
(2001) 01 P&H CK 0124
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 9804 of 2000

Vandana	Vs	APPELLANT
State of Punjab		RESPONDENT

Date of Decision : 17-01-2001

Acts Referred:

Constitution of India, 1950 — Article 14, 21, 226, 227

Citation : (2001) 01 P&H CK 0124

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mr. Ravi Kapoor, for the Appellant; Mr. Sushil Maini, DAG, Punjab and Mr. P.S. Patwalia, for the Respondent

Judgement

R.L. Anand, J.—By this judgment, I dispose of three Civil Writ Petition Nos. 9804 of 2000 titled Miss Vandana v. State of Punjab and others, 14168 of 2000 titled Ankush Jain v. State of Punjab, and others; and 13490 of 2000 titled Vishal Jain v. State of Punjab and others as in the opinion of this court, all the three writ petitions can be disposed of by one judgment. More over, common question of law is also involved in these cases.

2. For the sake of facts, I have taken major facts from Civil Writ Petition No. 9804 of 2000 Miss Vandana v. State of Punjab and others.

3. Miss Vandana in her writ petition prayed for the quashment of the letter dated 30.5.2000, Annexure P-11 issued by respondent No. 3 as the same is clearly illegal, null and void and unconstitutional. Further, she has prayed that a direction be issued to the respondents to regularise her admission to B.A.M.S. Course-Ist Profession against N.R.I. quota/seats. Further, it was prayed by her that the directions be issued to the respondents not to cancel her admission which was made by Dayanand Ayurvedic College, Jalandhar.

4. The case set up by Miss Vandana is that the Governor of Punjab issued order for the selection of students for admission to M.B.B.S./B.D.S./B.A.M.S.

(Ayurvedacharya) Courses for the session 1999-2000 in all the three State Medical College, two State Dental Colleges and Government Ayurvedic College. Patiala. The notification was issued on 18.5.1999. The Governor of Punjab further issued notice that the entrance test would be conducted by respondent No. 3-University through Guru Nanak Dev University, Amritsar. According to Chapter II of Clause IV. of the Prospectus, vacant N.R.I, seats will be offered to N.R.I, sponsored Indian candidates who will have to pay the fee fixed for N.R.I, candidates. It is alleged by the petitioners that respondent No. 4 issued an advertisement dated 19.12.1999 published in the Newspaper "Punjab Kesri" mentioning therein that admission in B. A.M.S. (Ayurvedic) in the session 1999-2000, certain N.R.I, seats were available and the interested candidates can personally contact respondent No. 4 for further information. The petitioner after going through the said advertisement, contacted respondent No. 4 and she submitted necessary application alongwith required documents. The same was received in the office of respondent No. 4. The petitioner was supposed to deposit Rs. 4,50,000/- as tuition fees for the full course and a sum of Rs. 50,000/- was deposited by the petitioner. However, no receipt was issued to her. Respondent No. 4 vide his letter dated 29th May, 2000 addressed to the Hon'ble Minister, Medical Education and Research, Government of Punjab, Chandigarh, requested for extension of time of the admission date of the Ayurvedic Colleges of the State of Punjab to fill up the vacant seats as was done in the last session 1998-99. The State of Punjab, vide its corrigendum dated 23.5.2000 extended last date of admission up to 31.5.2000. A copy of the letter was sent to the Vice Chancellor, Baba Farid University. After issuance of the corrigendum, respondent No. 4 issued admission" notice duly published in the News Paper" "Punjab Kesri" dated 25.5.2000, informing that the candidates seeking admission for B.A.M.S. courses, against N.R.I, seats in Dayanand Ayurvedic College, Jalandhar with 50% marks, should contact him on or before 27.5.2000. It was also mentioned that the interview will be held on 30.5.2000 in the office of the Principal. The case of the petitioner is that she had already applied in-response to the notice dated 19.12.1999 Annexure P-3. She started attending the classes regularly since 14.1.2000 under Roll No. 43 and P.R. No. 393. However, she attended the formal interview conducted by respondent No. 4 in May, 2000. She was issued a certificate dated 31.5.2000 which shows that the petitioner was admitted in the college in B.A.M.S. Course Ist profession for the session 1999-2000 against N.R.I, seats. On the contrary to the notification Annexure P-6, vide which the Governor of Punjab extended the last date of admission up to 31.5.2000. Respondent No. 3 Baba Farid University, wrote a letter dated 30.5.2000 in which it was decided not to allow any admission either to Post Graduate Courses or to B.A.M.S. Course in contravention to the corrigendum dated 23.5.2000. This letter is Annexure P-11. The petitioner alleged that this letter has been issued by respondent No. 3, purely in an arbitrary manner against the notification issued by the Governor of Punjab, which was the supreme body. It was also pleaded by the petitioner that her father submitted a representation to the Secretary, Government of Punjab dated 15.5.2000, in which it was pointed out that the

