operation and submitted that the respondents-Institute have neither authority of law nor there is any power vested in the respondent-Institute for inflicting any punishment which was not provided in the Academic Handbook (2018-2020) so applicable to the petitioner and therefore, the impugned order vide Annexure P-9 is liable to be set aside and quashed and a direction may be issued to the respondents to declare the result of the petitioner of 6th trimester and also to release the security amount of Rs.30,000/- along with interest.

6. On the other hand, Mr. Vivek Singla, learned counsel appearing on behalf of respondents No.2 & 3 i.e. the Institute submitted that it is not in dispute that the petitioner has been inflicted with the punishment in terms of Clause 7.5.3 of Academic Handbook of Batch No.10 for the year 2019-2021 and it is also not in dispute that the petitioner took admission in Batch No.9 for the year 2018-2020. He, however, submitted that the respondent-Institute was within its powers to inflict the punishment in terms of the aforesaid provision in view of the Clause which has been contained in the handbook of Batch No.9 for the year 2018-2020 vide Annexure P-10 in the Preamble Clause which provides that the Institute reserves the right to modify any part



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of this document at any time during the two years for which this Handbook is valid and all such changes in this document and consequently, in the relevant rules shall be binding on the student. He also referred to Clause 10.1 of the aforesaid Academic Handbook which provides that the Institute reserves the right to add, alter, delete or modify any of the foregoing provisions of this Handbook from time to time, to meet the academic, administrative or general exigencies, requirements or changes in the policies. He further submitted that in terms of the aforesaid enabling provision that the terms were altered and modified and therefore, the same were so incorporated in the Policy of Batch No.10 for the year 2019-2021 (Annexure R-2/8) and therefore, the respondent-Institute was within its right to have inflicted the punishment in terms of Clause 7.5.3 of the Academic Handbook (2019-2021).

7. I have heard the learned counsels for the parties.

8. The controversy involved in the present case is as to whether the respondent-Institute was within its rights to have inflicted the punishment in terms of Clause 7.5.3 of the Academic Handbook (2019-2021) upon the petitioner or not and as to whether the respondents-Institute had any authority of law to inflict such punishment or not. The subject matter of the present case is pertaining to the aforesaid controversy involved in view of the prayer made by the petitioner seeking a direction to declare the result of 6th trimester. An order was passed on the last date of hearing by directing the respondents No.2 & 3 to produce enquiry report in a sealed cover.

9. Learned counsel for respondents No.2 & 3 stated that he has



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brought the aforesaid enquiry report of the Internal Complaints Committee.

10. However, after hearing the learned counsels for the parties and considering that the *lis* involved in the present case is only to the aforesaid limited extent, this Court is of the view that there is no need to open the enquiry report which has been brought to this Court. Therefore, this Court is further of the view that there is no need to go into the merits of the enquiry pertaining to allegations of sexual harassment made by the petitioner.

11. A perusal of the impugned order/letter dated 06.06.2020 (Annexure P-9) would show that it is penal in nature and has been passed in terms of Clause 7.5.3 of the Academic Handbook (2019-2021) by the respondent-Institute. An argument was raised by the learned counsel for the petitioner that such an order could not have been passed because there is no such provision in the Academic Handbook of Batch-9 for the year 2018-2020 whereas the same although exists in the Academic Handbook of Batch-10 for the year 2019-2021, yet the same can not operate retrospectively. However, on the other hand, it is the argument of the learned counsel for respondents No.2 & 3-Institute that in terms of the provision so incorporated in the Preamble of the Policy (Annexure P-10) and also Clause 10.1 of the aforesaid Academic Handbook that even if the same has been incorporated in the later Batch-10, the same will be applicable to the petitioner because the power lies with the respondent-Institute to add, alter, delete or modify any of the foregoing provisions of the Handbook from time to time.

12. The aforesaid impugned order/letter dated 06.06.2020 (Annexure P-9) is reproduced as under:-

“6/6/2020



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INDIAN INSTITUTE OF MANAGEMENT ROHTAK
MAIL- Disposal of Complaint dated 14th Feb 2020
PonyKIKI. pgp09poojag@iimrohtak.ac.in

Disposal of Complaint dated 14th Feb 2020

1 message

Internal Complainants Committee<complaints@iimrohtak.ac.in.>

Tue, Jun 2, 2020 at 10:36AM

To POOJA GUPTA. PGP09poojag@iimrohtak.ac.in

Dear Ms. Pooja

This is with reference to your complaint dated 14th Feb 2020 vide email regarding "Sexual Harassment, Mental Harassment, and Extortion by IIM Rohtak" against students.

