

**(1996) 10 SHI CK 0015**  
**In the High Court Of Himachal Pradesh**  
**Case No : C.W.P. No. 1856 of 1996**

Ashish Kumar

APPELLANT

Vs

H.P.K.V.V. and Another

RESPONDENT

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**Date of Decision :** 01-10-1996

**Acts Referred:**

**Citation :** (1997) 1 ShimLC 262

**Hon'ble Judges :** M. Srinivasan, C.J.; Kamlesh Sharma, J

**Bench :** Division Bench

**Advocate :** K.D. Sood, for the Appellant; Abhilasha Kumari, for the Respondent

**Final Decision :** Dismissed

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## Judgement

M. Srinivasan, C.J.—On going through the prospectus and the relevant records we are of the opinion that the Petitioner cannot succeed. It is brought to our notice that under Clause 423 of the prospectus the waiting list will stand automatically exhausted after 15 days of commencement of classes and no admission will be made after the stipulated period in order to meet the academic standard and also to confirm to the requirements of Veterinary Council of India Act and instructions/orders framed thereunder by Academic Council from time to time. Whatever may be the reason of the rule, it clearly says that on the expiry of 15 days of commencement of classes the waiting list will stand automatically exhausted. It follows, therefore, that the waiting list stood exhausted on 29-8-1996.

2. The Petitioner's case is that he was No. 20 in the waiting list and inspite of the university selecting certain persons from the waiting list there were some persons who were above him and did not want to join, therefore, the Petitioner would have to be selected. It is also his case that one candidate by name Isam Preet Kaur Bajwa left the course in the middle and joined M.B.B.S. Course in I.G.M.C., Shimla on 3rd September, 1996. The Petitioner has produced an affidavit sworn to by the said Isam Preet Kaur Bajwa The affidavit bears date 3rd

September, 1996 According to the affidavit, she joined the course in this university in the month of August 1996 in M B.B.S. Course in I.G.M.C , Shimla on 3rd September, 1996. That affidavit does not disclose as to when exactly the deponent left this course. She had not informed the university about her leaving the course. According to the learned Counsel for the university, no intimation was given to the university by the said Isam Preet Kaur Bajwa nor the affidavit, now produced by the Petitioner, had been forwarded to the university.

3. The Petitioner had addressed a letter to the Registrar of the university on 5-9-1996 pointing out that said Isam Preet Kaur Bajwa had relinquished her claim to the seat and joined Anr. course and therefore a seat had become vacant which could be allotted to him.

4. However, the rules contained in the prospectus, as referred to by us earlier, do not permit such a course to be adopted by the university It is stated by the learned Counsel for the Respondents that from amongst the candidates shown in the waiting list, the following eleven candidates were selected whose roll numbers are given hereunder:

1. 4955 2. 4541 3. 4578 4. 4596 5. 5076 6. 4315 7. 4557 8. 5048 9. 4417 10. 5082 and 11. 4756. The candidate whose roll number was 4597 is said to have attended the office of the university at 2.15 p.m, 15 minutes later than the scheduled time; yet he was not granted admission even though he was having higher marks than the candidates having roll numbers 5083 and 4756. Thus, the university had been very strictly enforcing the time limit prescribed in the notification. The present Petitioner's roll number is 4776. He is next to roll No. 4756. According to the Petitioner, roll No, 4759 was not interested in getting admission, therefore, the Petitioner should have been selected.

But as we have pointed out earlier that the waiting list was exhausted on 13-8-1996. Thereafter, no claim can be made by anybody of the basis of waiting list.

5. No doubt, the result will be that there is a vacancy in the course B.V.Sc. and A.H. but according to the rules of the University it is not filled up and it is always kept vacant Therefore, the Petitioner cannot claim as a matter of right that the seat should be filled up and he should be given a chance to contest for the same We cannot issue such a direction, as prayed for by the Petitioner.

6. However, if the University decides on its own to fill up that seat, then it should adopt a course by which all the candidates who were in the waiting list and were not selected already should be given opportunity. If such an opportunity is given, the Petitioner could also be given an opportunity to contest and then the selection could be made amongst those candidates by the University according to the merit Otherwise, it is not possible for the Petitioner to get selected for the course. We cannot issue a writ as prayed for by the Petitioner In the circumstances, as discussed above, the writ petition is dismissed.

C.M.P. No. 3767 of 1996:

In view of the dismissal of the writ petition, the present application is also dismissed.

8. Copy dasti.

9. Petition dismissed.