petitioner is studying since January, 2000 and she had been attending the course for the last 4/5 months against N.R.I, seal, therefore, necessary approval may kindly be granted in her favour. Her father also made representations to the Governor of Punjab and to the Vice Chancellor of Baba Farid University and also to the Chief Minister to regularise the admission of the petitioner, who was studying for the last 7 months i.e. from January, 2000. It was also pleaded that respondent No. 3 wrote a letter to respondent No. 4 on 17.7.2000, in which it was pointed out that as per the record of the University, it had never received any return in respect of Ms. Vandana. Respondent No. 4 also wrote a letter on 22.7.2000 to the University in which it was written that the college had taken the interview on 30.5.2000 at 11 a.m. In this interview, the petitioner had also been selected and her name has been placed at serial No. 3. The grouse of the petitioner is that the letter Annexure P-11 issued by respondent No. 3 and further action of the respondents in not regularising the admission of the petitioner to B.A.M.S. Course Ist Profession, is illegal, null and void and unconstitutional and against the provisions of the prospectus.

5. The case made out by the petitioner is that she got admission in the course somewhere in the month of January, 2000 in pursuance to the advertisement Annexure P-3. She deposited a sum of Rs. 50.000/-. She also started attending the classes in January. 2000. Therefore, since her admission is prior to the cut off date, she is entitled to admission and also the University is bound to regularise her admission.

6. Notice of the writ petition was given to the respondents. A short reply was filed on behalf of re-sporident Nos. 1 and 2, in which it was submitted that the Punjab Government had extended the last date of admission up to 31.5.2000. However, the University did not agree and issued specific instructions to respondent No. .4 vide letter dated 30.5.2000 that no admission was to be made. The petitioner might be studying in the course for the last 6 months but that was without the approval of the competent authority.

7. A separate written statement was filed on behalf of respondent No. 4, in which in para No. 14, it was submitted as follows :- "It is submitted that the petitioner was allowed to attend the classes w.e.f. 17.1.2000 provisionally, subject to the approval of respondent No. 3. The certificate Annexure P-8 was issued to the petitioner for the purpose of taking the loan by the petitioner for the deposit of Rs. 4,50,000/- towards tuition fee."

8. The main contest of these writ petitions is from respondent No. 3 i.e. Baba Farid University, which has denied each and every material allegation of the writ petition. According to this respondent, the petitioner is not entitled for admission and she had been wrongly admitted by respondent No. 4. Extension of date for the grant of admission for the session 1999-2000 was not agreed upon by the University and on-30.5.2000, a letter was written to the Principal-Secretary of the Government of Punjab, Department of Medical Education and Research that the University had considered the matter regarding extension of the date and it