The complaint was reviewed by the internal complaint committee. The findings of the committee revealed that the allegations made by you are false and baseless.

The committee found that you have violated the institute's reputation. Your offense falls under the major category of breach of discipline of academic handbook 7.5.2.

As per the academic handbook clause 7.5.3, you are awarded the penalty of repeating term VI of DGP. Further, you are also required to tender an apology in written as well as visual format.

*Warm regards
 Chairperson
 Internal Complaints Committee
 IIM Rohtak"*

13. The relevant portion of Academic Handbook (Annexure P-10) which pertained to Batch-9 for the year 2018-2020 (Page 64 of Paperbook) is also reproduced as under:-

"INDIAN INSTITUTE OF MANAGEMENT ROHTAK
POST-GRADUATE PROGRAMME IN
MANAGEMENT

Batch 09
(2018-20)



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Academic Handbook

INDIAN INSTITUTE OF MANAGEMENT ROHTAK
Management City, NH-10, Southern Bypass,
Sunaria, Rohtak-124010
Phone: 01262-228511 FaxL01262-274051
E-mail: pgpoffice@iimrohtak.ac.in
Website: www.iimrohtak.ac.in

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INDIAN INSTITUTE OF MANAGEMENT ROHTAK
POST-GRADUATE PROGRAMME IN MANAGEMENT

1. PREAMBLE

The information, rules, and regulations contained in this Handbook 2018-20 and the amendments, alterations, and modifications that may be made thereto from time to time by the Institute, shall govern the IIM-R Post-Graduate Programme in Management (Post-Graduate Diploma in Management (PGDM) Batch 08 Institute reserves the right to modify any part of this document any time during the two years for which this Handbook is valid and all such changes in this document and consequently in the relevant rules shall be binding on the student.

10. Alterations

10.1 The institute reserves the right to add, alter, delete or modify any of the foregoing provisions of this Handbook from time to time, to meet academic, administrative, or general exigencies, requirements or



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changes in policies.”

14. Similarly, the relevant portion of Academic Handbook for Batch-10 for the year 2019-2021 (Annexure R-2/8) is reproduced as under:-

**“INDIAN INSTITUTE OF MANAGEMENT ROHTAK
POST-GRADUATE PROGRAMME IN
MANAGEMENT**

**Batch 10
(2019-21)**

Academic Handbook

**INDIAN INSTITUTE OF MANAGEMENT ROHTAK
Management City, NH-10, Southern Bypass,
Sunaria, Rohtak-124010
Phone: 01262-228511 FaxL01262-274051
E-mail: pgpoffice@iimrohtak.ac.in
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***INDIAN INSTITUTE OF MANAGEMENT ROHTAK
POST-GRADUATE PROGRAMME IN MANAGEMENT***

1. PREAMBLE

The information, rules, and regulations contained in this Handbook 2019-21 and the amendments, alterations, and modifications that may be made thereto from time to time by the Institute, shall govern the IIM-R Post-Graduate Programme in Management (MBA) Batch 10 Institute



reserves the right to modify any part of this document any time during the two years for which this Handbook is valid and all such changes in this document and consequently in the relevant rules shall be binding on the student.

7. GENERAL DISCIPLINE OF THE CAMPUS

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7.5 Breaches of Discipline

7.5.1 Academic Malpractice

There are severe penalties for students found guilty of any kind of malpractice either within the classroom or outside in any part of the programme or a course. All instances of malpractices including in assignments or examinations, of any magnitude, major or minor, will result in penalty ranging from a course F at the minimum to expulsion from the programme. Any case of repeat of offence will attract a harsh penalty, which can be expulsion. Any deficiency in the classroom conduct including lack of regularity and punctuality and misbehaviour with the instructor, other students, institute staff etc., will also attract severe penalties.

