

(2) Having perused the orders of the two Courts below, I find that the one passed by the Appellate Court is wholly sustainable. The material factual finding recorded by the Court in this regard is to the following effect:

“From this *prima facie* it becomes clear that the appellant is a tenant not only on the constructed portion, but also on the vacant portion of that property in the shape of kitchen garden, front and back lawns and the path way. His possession over the entire property cannot be disputed by the plaintiff because the plaintiff has himself pleaded that his Architect on one occasion and he and his Architect on the other occasion were not allowed by the appellant to enter the demised premises for preparing the site plan of the constructed portion. The appellant cannot be said to be a licensee over the disputed property. He is in possession thereof as a tenant in his own right and unless he is ejected from the demised premises in accordance with law, the landlord cannot force his entry into the property. Of course, the landlord has a right to inspect the premises, at reasonable hours with the permission of the tenant and this has been so accepted by the appellant in his written statement”.

This appears to be the correct enunciation of the legal position, as discussed by the lower Court. Therefore, I do not see any merit in this petition and the same is dismissed but with no order as to costs.

P.C.G.

Before : S. S. Sodhi & N. K. Kapoor, JJ.

SHAHNAWAZ,—Petitioner.

versus

PANJAB UNIVERSITY, CHANDIGARH AND OTHERS,  
—Respondents.

Civil Writ Petition No. 755 of 1990.

2nd April, 1991.

*Constitution of India, 1950—Art. 226—Panjab University Calendar, Vol. II—Regulations 4.1, 4.2 & 4.3—Failure to fulfil minimum requirement of attendance of lectures—Shortage for any reason whatsoever cannot be condoned—Under Reg. 4.3, no relaxation can be granted—Student has no enforceable right of condonation of lecture shortage*

**Shahnawaz v. Panjab University, Chandigarh and others**  
(S. S. Sodhi, J.)

*Held*, that the University Regulations do not provide for any further relaxation on any ground whatsoever, beyond the additional relaxation to the extent of 10 per cent in the shortage of lectures. The fact that on account of some medical ailment or even an accident, a student is prevented from attending the minimum prescribed lectures, no further relaxation can be granted as Regulation 4.3 of the Panjab University Calendar, Volume II is categorical that a candidate who does not fulfil the attendance of lectures requirement will have to repeat the course of instruction before taking the examination. A student failing to fulfil the minimum requirement of attendance of lectures has inevitably to face the consequences that flow from his failure to do so. No right, enforceable in writ proceedings, for condonation of shortage in attendance of lectures thus enures for the benefit of such student, whatever may have been the cause on account of which he did not or was unable to attend the requisite number of lectures. Hence, the University is right in barring the student from appearing in the 1st semester examination of the Bachelor of Library and Information Sciences which is professional course.

(Paras 11 & 12)

*Petition under Art. 226 of the Constitution of India, praying that, an appropriate writ, order or direction especially in the nature of Certiorari/Mandamus be issued directing the respondents :—*

- (i) to produce the complete records of the case;
- (ii) to issue a writ of Certiorari quashing the order of respondent No. 2 annexed as Annexure P-9 debarring the petitioner for appearing in the examination of 1st Semester of B.Lib & Information Science.
- (iii) it is further prayed that the respondents be directed to allow the petitioner to appear in the remaining examination of 1st semester B.Lib and Inf. Science during the pendency of this writ petition;
- (iv) this Hon'ble High Court may issue any other writ, order or direction which it may deem fit under the circumstances of the case;
- (v) the requirement of advance notice to the respondents and submission of attested copies of annexures may please be ordered to be exempted/dispensed with;
- (vi) cost of the writ petition be also awarded in favour of the petitioner.

**Kapil Kakar, Advocate, for the Petitioner.**

**Sumant Batra, Advocate, for the Respondents.**

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**JUDGMENT**

S. S. Sodhi, J.

(1) Barring petitioner Shahnawaz from appearing in the 1st semester examination of Bachelor of Library and Information Sciences due to shortage in attendance of lectures, is what is sought to be challenged in writ proceedings here.

(2) The petitioner was admitted to the 1st semester course of Bachelor of Library and Information Sciences of the Panjab University, Chandigarh, on August 3, 1990. Regular classes did not, however, begin till August 16, 1990. The petitioner attended classes till September 19, 1990, as on the next day the university had to be closed due to the anti-reservation stir. The petitioner thereafter left the university and went to his home at Chamba.

(3) The Panjab University reopened on November 5, 1990, but the petitioner did not return till several days thereafter. It was from November 19, 1990, that he started attending classes again.

(4) It is the case of the petitioner that on September 28, 1990, while at Chamba, he suffered a firearm injury as a result of which he had to remain under the treatment of the medical officer of the District Hospital, Chamba, till November 14, 1990. Reference in support being made to Annexure P-3, which purports to be a true copy of the medical certificate issued by the medical officer concerned.

(5) The petitioner goes on to say that on coming back to Chandigarh he suffered a kidney attack on November 23, 1990, for which he got himself checked up at University, Health Centre and later at the Post Graduate Medical Institute, Chandigarh. Annexure P-4 being the photocopy of the outdoor ticket of this institute to support this assertion.

(6) On November 27, 1990, it is averred that he again felt pain in the kidney and consequently he once again went to the Post-Graduate Medical Institute for treatment and then, as advised by the doctors there, he went home. At Chamba he was examined at the Civil Hospital on December 1, 1990 and he remained under treatment of the medical officer there till December 10, 1990 and thereafter spent another five days for "recovery of health". It was on December 17, 1990, that he eventually returned to Chandigarh and started attending lectures again.