has been decided not to allow any admission either to the Post Graduate Courses or to the B.A.M.S. Courses Ist Profession. If any admission is made by the Principal of concerned college, it is his responsibility and the University is not responsible. Moreover, the Medical Council of India has also written to respondent No. 3 on 31.5.2000 that process of admission to the session 1999-2000 is almost over and even process for admission to the session 2000-2001 had also started, therefore, the question of granting admission for the year 1999-2000 does not arise at all. It was also submitted by the University that the petitioner was wrongly granted admission on the basis of the letter dated 23.5.2000 which was never approved by the University, or by the Medical Council of India. Therefore, the interview held on 23.5.2000 by respondent No. 4 is null and void. Even the meeting of the selection committee held on 23.5.2000 is not in accordance with the notification issued by the State Government dated 8.5.2000. According to this notification, the Committee for selection to the N.R.I. seats shall include representative of the Principal Secretary of Govt. of Punjab, representative of the Vice Chancellor, Baba Farid University, representative of the Vice Chancellor Guru Nanak Dev University, and the Director, Research and Medical Education. No such procedure has been adopted and, therefore, the admission is bad.

9. Respondent No. 3 also submitted that the petitioner has given a contradictory stand in her written statement. On one hand, she says that she got admission in January, 2000. On the other hand, she states that she appeared before the selection committee held on 23.5.2000. On one hand, the petitioner states that she deposited a sum of Rs. 50,000/- in January, 2000. On the other hand, the College authority says that the petitioner had to deposit a sum of Rs. 4,50,000/- as tuition fee for the full course. There is no indication from the stand of the college that a sum of Rs. 50,000/- was ever paid by the petitioner. Since process of admission for the Session 2000-2001 had already started, therefore, the admission of the petitioner to the course held on 23.5.2000 is illegal and not binding upon the University or upon the Medical Council of India.

10. A rejoinder was also filed by Miss Vandana in which she had reiterated her allegations made in the writ petition by denying those of the written statement filed by respondent No. 3.

11. In support of her writ petition, Miss Vandana completed certain formalities. First document is Annexure P-1, a letter issued by the University to the petitioner in response to her application and vide this letter, eligibility certificate was issued in favour of the petitioner for admission to the B.A.M.S. Course. Annexure P-2 is the certificate. Annexure P-3 is the advertisement dated 19.12.1999. It was in "Punjab Kesr" vide which Dr. P.K. Jain, Principal of Dayanand Ayurvedic College, Jalandhar invited attention of the public that N.R.I. seats are available for admission to B.A.M.S. course for the year 1999-2000 and interested candidates to personally contact him for further information. Annexure P-4 is the letter issued by respondent No. 4 to the Hon''ble Minister, Medical

Education and Research, in which it was requested that admission date of the Ayurvedic Colleges of the State may be extended so that vacant seats may be filled up as it was done so in the last session of 1998-1999, Annexure P-5 is the notification which was issued by the State Government dated 9.3.1999 vide which the applications were invited up to 15.3.1999. Annexure P-6 is the other notification dated 23.5.2000 vide which notification dated 18.5.2000 was modified and the Governor of Punjab was pleased to extend last date of admission upto 31.5.2000. Annexure P-7 is the another advertisement dated 25.5.2000 issued by S.S.M.D. Ayurvedic College, Moga, who also invited attention of the public that vacant seats against N.R.I, quota are lying vacant and the candidates desirous to seek admission should contact him personally up to 31.5.2000. Annexure P8 is the certificate issued by respondent No. 4 dated 31.5.2000 in which it was certified that the petitioner has been admitted in the college in B.A.M.S. course Ist Profession in the Session 1999-2000 against N.R.I, seat and she was to deposit Rs. 4,50,000/- as tuition fee for the full course of 5 and 1/2 years duration. Annexures P-9 and P-10 are not to be highlighted in this case. Certainly, Annexure P-11 deserves to be noticed this is a letter issued by the University and addressed to the Principal Secretary to Govt. of Punjab in which it was intimated that it has been decided by the University not to allow any admission either to Post Graduate courses or to B.A.M.S. course Ist Profession. A copy of which was also endorsed to the Principal, Dayanand Ayurvedic College with reference to his letter dated 24.5.2000 that no admission was to be made and all consequences shall be borne by the college. Annexures P-12, P-13 and P-13-A are the representations of the father of the petitioner to the Secretary, the Governor and the Chief Minister of Punjab, in which he had prayed for the regularisation of admission of his daughter. Annexure P-14 is the letter issued by Baba Farid University and addressed to respondent No. 4, in which it was intimated that the University had never received any return in respect of the petitioner and comments of the college were sought. Annexure P-15 is the letter from the college to the University in which it was stated that the interview was held on 30.5.2000 at 11 a.m. The candidates were interviewed and four candidates including the petitioner were approved subject to the approval of Baba Farid University.