7.5.2 Attendance Malpractice

Violation of the Punch In/ Punch Out will be considered as an attendance malpractice and will attract below Penalties:

- 1. For the first instance of the violation, a fine of Rs.5,000 shall be imposed.*
- 2. On the second instance, a fine of Rs.20,000 shall be imposed.*
- 3. For the third instance, candidate shall be expelled from the programme.*

7.5.3 Categories *The breaches of discipline are categorized as Major, Intermediate and Minor. The appropriate disciplinary committee shall categorize the breach as Major, Intermediate or Minor on a case to case basis. Some of the Major breach of discipline is detailed in the table below.*



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S.No.	Breaches of Discipline	Categories
1	Any violation of any sort of the Indian Penal Code	Major
2	Academic Malpractice: Repeat Offence	Major
3	Ragging in any form	Major
4	Conducts that interfere with the operations of the institute. Such conducts include but are not limited to disruptions or obstructions of teaching, research, administration or other IIM Rohtak activities.	Major
5	Participation in any act or threat, physical, mental, perpetrated for the purpose of submitting a student or any other person to physical pain or discomfort, indignity or humiliation	Major
6	Defacing or deliberately destroying or damaging any property such as fire equipment of the Institute or of another person in the campus or connected with the Institute	Major
7	Unlawful Assembly/Participating in or promoting any disruptive activity or disrupting a lawful assembly on campus	Major
8	Possession of arms, explosive or any other weapon on campus,	Major
9	Manufacturing, possessing, selling, using or being party thereto of any illegal drugs	Major
10	Misbehavior with security, housekeeping, officials, staff and faculty members	Major
11	Writing emails/Copying/Forwarding without following the due process and unwarranted escalation <u>without following the grievance redressal mechanism *</u>	Major
12	Writing to outside institute third parties/social media without proper authorisation/approval <u>from PR Chair and Dean REE</u>	Major
13	Escalation of matters without following due process and escalation outside the institute without exhausting internal mechanisms	Major
14	Misuse of Institute of letter head and logo	Major
15	Public display of Affection/Obscenity and lewd acts	Major
16	Unauthorized absence	Major
17	Academic Malpractice : First Offence	
18	Unauthorized possession of any property belonging to the Institute, Hostel or any individual.	
19	Unauthorized access to any Institute, Hostel or personal premise	
20	Fraudulent use of Student identity cards	
21	Refusal to present identity card upon request by an authorised individual	
22	Drinking or having in possession any alcoholic beverages on the campus	
23	Making a false official statement to any Institute official or staff member	
24	Other breaches of discipline	



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7.5.3 Penalties

Major	
1.	Expulsion: Separation of the student from the Institute whereby the student is not eligible for re-admission to the institute
2	Dismissal: Separation of the student from the Institute for an indefinite period of time
3	Suspension: Separation of the student from the Institute for a definite period of time
4	Withholding the degree of the students for some definite period of time
5	Year Repeat with full fees
6	Term Repeat with full fees
7	Barring from Placement
8	Expulsion from hostel resident facility for a definite period of time
Intermediate	
1	Conduct Probation: An official warning that the students conduct is in violation of the Institute Regulations. This could be imposed for varying period of time and could entail
	i) Ineligibility to hold office in the Institute
	ii) Ineligibility to Alumni membership/functionary of any IIM, Rohtak body
	iii) Ineligibility to represent the Institute in any function
	iv) Ineligibility to receive an Institute administered scholarship, grant or award
2.	Public Apology: Tendering an apology to be displayed on all hostel and department notice boards
3	Fine: A monetary penalty for having indulged in breach of conduct
4	Awarding F in the Course
Minor	
1	Restrictions: The withdrawal of specified privileges for a definite period of time. This may include such conditions as a requirement to remain on campus or sign in at previously designated areas during specified period of time, including holidays
2.	Hostel Probation: An official notice by the hostel administration that the student's conduct is in violation of Hostel regulations and stringent disciplinary action may result if the student does not rectify the situation
3	Reprimand: A verbal or written admonition that puts on record any incident which reflects unfavourably on the student
4	Community Work as decided by the Disciplinary Committee
5	An apology: A written apology to the inferred party concerned as decided by the PGP Executive Committee/Disciplinary Committee

* Grievance Redressal Mechanism:

