
(1989) 06 P&H CK 0023

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No"s. 3765 and 5636 of 1989

Dhiraj Sarwal and another

APPELLANT

Vs

The State of Punjab and others

RESPONDENT

Date of Decision : 02-06-1989

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1990 P&H 78

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Advocate : Ashok Gupta and Pardeep Gupta, for the Appellant; D.V. Sharma, I.P. Singh, for the Respondent

Judgement

J.V. Gupta, J.—This order will also dispose of Civil Writ Petition No. 5636 of 1989 as the question involved is common in both the cases.

2. In the year 1987, petitioners were admitted in the Medical College, Amritsar for M.B.B.S. Professional course on the basis of merit in P.M.T. test held by the respondents No. 1 to 4. According to the petitioners, they gave their first choice of admission to the Government College, Patiala as they belong to District Patiala but they were given admission for the said M.B.B.S. course at Medical College, Amritsar. Petitioners passed their first professional examination from Guru Nanak University, Amritsar held in the month of November/December, 1988. Petitioner No. 1 Dhiraj Sarwal secured 530 marks out of 750 whereas petitioner No. 2 Sandeep Singla secured 517 marks out of 750. The petitioners now wanted migration from Amritsar to Patiala for further study. According to the petitioners, the matter relating to migration/re-allocation/mutual transfer of M.B.B.S. students studying in Medical Colleges, Punjab was to be determined in view of executive order dated 1-12-1982, copy An-nexure P.1. According to the said letter, migration within three months after passing first professional M.B.B.S. examination should be allowed with the prior approval of the Government. Principals of the State Medical/Dental Colleges will process all the applications

received in this behalf and send them to Government along with information in the enclosed pro forma. It was also decided that candidates to be admitted from the waiting list should be allocated the Medical College after exhausting the choice of place already given on the original application of the higher merit students already admitted. In view of the said letter, petitioners applied to the Principal, Medical College, Amritsar for issuing a certificate of No Objection to their migration in 2nd Year M.B.B.S. class from Medical College, Amritsar to Medical College at Patiala. The Principal, respondent No. 4 issued no objection letters dated 23-1-1989 and 17-1-1989 to the petitioners, copies filed as Annexures P.2 and P.3. Thereafter the petitioners made applications to the Principal, Government Medical College, Patiala, wherein the marks obtained by them and other grounds on which they sought their migration were also mentioned. However, the cases of the petitioners for migration were rejected and certain other students who have been made respondents in these petitions were migrated to Patiala against the existing vacancies. The grievance of the petitioners is that the merit of the petitioners has been ignored arbitrarily and the private respondents have been migrated to Patiala without any merit. The whole action of the respondents 2 to 4 in this behalf was wrong, improper and being arbitrary was liable to be quashed.

3. The stand taken by the respondents in their written statement was that the petitioners have no legal or vested right as to be enforced in writ jurisdiction. The right of admission to a College may be a legal right which may be enforced but there is no right of migration for which writ jurisdiction could be invoked by the petitioners. Moreover, migrations have been made keeping in view the instructions issued by the department in this behalf which provided inter alia (i) marks obtained in First Year Professional Examination; (ii) humanitarian and compassionate grounds etc. According to the return, it has been stated in para 7 thereof that there was no question of pick and choose because each candidate has been adjudged on its own merits consisting of the abovesaid factors. Moreover, it was a collective decision taken by a Committee consisting of all the Principals of the State Medical Colleges headed by a Director, Research and Medical Education, Punjab and, therefore, the question of alleging any arbitrariness did not arise.

4. Learned Counsel for the petitioners submitted that once the petitioners are given admission in M.B.B.S. course, they were entitled to be migrated in view of the marks obtained by them and also on other factors. Even if the order was executive or administrative in character, the same was liable to be quashed in writ jurisdiction as it cannot abridge or take away the rights of the petitioners. In support of this contention, reference was made to (1973) 1 S LR 910.

5. After hearing the learned Counsel for the Parties, I am of the considered view that there is no legal or vested right in the petitioners of seeking migration from Amritsar to Patiala which could be enforced by invoking the writ jurisdiction of this Court. According to Annexure P.1, migration should be allowed with the prior

approval of the Government and the Principals of the State Medical Colleges will process all the applications received in this behalf and send them to Government along with information in the enclosed protorma. The question of migration was ultimately finalised by a Committee consisting of the Principals of the State Medical Colleges headed by a Director, Research and Medical Education, Punjab. No mala fide of any kind has been alleged against any of the members and the decision being a collective one, it could not be alleged to be arbitrary as such, According to the return filed on behalf of the respondents, suitability of each candidate has been adjudged keeping in view the factors stated in paras 3 and 7 of the return. Thus, the matter was left to the discretion of the Government to be decided taking into consideration the facts and circumstances of each student and that being so, no interference is called for in writ jurisdiction in such like matters. Consequently, both the petitions fail and are dismissed with no order as to costs.

6. Petitions dismissed.