12. No document has been produced from the side of the respondents in rebuttal to the documents filed by the petitioner.

13. The case of Shri Vishal Jain, writ petitioner of Writ Petition No. 13490 of 2000 and of Shri Aukush Jain writ petitioner of Writ Petition No. 14168 of 2000 is common.

14. Shri Vishal Jain, in response to an advertisement dated 27.5.2000, issued by respondent No. 4, deposited a sum of Rs. 65,500/- with respondent No. 4 towards the admission fee and allegedly got the admission but his admission has been wrongly cancelled by respondent No. 3 and as a result of that the petitioner was debarred from attending the classes with effect from 22.9.2000 in view of

the impugned order dated 30.5.2000 issued by Baba Farid University. According to this petitioner, this order though dated 30.5.2000, received by the college authorities, on 2.6.2000, is totally arbitrary, illegal and violative of Articles 14 and 21 of the Constitution of India.

15. Shri Ankush Jain had tried to make out a case that in response to a telegram dated 29.5.2000 issued by respondent No. 4 saying to the petitioner that if he was willing to join the course, he can report to the Principal on 31.5.2000 after 2.00 P.M. with all documents and fees in question to be deposited with the fee-clerk. The petitioner deposited Rs. 65,000/- on account of the admission fee on 31.5.2000 and got the seat and since then he is attending the classes and that the letter dated 30.5.2000 Annexure P-4 which is the impugned letter in that writ petition, issued by the Baba Farid University by which the admissions were declared illegal, is arbitrary and against the Notification issued by the State Government which extended the date up to 31.5.2000. Also this petitioner tried to make out a case that in pursuance of the letter Annexure P-4, respondent No. 4 wrote a letter dated 8.6.2000 intimating to the University that it is difficult to cancel the admission of the petitioner in view of the notification issued by the State Government vide which the outer limit was extended upto 31.5.2000. Finally, the petitioner received a letter dated 7.8.2000 from respondent No. 4 that University had decided not to allow any admission either to Post Graduate Courses or B.A.M.S. course as on 31.5.2000. Thus, the case of Vishal Jain and Ankush Jain is common.

16. Notice in the writ petitions was given to the respondents. So far as the stand of the State Government is concerned, it has fixed the liability upon respondent Nos. 3 and 4. Inter se, there is a conflict between the college and Baba Farid University. The colleges are in support of the admissions on the basis of the extended notification of the State Government, while the University is opposing these admissions which is in violation of their decision and the decision of the Medical Council of India.

17. I have heard Mr. Ravi Kapoor, Mr. Bali and Mr. S.P. Jain, on behalf of the petitioners and Mr. P.S. Pat-walia, Advocate, on behalf of Baba Farid University and with their assistance have gone through the record of this case.

18. S/Shri Puneet Bali and S.P. Jain, further submitted that since their clients got the admission on 31.5.2000 and that the letter of the University dated 30.5.2000, was received by the College on 2.6.2000, therefore, the admission given to the petitioners on 31.5.2000 on receipt of the amount should be regularised specially when the State Government had extended the period up to 31.5.2000 and that the University had no jurisdiction to supersede the letter of the Government. It was also submitted that equity and fair play demands that the admission of their clients should also be regularised as they did not conceal any fact from respondent No. 4. Rather they deposited the necessary fees and started attending the classes. Any action of the University in cancelling the admission of these petitioners is unjust and illegal. In support of their contention,

reliance was also placed on 1996(7) SLR 563 Sanjeev Kumar v. Panjab University and others.