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(7) It is in the context of this factual background, with emphasis upon the petitioner's medical condition, that his counsel Mr. Kapil Kakkar sought to explain away the resultant shortage in attendance of lectures by him. The contention, in other words, being that the petitioner's medical condition clearly warranted condonation of shortage in attendance in lectures thereby rendering him eligible to appear in the 1st semester examination.

(8) Pressed in support being the judgment of this Court in *Rohit Jaswal v. Panjab University*, (1). The matter there concerned the cancellation of the admission of the petitioner to the LL.B. course for failure to attend 33 per cent of the lectures delivered during the first two weeks of the course. According to the petitioner, after getting admission he went to his home at Moga where he suffered an injury in his back on account of which he had to spend two weeks in bed. On coming back and learning of the cancellation of his admission, he submitted a representation accompanied by a medical certificate. The Board of Control of the university rejected the representation holding that the back pain was not of such intensity as could prevent him from attending the classes. It was held that the impugned order cancelling the petitioner's admission had been passed without application of mind as no opinion of any doctor had been sought to ascertain the seriousness of the petitioner's ailment.

(9) It will be seen that in *Rohit Jaswal's case* (supra), that the petitioner should have attended at least 33 per cent of the lectures delivered during the first two weeks of the Course, was prescribed merely by instructions issued by the Department unlike the present case, where such minimum number of lectures have been laid down in the university Regulations. The present case, otherwise, on facts too is clearly distinguishable. This Judicial precedent is thus of no avail to the petitioner.

(10) The stand of the respondent-university, on the other hand, is that Bachelor of Library and Information Sciences is a professional course requiring, not only good theoretical knowledge, but also thorough practical training, as after graduation students are expected to be qualified to work in or even head various types of libraries. Attendance of classes and practical know-how with necessary expertise in the subject is thus absolutely essential. It is, keeping in this

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(1) 1990 (1) Recent Services Journal, 57.

view, that the university expected students to attend at least 66 per cent of the lectures. The Head of the Department was empowered to allow additional relaxation to the extent of 10 per cent in the shortage of lectures of training. Reference in this behalf was made to Regulation 4.1 of Volume II of the Panjab University Calendar, which lays down as an essential pre-requisite for a candidate to sit for an examination in any semester that he must have attended at least 66 per cent of the lectures during the semester. While Regulation 4.2 empowers the Head of Department to condone the deficiency in the prescribed number of lectures to a further extent of 10 per cent.

(11) The significant point to note is that the Regulations do not provide for any further relaxation on any ground whatsoever. In other words, the fact that, on account of some medical ailment or even an accident, a student is prevented from attending the minimum prescribed lectures, no further relaxation can be granted as Regulation 4.3 is categorical that a candidate, who does not fulfil the attendance of lectures requirement will have to repeat the course of instruction before taking the examination. Such being the clear provisions of the relevant university Regulations, there can be no escape to the conclusion that a student failing to fulfil the minimum requirement of attendance of lectures has inevitably to face the consequences that flow from his failure to do so. No right, enforceable in writ proceedings, for condonation of shortage in attendance of lectures thus ensures for the benefit of such student, whatever may have been the cause on account of which he did not or was unable to attend the requisite numbers of lectures.

(12) In the present case, admittedly, shortage of lectures of the petitioner is beyond the condonable limit. This being so, no exception can, indeed, be taken to the impugned order barring him from appearing in the 1st semester examination.

(13) Another telling aspect of the matter, which cannot but invite adverse comment must also be adverted to. It will be recalled that as he was feeling weak he spent another five days at home after December 10, 1990, "for recovery of health". It, however, transpires that during this period he had, in fact, taken up an appointment with the Government College, Chamba. When this came to the notice of the Chairman of his Department, a letter Annexure R-5 was sent to him on February 16, 1991, asking him to state on an affidavit whether or not he had joined any service. No reply to it was submitted by the petitioner whereupon another letter Annexure R-6 to

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the same effect was sent to him on February 19, 1991. The petitioner refused to accept this letter, though, on the same day he did submit letter Annexure R-7 to the Chairman. It is pertinent to note that it contains no reference to the query made from him regarding his having been taken up employment. Such conduct on the part of the petitioner denotes scant regard for truthfulness and straight-forwardness.

(14) While dealing with this matter, reference may also be made to the admission from where one of the terms of the undertaking given by the petitioner was to the effect that during the course he would not join any service or pursue any other course of studies. Breach of this undertaking too is also writ large.

(15) No occasion is thus provided here for granting to petitioner the relief claimed. This writ petition is accordingly hereby dismissed and, having regard to the conduct of the petitioner as revealed, we also impose Rs. 500 as costs upon him.

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R.N.R.

Before : G. C. Mital, A.C.J. & H. S. Bedi, J.

CHARANJIT BAJAJ AND OTHERS,—Petitioners.

*versus*

THE STATE OF HARYANA AND OTHERS,—Respondents.

*Civil Writ Petition No. 1270 of 1985.*

10th April, 1991.

*Haryana Urban Development Authority Act—Acquired land utilized for commercial and residential purposes—Enhancement of compensation—Liability of allottees to pay enhanced price—Commercial plots fetching sufficient amount to take burden of enhancement—Effect of—Whether residential plot-holders absolved of their liability to pay enhanced price.*

*Held*, that the argument that the plots were sold to the petitioners on a no profit no loss basis, it will be just and fair that the burden of the enhanced compensation should be taken care of by