
(2014) 07 P&H CK 0537
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 27718 of 2013

Mamta

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 01-07-2014

Acts Referred:

Citation : (2014) 07 P&H CK 0537

Hon'ble Judges : Gurmeet Singh Sandhawalia, J

Bench : Single Bench

Advocate : Harinder Sharma, Advocate for the Appellant; Amit Chaudhary, Addl. A.G., Punjab and K.S. Sandhu, Advocate for the Respondent

Final Decision : Dismissed

Judgement

G.S. Sandhawalia, J.—Prayer in the present amended writ petition is for issuance of a direction to the respondents to grant admission to the petitioner in the General Category in M.Sc. Nursing course in the speciality of Obstetric and Gynecological Nursing in respondent No. 3-State Institute of Nursing and Para Medical Sciences situated at Shri Muktsar Sahib (for short, the SINPMS) against the 25 seats sanctioned and allotted to the said college by the Indian Nursing Council (for short, the "IRC"). A further direction is also prayed that respondent No. 5-Mohan Dai Oswal College of Nursing at Ludhiana be asked to give no objection certificate for transfer of admission of the petitioner to respondent No. 3-College and further the fees deposited with the said college be refunded and adjusted against the funds payable to respondent No. 3-SINPMS, wherein the petitioner is seeking admission.

2. As per the pleaded case of the petitioner, respondent No. 2-University issued prospectus for conducting the Punjab Master of Sciences (Nursing) Entrance Test (for short, the "PMNET-2013"). As per the result declared, the petitioner secured 404 marks and was placed at rank No. 86. As per the schedule of counselling for admission in the M.Sc. Degree Course, no seat had been sanctioned to the respondent No. 3-SINPMS. Since the last admission in the General Category

closed with 476 marks, the petitioner took admission in the respondent No. 5-College on payment of Rs. 1,75,000/- as fees on 10.10.2013. Thereafter, 25 seats of various discipline were allotted to respondent No. 3-SINPMS by the NRC and a public advertisement was issued on 30.10.2013 and candidates who had qualified in the PMNET-2013 were called for walk-in counselling by the respondent No. 3 at 3 p.m. on the same day. The petitioner attended the counselling but her case was not considered on the ground that she could not obtain NOC from respondent No. 5-College. It was submitted that persons lower in merit had been granted admission and respondent No. 4 who had secured 404 marks had also been granted admission and the petitioner being elder in age, had a preferential right over and above her, in terms of Clause 9(ii) of Part-II of the Prospectus. Another counselling was held on 08.11.2013 for filling up the remaining seats and admission was given to candidates having lower merit and having only 200 marks. It was further pleaded that NOC was to be granted in the event of granting admission in the new college in the subsequent process of counselling. The main grouse of the petitioner is that the fees in the respondent No. 3-SINPMS was much less as compared to that of respondent No. 5-College, in which she was studying.

3. In the reply filed by respondent No. 2-University and respondent No. 3-Institute, it is averred that the Counselling Committee, in its meeting dated 10.10.2013, had decided that shifting was to be allowed only on the production of the NOC by the candidate from the respective college. It was submitted that respondent No. 3-Institute had been approved only on 28.10.2013 (Annexure R2/2) by INC. The Institution was suitable for the M.Sc. Nursing Programme with intake of 25 students with five seats in each speciality for the academic year 2013-14. Accordingly, advertisement was issued on 30.10.2013 for walk-in counselling but the petitioner was not considered since she already stood admitted in the respondent No. 5-College and she could not produce the no objection certificate. It was submitted that respondent No. 4-Amritbir Kaur had been given admission since she had telephonically contacted the Principal of the Adarsh CON, Patiala and the Principal had assured that the NOC would be given by 31.10.2013 to the Chairperson. Thereafter, the NOC was also produced by Amritbir Kaur (Annexure R2/4). The cut-off date of admission was extended by the State to 15.12.2013 and the eligibility criteria was also relaxed and vide advertisement dated 30.11.2013, applications were invited to fill up the remaining vacant seats and counselling was conducted on 04.12.2013. The petitioner did not attend the said counselling and at present, there were no seat vacant with the respondent No. 3-College. Accordingly, it was pleaded that the writ petition be dismissed.

4. Counsel for the petitioner has, accordingly, submitted that the petitioner was entitled for admission on 30.10.2013 and admission was wrongly given to respondent No. 4 and even respondent No. 4 did not have the NOC, at that point of time.

5. However, a perusal of the counselling held on 30.10.2013 would go on to show that the following proceedings were noted down by the Committee:

10. Ms. Amritbir Kaur D/o. S. Ranjodh Singh had already taken seat at Adarsh CON, Patiala in centralized counseling. Mrs. Paramjit Kaur, Principal Adarch CON, Patiala was telephonically contacted by the Chairperson for the NOC of the candidate. She gave her consent to give her NONC tomorrow. Accordingly, Ms. Amritbir Kaur was provisionally selected subject to production of NOC from the Adarsh CON, Patiala at the SINPMS, Badal by 31.10.2013.

xxxx xxxx xxxx

13. Ms. Mamta D/o. S. Devi Dass was not considered for selection as she could not produce NOC from the college where she had already selected in M.Sc. Nursing Course.

6. A perusal of the above proceedings would go on to show that petitioner's case at Sr. No. 13 was not considered as she could not produce the NOC from the college where she stood already selected in the said course. Respondent No. 4- Amritbir Kaur was able to contact the Principal of the Institute where she was studying and an assurance was given to the Chairperson that NOC would be produced by the next day. The said NOC dated 30.10.2013 has also been appended as Annexure R2/4 in which it was mentioned that the Adarsh College of Nursing, Chounth, Patiala had no objection if the said candidate migrated. In the present case, nothing has been placed on record as to whether any NOC was got obtained from the said College even at a subsequent stage. The decision of the Counselling Committee regarding the issuance of NOC reads as under:

14. It is also decided that shifting is not allowed at college level counseling. Shifting is allowed on production of NOC by the candidate from the respective college.

7. It is also a matter of fact that thereafter also, fresh counselling was conducted on 04.12.2013 in pursuance of another walk-in counselling. Even there, the petitioner did not appear and two candidates who had taken admission in the Adesh Nursing College at Muktsar had opted for seats in the State Institute of Nursing and Para Medical Sciences-respondent No. 3 which would be clear from Clause 9 which reads as under:

9. Two candidates have opted to surrender the seat already taken at Adesh Nursing College, Muktsar and opted seats at their turn in merit at SINPMS, Badal in this counselling.

8. Thus, it is apparent that the petitioner had a right to appear on 04.12.2013 but chose not to do so. Candidates who appeared were granted admission against the speciality they wanted. Once the petitioner herself opted not to appear in the counselling, again, she could have no grouse against the candidate who had appeared in the counselling at the earlier point of time. The petitioner was required to get the necessary NOC which she failed to do so. Accordingly, it

cannot be said that the respondents had acted in any illegal manner in not granting admission to the petitioner. Once the petitioner has not satisfied the necessary requirements, the respondents were well justified in denying her admission in the respondent No. 3-Institute. The last date of admission was 31.10.2013 as per the prospectus and therefore, the seat which respondent No. 5 would have gone vacant for the whole year if the petitioner was allowed to shift on 30.10.2013, and therefore, apparently the NOC was never granted to her. In such circumstances, no fault can be found with the procedure adopted by the respondents in taking a decision that students would not be allowed to shift without production of NOC.

9. Accordingly, finding no merit in the present writ petition, the same is dismissed.