

(1989) 09 P&H CK 0049

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11817 of 1989

Rajinder Pal Singh

APPELLANT

Vs

Punjab University and others

RESPONDENT

Date of Decision : 15-09-1989

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1990 P&H 65

Hon'ble Judges : M.M. Punchhi, J;Amrit Lal Bahri, J

Bench : Division Bench

Advocate : H.L. Sibal and Subhash Ahuja, for the Appellant;

Judgement

M.M. Punchhi, J.—Institutional preference, local requirement and a host of oilier factors, which have found way in judicial precedents of the apex Court and the High Courts, have already taken a large share of the cake in medical and technical institutions in the country. Whatever little share is left to be divided on all India basis, so that India remains at least within that sphere one country, is, in our view, sought to be eroded by the attempt made in this behalf, in the instant petition.

2. The petitioner herein got a seat in the MBBS Course in the Jawaharlal Nehru Medical College, Belgaum, affiliated to the Karnataka University, Dharward. He found himself uncomfortable there. As averred in paragraph 3 of this petition, he was threatened by certain local groups of anti-social elements and he suspected that they might resort to sudden unprovoked violence causing him physical harm or even loss to his life. On that basis, he sought migration to Dayanand Medical College, Ludhiana. This college is not Slate run hut is otherwise affiliated to the Panjab University. The said University has in its Calendar of the year 1985 given out rules/instructions which would apply to migration of students from a medical college affiliated to another University to a medical college affiliated to the Panjab University, Other conditions apart, clause 9(iv) says that in any hard case the matter may be referred to the Medical Council of India for consideration and

each case will be decided on merits. Clause 9(v) says that the number of students migrating/transferring from one medical college to another medical college during one year will be kept to the minimum so that the training of regular students of that college is not adversely affected. The number of students migrating/transferring to/from any one medical college should not exceed a limit of 5% of its intake subject to a maximum of 5 students in any medical college in one year.

3. The Dayanand Medical College, Ludhiana, appeared willing to take in the petitioner in its college. At its suggestion the petitioner obtained consent from Medical Council of India too as a special case. The University, however, put its foot down in saying that the Dayanand Medical College had already three migrated students on its rolls when its total strength was only fifty. On that count the migration was declined, which has given rise to this petition.

4. Mr. Sibal urges that in the booklet of recommendations made by the Medical Council of India the percentage of migratees as fixed by the Punjab University is the same i.e. 5 per cent of its intake in any one medical college in one year. But in the recommendations of the Medical Council of India, it is specifically stated that cases not covered under the aforesaid Regulations are to be referred to the Council for consideration on individual merits. He contends on the basis thereof that when the Medical Council of India has no objection to the petitioner migrating to the college at Ludhiana, the University cannot sit tight to say that it has no room for any further migration especially when the Medical Council of India has described the case of the petitioner as a "special case".

5. In the first place, we have our reservation regarding the statutory efficacy of the recommendations of the Medical Council of India, militating against the rules/instructions given in the Panjab University Calendar, 1985, we feel that the Calendar prevails, for the University is autonomous and is entitled to frame its own rules and instructions to govern migrations of the kind involved in this case. From the larger point of view, if this be the consideration that anti-social elements of a particular State are against a student from another State and this makes out a special case so as to force the University to obey the recommendations of the Medical Council of India, bending its own rules and instructions, then it would, to our mind, lead to the opening of the proverbial Pandora's box. Anti-social elements are everywhere in the country. The respective State Governments have to take care of that. Whatever percentage is then left for admission in the medical colleges on all India basis, if allowed in one or more than one case, precedentially the whole flock will clamour for it and be back to their respective States. We see herein a sinister attempt, which must in our discretion under Article 226 of the Constitution be nipped at the very initiation. Dismissed with these observations.

6. Petition dismissed.