19. Shri Patwalia further drew my attention to the observations of the Hon''ble D.B. given in Civil Writ Petition Nos. 8492 and 8582 of 2000 where the Hon''ble D.B. held as follows:-

"Coming to the controversy raised before us, it cannot be disputed that the Government of Punjab has not framed any Rules akin to the Rules of 1984. There is no other specified enabling provision in the Notification dealing with the eventuality arisen in the present case. The admissions to Post graduate M.D./ M.S. Courses were sought to be regulated by the Punjab Government Notification dated 18.5.1999 and subsequent Notification/Corrigendum dated 22.5.2000 already noticed above. The outer limit of 30.9.1999 for granting admissions to the candidates who were in the waiting list so maintained, had taken care of the fact that the process of selection of general category and reserved category candidates was over by that time and the candidates who were on the waiting list could be given admissions so as to complete the courses within time schedule. Simply because by subsequent Notification/Corrigendum dated 22.5.2000 the Punjab Government had extended the date of admissions up to 31.5.2000 would not empower the University to ignore the requirement of completion of the Courses within the time schedule fixed by it and Medical Council of India. It has to be noticed here that no reply has been filed by the Punjab Government. During the course of arguments, we had purposely asked the learned Counsel representing the State Government of Punjab as well as counsel representing respondent Nos. 3 and 5 as to what object was sought to be achieved by extending the last date of admissions for the said courses up to 31.5.2000. Not a single reason could be furnished to support the action of the State Government. The only possible justification which can be discernible from the circumstances brought on the record is that it was done so to fill up the vacancies which had arisen after 30.9.1999 to help particular candidate. Therefore, action of the respondents cannot be approved when the admission was granted to Dr. (Mrs.) Kumud Dharwal on 22.5.2000 against the vacancy which had fallen vacant on 3.2.2000 and the candidature the other petitioners came to be considered in the month of May, 2000, because by that time academic session of 1999 was almost over"

20. The counsel Submitted that the process of admission of the academic year of 1999-2000 ended on 30.11.1999. So much so the admissions for the Session 2000-2001 started with effect from 20.4.2000. All the three petitioners got the admission either on 30.5.2000 or on 31.5.2000 much after the last date of the process of admission on 30.11.1999 and that the action of the college has not been approved by the University vide letter dated 30.5.2000, therefore, the Principal had no jurisdiction to give the admission to any candidate unilaterally without getting the prior approval of the University. Moreover, the College Principal had said in the replies that the admission of the petitioners was

provisional and subject to the approval of the University. Since the University has not approved the action of the college authorities and it has also disagreed with the notification of the State Government extending the date up to 31.5.2000, therefore, no relief can be granted to anyone of the petitioners.

21. Contrary to this, the Colleges were issuing advertisements with the hope that the State Government may extend the time as it was so done in the year 1998-99. It is proved fact that the Government did extend the time up to 31.5.2000 vide notification dated 23.5.2000 Annexure P-6 but the notification was repu-diated in a legal manner by the University by issuing a letter Annexure P-11. In this view of the matter, I hold while determining the first issue that any action of the college in giving admission after 30.5.2000, is not binding upon the University irrespective of the fact that notice was issued by the State Government because the process of the admission for the session 2000-2001 had already started on 20.4.2000 and the University cannot afford to go on regularising the admissions of the backlog. Some certainly has to prevail.

22. Admission of Ankush Jain and Vishal Jain never took place on or before 30.5.2000, therefore, they are not entitled to any relief.

