

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

COCP No.324 of 2015 (O&M)
Date of Decision:04.05.2015

Ahirwal Sewa Trust

. . . .Petitioner

Versus

T.C. Gupta and another

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Rajbir Sehrawat, Advocate,
for the petitioner.

Mr.D.K. Mittal, DAG, Haryana.

RAKESH KUMAR JAIN, J.

The petitioner-Trust is a registered society, running a college of education in the name of 'Cambridge College of Education VPO Birar, District Jhajjar. It also conducts D.Ed. Course and has 100 approved seats. The respondents conducted centralized process for admission to the D.Ed. course for the seats available in all the colleges situated in the State of Haryana and in the prospectus it was stipulated that the admission would be open only to the students who are domicile of the State of Haryana and seats earmarked for reserved categories would not be transferred to the general category in case they are not filled. Despite best efforts of the respondents, number of seats were left vacant in various colleges as a result thereof, the writ petition, namely, CWP No.23829 of 2014 was filed challenging the condition provided in the prospectus

restricting the admission to the domicile of Haryana and non-transfer of reserved category seats to general category in case they are not filled up. The said writ petition was allowed on 4.12.2014 holding that the restriction of admission of all the candidates only from the *bona fide* residents of Haryana is constitutionally bad. It was also observed that since the admissions have already been made, the whole advertisement would not be issued afresh to undertake fresh admissions as it would only operate in future but the writ petitioners would secure from the State a right of consideration for transfer of seats, if they are not filled up in the reserved category to the general category from the residents of all the States even outside Haryana. The Court directed the State causes an advertisement to be issued at the costs of the petitioners for admission to D.Ed. Course for the session 2014-15 before 12.12.2014 and carry out admissions for the seats which are still vacant firstly for the reserved category within the State and if the seats are not filled up on the 1st day, to allow for admission to all the candidates under general category without reference to restriction regarding domicile or place of birth. Thereafter, another writ petition was filed bearing CWP No.25051 of 2014 which was disposed of on 8.12.2014 in which it was clarified that the State is obliged to issue advertisement for the admission of unfilled seats to all candidates of general category without any restriction of qualification of residence within Haryana and would apply to every educational institution that imparts the D.Ed. Course. It is alleged that respondent No.2 issued notice inviting online applications from the eligible candidates for admission to D.Ed. course but it was nowhere clarified that the admission would be opened to all

candidates, even those, who are not domicile of the State of Haryana. It is also alleged that the system of the respondents was not accepting online applications from the candidates outside the State of Haryana, therefore, number of applicants was very low in the first counselling and out of 100 seats 68 seats of the college could be filled and 32 seats remain vacant.

The petitioner has a grievance that since it is a self financing institute, the number of vacant seats, because of the fault on the part of the respondents, has caused immense loss to the it and thus, the present petition has been filed on the pretext that respondents have not issued a specific notice showing that the admission is open to the candidates desiring through out the country, is a willful disobedience of the orders dated 4.12.2014 and 8.12.2014.

The respondents have filed reply by way of an affidavit of respondent No.2 in which it is averred that as per the direction of this Court, fresh online applications for admission in D.Ed. course from 12.12.2014 to 17.12.2014 were invited by way of supplementary admission notice published in leading Newspapers and also by uploading it on the website of respondent No.2 and the condition of residents of the State of Haryana was removed from the supplementary admission notice. As a result of the supplementary admission notice, as many as 1123 online applications for D.Ed. course were received and 10th and last round of manual counselling was conducted from 20.12.2014 to 21.12.2014 by respondent No.2 against updated 906 seats lying vacant during the session 2014-15 in various self financing colleges of Haryana running D.Ed. course. The total 587 candidates appeared in the counselling process and

found eligible but after the completion of counselling process, 70 candidates refused to get admitted. In the 10th and last round of manual counselling on 20.12.2014, 246 seats were filled with the candidates of reserved category and on the next date of counselling on 21.12.2014, remaining reserved category vacant seats were converted into general category seats and as many as 271 seats were filled up in all the self financing colleges of Haryana including the college of the petitioner on the basis of merit and seats were allotted on the choice of the candidates. It is also pointed out that the petitioners in CWP No.23829 of 2014 and CWP No.25051 of 2014 are running D.Ed. course in their 18 colleges in Haryana and as many as 90 seats were vacant in those colleges which have been filled up by respondent No.2 after counselling on 20.12.2014 to 21.12.2014. Besides the 18 colleges of the petitioners, as many as 816 seats were vacant in the remaining self financing colleges including the college of the petitioner out of which 427 seats were filled up in the remaining self financing colleges of Haryana during the 10th round of counselling held from 20.12.2014 to 21.12.2014. There were 350 total institutions running D.Ed. course in Haryana and 389 seats are lying vacant in the institutions situated in remote areas to which the candidates did not prefer admission being inconvenient to them. It is also averred that though it was a duty of the petitioner, as per the requirement of the Court order dated 4.12.2014, to publish the judgment dated 4.12.2014 in the leading Newspapers of the other States at their own expenses for their benefit regarding admissions but in the supplementary admissions, notice published by the answering respondent in the leading newspaper and on the website of respondent No.2 for inviting fresh

online application, the condition of being a domicile of Haryana State was removed. It is further averred that there is a sanctioned intake of 100 seats in the petitioner-college and in the current session 2014-15, 205 eligible candidates have been referred for admission on merit and on the choice of the candidates in the college of the petitioner but it is alleged in the petition that they have admitted only 68 candidates out of 205 selected candidates, thus 137 selected candidates have not been allowed admission for the reasons best known to the college authorities. It is further averred that in the 10th and last round of counselling, 36 seats were vacant in the petitioner-college out of which 20 seats have been filled up during the 10th and last round of counselling and a list thereof has also been attached as Annexure R-2 but this fact has been concealed by the petitioner.

The petitioner has also filed rejoinder by way of CM No.8689-CII-2015 to contradict the averments made in the reply in regard to the filling of 20 seats by them.

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that there is no willful disobedience on the part of the respondents to attract the provision of Contempt of Courts Act, 1971 because the respondents had removed the condition of domicile of Haryana State while publishing the supplementary admission notice in the leading Newspaper and also uploaded on its website on the basis of which 1123 applications were received and in the 10th and last round of manual counselling against 906 vacant seats, 587 candidates appeared in the counselling and were found eligible.

Thus, it cannot be said that the respondents have committed willful disobedience of the orders passed by this Court. Hence, I do not find any merit in the present petition and the same is hereby dismissed.

Rule discharged.

04.05.2015

Vivek

(RAKESH KUMAR JAIN)
JUDGE