

CWP No.11792 of 2015

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

**CWP No.11792 of 2015
Date of decision:29.05.2015**

Dr. Sunil Garg

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Dr. Rau P.S.Girwar, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner had initially filed CWP No.15018 of 2013 which was allowed on 31.07.2013 by this Court along with two other writ petitions bearing CWP Nos.13957 and 15958 of 2013, holding the petitioner(s) therein entitled to institutional preference as per the distribution of seats available before its change on 21.05.2013 and the respondents were directed to consider the case of the petitioner in terms of the institutional preference/distribution of seats/specialty wise available in 40% quota of General Category.

The order dated 31.07.2013 was assailed by way of LPA No.1543 of 2013 and in case of the present petitioner by way of LPA No.1544 of 2013. Both the appeals were allowed by the Division Bench on 31.08.2013, setting aside the order of the Single Judge dated 31.07.2013. Thereafter, the petitioner challenged the order dated 31.08.2013, passed by

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the Division Bench of this Court in LPA No.1544 of 2013, by way of SLP No.35861 of 2013, which was withdrawn by the petitioner with liberty to approach this Court by way of review application.

The review application bearing RA-LP-34-2014 in LPA No.1544 of 2013 was allowed on 13.03.2015, order dated 31.08.2013 passed by the Division Bench was recalled, main appeal was restored to its original number and ordered to be listed as per the roster on 30.03.2015. Ultimately, LPA No.1544 of 2013 was dismissed as not pressed at the instance of the appellant therein as per the order dated 25.05.2015.

Thereafter, the petitioner approached the respondents and asked for admission in the MD/MS course as per his choice alleging that he had passed his MBBS course from the Dayanand Medical College, Ludhiana in the year 2012 and appeared in NEET-PG-2013 and qualified the same. He has preferred for MS (Surgery), MD (Medicine) and MD (Pediatrics) courses on the ground of institutional preference and made a reference to the previous litigation.

Since his representation has not been considered, therefore, the present writ petition has been filed in which counsel appearing on behalf of the petitioner has narrated and reiterated the facts mentioned here-in-above.

As a matter of fact, the writ petition is totally silent about the dates on which the petitioner had filed the SLP against the order of the Division Bench passed in the LPA No.1544 of 2013, the orders passed by the Apex Court from time to time before the SLP was withdrawn by the petitioner, the date of review application and also the orders passed therein

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from time to time. In the absence of these relevant facts, the responsibility of delay cannot be fixed.

Moreover, in a recent judgment in the case of **Chandigarh Administration and another v. Jasmine Kaur and others**, 2014(4) S.C.T. 290, the Supreme Court has held that “*there cannot be telescoping of unfilled seats of one year with permitted seats of the subsequent year i.e., carry forward of seats cannot be permitted how much ever meritorious a candidate is and deserved admission. In such circumstances, the Courts cannot grant any relief to the candidate but it is up to the candidate to re-apply next academic year*”.

Thus, the petitioner cannot claim the seat of the year 2013 in the year 2015 without passing through the process of eligibility test to the detriment of the other candidates who are competing for the said seats in the postgraduate medical courses.

In view of the aforesaid facts and circumstances, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.

May 29, 2015
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(**Rakesh Kumar Jain**)
Judge