23. With regard to the case of Miss Vandana, though it was vehemently submitted by Mr. Patwalia that this girl also got admission after 30.5.2000 and, therefore, she is also not entitled to get her admission regularised, yet, I am not convinced with the submission of Mr. Patwalia in view of the conduct of this petitioner and in view of the written statement filed by respondent No. 4 in her writ petition. At the costs of repetition, I would like to refer to Annexure P-3 the first advertisement dated 19.12.1999. In response to this, the petitioner contacted the Principal. She also handed over a sum of Rs. 50,000/- to the Principal as part fee and the Principal allowed her (Miss Vandana) to join the classes under Roll No. 43 and PR No. 393. It is true that no receipt was issued in favour of the petitioner, but a cry of a student against the Principal will be too feeble. As I stated above that under the hope that the State Government would extend time, the Principal of the College wrote a letter to the Hon'ble Minister for extension of time up to 31.5.2000 like the session 1998-99. The government agreed and extended the time up to 31.5.2000. Had the University agreed with the notification dated 23.5.2000, there was apparently no difficulty for Miss Vandana. She was allowed seat on the basis of advertisement and also on the basis of deposit of Rs. 50,000/-, but she was again directed to appear as a formal candidate in the interview which took place on 30.5.2000 when she was interviewed alongwith other candidates. From the stand of respondent No. 4 in the written statement, it stands proved that this petitioner was allowed to attend classes w.e.f. 17.1.2000 provisionally subject to approval of respondent No. 3. This "subject to approval of respondent No. 3" has been written by respondent No. 4 in order to save its skin from the action which has already been taken by it in January, 2000, when the admission was given to the petitioner. At that time, no letter was issued to the petitioner that her admission is provisional and

subject to the approval of respondent No. 3. When the interview of the petitioner was taken on 30.5.2000 with other candidates, it was known to the Principal that the University has something else in the store. The father of the petitioner had been making the representations to the Hon"ble Chief Minister of Punjab, the Principal and the Governor in which he has clearly alleged that his daughter Miss Vandana had been attending the classes since January, 2000.

24. During the course of arguments, Mr. Ravi Kapoor, the learned Counsel for the petitioner Ms. Vandana submitted that he is in possession of the record to show that the petitioner Vandana had been attending the classes since January, 2000. All these factor commulatively establish that Ms. Vandana got admission in the College in January, 2000 and, therefore, her admission is to be protected in view of the peculiar facts and circumstances of this case.

25. It was lastly submitted by Mr. Puneet Bali that this court may consider the viability to give some directions to the University to regularise their admission as a special case, keeping in view the fact that the petitioners had given the admission fees in response to an advertisement or call from the Principal of the college and the petitioners "should not be penalised for their no fault". This submission of the counsel for the petitioners cannot be accepted. Ankush Jain and Vishal Jain admittedly got the seats on 31.5.2000 after the issuance of the letter dated 30.5.2000, therefore, they are not entitled to any relief. In fact the Principal of the College gave the admission to them fully realising that they are doing a wrong thing. The University had already taken a stand not to regularise the admissions of those candidates who have been given seats in the Post Graduate Courses or in B.A.M.S. Course after the last date i.e. 30.11.1999. Any admission taken by Ankush Jain and Vishat Jain was at their own risk and responsibility.

26. So far as the case of Vandana is concerned, I had already made an effort to distinguish her case by holding that she got the admission on 14.1.2001 and not on 30.5.2000 as suggested by Shri Patwalia.

27. Thus, these two writ petitioners i.e. Ankush Jain and Vishal Jain, do not deserve any directions in their favour either in law or in equity by any stretch of imagination.

28. In view of the my above discussion, I dismiss the two writ petitions, i.e. C.W.P. No. 14168 of 2000 Ankush Jain V. State of Punjab and others and C.W.P. No. 13490 of 2000 Vishal Jain v. State of Punjab and others. I further hold that the letter dated 30.5.2000 is legal. Having been proved on the record that Miss Vandana got admission in January, 2000 in the college much prior to the issuance of the letter dated 30.5.2000. Her writ petition is allowed and directions are given to Baba Farid University and the Principal of the College to regularise her admission to B.A.M.S. Course 1st Profession against N.R.I, quota/seat and these respondent shall not cancel her admission to the said course. Thus, the writ petition No. 9804 of 2000 filed by Ms. Vandana is allowed in the above

terms. There shall be no order as to costs in any of the writ petitions.

29. Petition allowed.