
(2019) 07 P&H CK 0142

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 19509 Of 2019 (O&M)

Vineeta Yadav

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

Date of Decision : 26-07-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 07 P&H CK 0142

Hon'ble Judges : Daya Chaudhary, J;Sudhir Mittal , J

Bench : Division Bench

Advocate : P.R Yadav, Ankur Mittal

Final Decision : Dismissed

Judgement

Sudhir Mittal, J

1. The petitioner is seeking admission to the MBBS course in the State of Haryana for the academic session 2019-20. Her name does not find mention

in the merit list-cum-provisional allotment of seats displayed on 14.7.2019 and thus, she has been constrained to invoke the extraordinary jurisdiction of

this Court under Article 226 of the Constitution of India.

2. The petitioner had earlier appeared for counseling for the MBBS course in the State of Haryana for the session 2018-19 in the BC-B category. She

was not considered on account of the fact that the income certificate of her father had not been issued by the Tehsildar. This led to filing of CWP-

23366-2018, which was disposed of vide order dated 21.11.2018, directing the respondents to consider the petitioner for academic session 2019-20, if

permitted by law. The petitioner was also compensated with costs of Rs.1 lac. Subsequently, the petitioner sent representations dated 10.1.2019 and

21.1.2019, requesting for compliance with order dated 21.11.2018, but when notification for admission dated 21.6.2019, was issued, no reference of the case of the petitioner was made therein. The petitioner therefore, filed CWP-17911-2019 and vide order dated 11.7.2019, she was permitted to participate in the counseling provisionally. Thereafter, the merit list-cum-provisional allotment of seats had been displayed on 14.7.2019, but the same does not contain the name of the petitioner. Hence, the present writ petition has been filed.

3. Learned counsel for the petitioner submits that the merit number of the petitioner was 153 for the academic session 2018-19 and candidates upto merit No.190 secured admission. In the said academic session, the petitioner could not get admission on account of the illegal action of the respondents and therefore, the petitioner is entitled to grant of admission in the current academic session. First, the petitioner should be granted admission in the BC-B category and only thereafter, the other candidates be considered in accordance with their merit. Reliance has been placed upon order dated 9.10.2018 passed in Civil Appeal No.10353 of 2018 titled as *Parmod Vs. Union of India and others*, *Vikram Singla and others Vs. State of Punjab and others* 2006 (2) SCT 78 and *Mridul Dhar (minor) Vs. Union of India* 2005 (1) SCT 508.

4. Relevant part of order dated 21.11.2018, is reproduced below for ready reference:-

Learned counsel for the petitioners further refers to an order passed by the Hon^{ble} Supreme Court in Writ Petition (Civil) No.1136 of 2018

(*Akumsenla Jamir Vs. Union of India and others*) decided on 22.10.2018 where admission had been granted beyond the last date prescribed for

admission was i.e. 31.8.2018. A perusal of the said order shows that it was in different set of circumstances whereas in the case of Chandigarh

Administration a different principle has been set-out. We thus follow the dictum in Chandigarh Administration case. Since we have already held the

action of the respondents arbitrary, we determine the compensation of Rs.1.00 lac in each case to be paid to the petitioners by the University. The

petitioners be considered for admission for the next year in case law permits.

5. This Court, thus, directed that the petitioner be considered for admission for the next academic year in case law permits and was compensated with

Rs.1 lac. This cannot be construed to be a positive direction to grant admission to the petitioner in the next academic session. Construed most liberally,

it is a direction to consider the candidature of the petitioner in the academic session 2019-20 on the basis of her NEET merit in the year 2018. Learned

State counsel has informed us that the petitioner's NEET 2018 rank was 1016, whereas the last selected candidate in BC-B category has NEET

2019 rank of 806. Under the circumstances, the petitioner is not entitled to any relief.

6. In the case of Parmod (supra), the appellants before the Supreme Court were seeking admission in the physically handicapped category, but were

not given admission on the basis of certain recommendations made by the Medical Council of India, even though, the regulations framed by the

Medical Council of India in exercise of its statutory powers provided for adoption of the provisions of Rights of Persons with Disability Act, 2016.

Under the circumstances, the Supreme Court had directed that the appellants be granted admission in next academic session by reducing the number

of seats in the general category to the extent the same had been increased in the previous academic session by including seats meant for physically

handicapped persons. This judgment nowhere lays down the principle that the persons who are denied admission in the previous academic session

must be granted admission in the next academic session irrespective of their merit in their category. Hence, the reliance thereupon is misconceived.

Similarly, in the case of Vikram Singla (supra), the petitioners therein were denied admission in a particular academic session as the seats meant for

the Government quota had been illegally transferred by the college to the management quota. Thus, directions were given to admit the petitioners

therein to the MBBS course in the next academic session by reducing the number of seats from the management quota. Again, we cannot read in this

judgment any principle of law which permits issuance of directions to admit a candidate by ignoring merit. In Mridul Dhar's case (supra), the

Hon'ble Supreme Court was considering the aspect of giving full effect to 15% All India Quota by strictly adhering to the time schedule

prescribed for admissions. This judgment, thus, does not apply to the proposition in question.

7. For the aforementioned reasons, we do not find any merit in this petition and the same is accordingly, dismissed.