<u>PGP Office</u>	7 days
<u>PGP Chair</u>	15 days
<u>Dean</u>	30 days

15. The learned counsel for respondents No.2 & 3 has only relied



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upon the provision in the Preamble and Clause 10.1 of the aforesaid Academic Handbook (2019-2021) to contend that in view of the aforesaid provision, there was a power vested with the Institute to have amended or altered any of the provisions. The aforesaid argument raised by the learned counsel for respondents No.2 & 3 is *ex facie*, misconceived and unsustainable. A perusal of the Preamble of Annexure P-10 so reproduced above shows that it is clearly stated therein that Institute reserves the right to modify any part of **this document** any time during the two years for which this Handbook is valid and all such changes in this document. The same is the language which has been used in Clause 10.1 of the aforesaid Academic Handbook which provides that the Institute reserves the right to add, alter, delete or modify any of the foregoing provisions of this Handbook from time to time. In another words, the power was vested with the Institute to have altered or modified the document in which the provision has been incorporated. However, there is nothing on the record to show that any provision etc. has been amended or modified in this document i.e. Annexure P-10. The language used in the aforesaid Preamble and Clause 10.1 is unambiguous and clear. While applying the Rule of literal construction, it is *ex facie* clear that the powers so vested with the Institute to add, alter, delete or modify any of the foregoing provisions in the present document would pertain to a document in which the provisions have been incorporated. However, after the aforesaid Batch i.e. Batch No.9 is over for the year 2018-2020 and a fresh Academic Handbook has been issued which is annexed as Annexure R-2/8 for the Batch-10 for the year 2019-2021. Therefore, it cannot be said that there was any alteration or deletion or



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modification in the earlier Academic Handbook for Batch-9. The later Academic Handbook is absolutely a fresh handbook. A perusal of the same would show that a similar kind of language is used in the Preamble of the later Academic Handbook as well. Therefore, the argument raised by the learned counsel for the respondents that since a power was vested, Clause 7.5.3 should be treated as an amendment is absolutely misconceived and unsustainable and against the record. It cannot be said by any stretch of imagination that any alteration or deletion or amendment has been made in Academic Handbook of 2018-2020 because Annexure R-2/8 is a fresh Handbook and it does not relate at all to earlier Academic Handbook (Annexure P-10). Further, there is no such provision in Annexure R-2/8 showing for any retrospective operation. Therefore, it is very clear that Academic Handbook of the year 2019-2021 for the Batch-10 (Annexure R-2/8) is not applicable to the petitioner. Whereas the Batch No.9 (2018-2020) vide Annexure P-10 is applicable to the petitioner.

16. A perusal of Preamble of Handbook for Batch-9 (2018-2020) also shows that it refers to Batch-8 which might be a printing error because handbook deals with Batch-9. It would be more clear from Preamble of handbook for Batch-10 (2019-2021) where it refers to Batch-10 and language used is in *pari materia*.

17. Admittedly, in Batch-9 of the Academic Handbook for the year 2018-2020 (Annexure P-10), there is no provision for any kind of punishment of Clause 7.5.3 under which the punishment has been inflicted whereas the same exists only in the later Academic Handbook i.e. for Batch-10 for the year 2019-2021 (Annexure R-2/8). Therefore, the punishment



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which has been inflicted upon the petitioner in terms of the Clause 7.5.3 is totally without the authority of law and without any power.

18. Consequently, the present petition is allowed. Impugned order/letter dated 06.06.2020 (Annexure P-9) is set aside and quashed.

19. It is also necessary to examine the submissions made by the learned counsel for the petitioner that the punishment which has been inflicted upon the petitioner to repeat Trimester No.6 was in the year 2020 vide impugned order dated 06.06.2020 (Annexure P-9), without the authority of law and more than four years have elapsed that the petitioner was not able to apply for any job or pursue her further studies thereby jeopardising her career. The petitioner is a young girl and was of 27 years at the time when the impugned order was passed and she could not do anything for the next four years because of the aforesaid order which was passed without the authority of law. It has seriously affected her career and studies apart from other incidental consequences. Therefore, this Court is of the considered view that the action of the respondent-Institute being *ex facie* illegal and without the authority of law which resulted in having a drastic and adverse impact upon the career of a young student, the petitioner deserves exemplary costs in the nature of compensation which are assessed as Rs.2,00,000/- (Rupees Two Lacs only) which shall be paid to the petitioner by the respondent-Institute within a period of three months from today.

20. In case, the aforesaid costs are not paid to the petitioner within the aforesaid period, then she will be entitled for interest @ 9% per annum thereafter.



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21. As a consequence, the respondents are also directed to expedite the process of declaring the result of the petitioner forthwith and also expedite the process of granting the degree in accordance with law.

22. It is further directed that the security amount of Rs.30,000/- shall also be given to the petitioner in case she makes any application for the same within a period of two months from filing of the application.

15.07.2024

**(JASGURPREET SINGH PURI)
JUDGE**

Bhumika

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|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |