

CWP No.11110 of 2015

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

**CWP No.11110 of 2015
Date of decision:10.07.2015**

Nikhil Peshawaria

...Petitioner

Versus

Panjab University and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Ms. Ashima Mor, Advocate,
for the petitioner(s).

Mr. D.V.Sharma, Sr. Advocate, with
Mr. Harit Sharma, Advocate, for the respondents.

Rakesh Kumar Jain, J.

The petitioner, after securing 94% marks in 10+2 examination, appeared in the Joint Entrance Test (JEE Mains), conducted by the CBSE and secured overall All India Rank 88062, Category Rank 59851, overall State Rank 725 and State Category Rank 647. For the purpose of admission in the Engineering and Architecture Degree courses in the institutions located at Chandigarh under the aegis of Panjab University, Chandigarh, counselling was held through a Joint Admission Committee and the following sessions were held:-

“1st round on 20.07.2014

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2nd round on 26.07.2014

3rd round on 30.07.2014

Spot round on 14.08.2014”

The petitioner succeeded in getting admission in the spot round of counselling in the B.E. (Electronics and Communication) in the Chandigarh College of Engineering and Technology, Sector-26, Chandigarh (hereinafter referred to as the “CCET, Chandigarh”), in which he is studying till date.

The petitioner had earlier filed CWP No.8416 of 2015, in which it was prayed that a direction be issued to the respondents to grant him admission against the vacant seat of B.E. (Computer Science) in the University Institute of Engineering and Technology, Panjab University, Chandigarh (hereinafter referred to as the “UIET, Chandigarh”). It was alleged therein that few seats in the B.E. (Computer Science) remained vacant in the UIET, Chandigarh, to which the petitioner can be upgraded. However, after arguing the said case for some time, the petitioner chose to withdraw the said writ petition on 05.05.2015, without seeking permission of the Court to file it again, on the same cause of action.

In the present writ petition, the petitioner has challenged the noting “*there is no provision of migration as per rules*” dated 21.05.2015, part of Annexure P-5, and prayed for a direction to the respondents to grant him admission against the vacant seat of B.E. (Computer Science) in the UIET, Chandigarh. It is averred by the petitioner that he secured a seat in the CCET, Chandigarh and earlier filed CWP No.8416 of 2015 for seeking admission in the UIET, Chandigarh, but withdrew the same as he wanted to

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approach the UIET, Chandigarh, for getting himself upgraded and migrated. The said representation of the petitioner submitted to the UIET, Chandigarh, on 07.05.2015, has been rejected on the ground that there is no provision of migration as per the rules.

It is submitted by learned counsel for the petitioner that there are specific rules for migration and has referred to Rule 6, which allows migration in third and fifth semesters only.

In order to appreciate the argument raised by counsel for the petitioner, it would be relevant to refer to the migration rules (Annexure P-6), which are as under:-

“(e) MIGRATION OF STUDENTS FROM ONE ENGINEERING COLLEGE TO ANOTHER AFFILIATED TO THE PANJAB UNIVERSITY IN THE FACULTY OF ENGINEERING:

1. The applicant must have valid reasons for migration which cannot be claimed as a matter of right.
2. The applicant must have obtained permission of the Principals of the two colleges concerned for migration. The Principal of the Institution to which the candidate wants to migrate may reject the application without assigning any reason. The application of a candidate for migration will be rejected by the Principal of the Institution to which migration is sought:-

- (a) if there is no vacancy in the class;

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(b) if the candidate does not fulfill all the qualifications necessary for admission to the college as laid down in the admission rules of the college;

(c) if the conduct and behaviour of the student has not been satisfactory in the previous college; and

(d) if the marks obtained in Joint Entrance Test (JET) by the applicant seeking migration, are below the marks obtained by the last candidate admitted in the 1st year class of the corresponding branch of Engineering of the Institution in that particular year against the category to which he belongs.

The category shall be determined on the basis of the college prospectus of the relevant year of the Institution to which the migration is sought.

3. The applicant shall produce all such certificates as may be demanded by the Principal of the college to which migration is sought including all information about the student's activities in the previous college for the purpose of assessing his General Fitness for the profession.

4. The applicant shall pay all the fees as demanded by the Principal of the college to which migration has been allowed.

5. The migration will be subject to the approval of the Panjab University.

6. Migration will be allowed in third and fifth semesters only subject to the condition that candidate seeking migration in the third semester must have passed up to and including second semester examination and candidate seeking migration in the fifth semester must have passed up to and including fourth semester examination. Under no circumstances will any of the regulations for the different Engineering examinations be circumvented as a result of migration.

7. If a student changes his mind after putting in his application for migration, he must inform the colleges concerned as also the University immediately.

8. When migration of a student from one college to another college has been allowed, he must join the new college within 15 days, otherwise his migration shall automatically stand cancelled.”

After notice, reply has been filed on behalf of the respondents in which it is categorically averred that the petitioner has taken a contradictory stand because as per the migration rules contained in Panjab University Calendar Volume-III, 2009, reproduced here-in-above, it can be done in the same stream but the petitioner, who is studying in B.E. (Electronics and Communication) is seeking admission in the UIET,

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Chandigarh, in the stream of B.E. (Computer Science), which is altogether different and higher stream. Moreover, the All India Rank of the petitioner is 88062 and the rank of the last admitted candidate in the B.E. (Computer Science) was 35065, therefore, the petitioner could not have been admitted in B.E. (Computer Science) even at the time when he was initially admitted. It is further averred that the petitioner cannot be migrated/admitted in the UIET, Chandigarh, even in his own stream i.e. B.E. (Electronics and Communication) as the last candidate admitted in the UIET, Chandigarh, in that stream was having the All India Rank of 54026 whereas the rank of the petitioner was 88062.

Learned counsel for the petitioner has argued that as per Clause 2(d) of the migration rules, referred to above, the marks obtained by the petitioner in the 1st year class of the corresponding branch of Engineering has to be seen in the year 2015 and not the marks of the Joint Entrance Test when he had secured the admission in the year 2014.

To my mind, this argument of the petitioner is hollow and has no substance because as per Clause 2(d) of the migration rules, referred to above, a candidate can seek migration in the corresponding branch of engineering of the institution in that particular year against the category to which he belongs and it would correlate with the stream of the petitioner and not with the subsequent ranking in the subsequent examination. Moreover, there is no procedure for changing the stream of the petitioner from B.E. (Electronics and Communication) to B.E. (Computer Science) in the name of migration.

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Thus, in view of the aforesaid undisputed facts and circumstances, I do not find any merit in the present writ petition and hence, the same is hereby dismissed, though without any order as to costs.

July 10, 2015
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(Rakesh Kumar Jain)
Judge