

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.13196 of 2014

Date of decision: 6.10.2015

Jasneet Kaur

...Petitioner

Versus

Baba Farid University and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Rahul Rampal, Advocate for the petitioner.

Mr. K.S.Sandhu, Advocate for the respondents.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks relief of admission under category Code 20 being ward of Terrorist/Riot affected/displaced persons against 2% seats reserved for MBBS Course for the year 2014.

It is not disputed that she had secured 629 rank in All India Pre-Medical Test, 2014 but wrongly applied under the general category instead of reserved category to which she was entitled to. Even on the strength of her merit, she was entitled to for admission in private minority institute against the management seat but due to financial constraints she could not take admission. She approached this Court for permitting change in the category code and for consideration in the reserved quota. On 24.7.2014, she was permitted to be provisionally counselled subject to final decision of the writ petition and thereafter being within the zone of consideration was allowed to deposit fee on 30.7.2014. It is not further disputed that she has completed one year of study of MBBS.

In the reply filed by the University, it has been submitted that the category code filled was 11 which was for general category and only those candidates who claimed reservation could be considered for the reserved seats. She could not be permitted to change her category. Reliance was placed upon the Full Bench judgment of this Court in **Raj Singh Vs. The Maharshi Dayanand University and others 1994(4) RSJ 289** to submit that there was a time frame fixed and thereafter it could not be altered.

There is no dispute with the proposition as laid down by the Full Bench of this Court in **Raj Singh's case** (supra). It is not disputed that

in case of the reserved seat not being filled up, it was to be converted into general category seat and general category candidate would have consumed the said seat but in view of the interim order passed, the said seat was not offered to the general category candidate. It is apparent that no body's interest has been compromised in the reserve category or the petitioner has stolen a march over some one who was lower in rank and had applied against the reserved seat but could not get admission because of the interim order of this Court. It is not disputed that the petitioner belongs to a migrant family which was affected in the 1984 riots and was resident of Shahjahanpur (UP) before migrating to Punjab and settled at Fazilka and had been issued Red Card (Annexure P/2) by the Punjab Government on the basis of which she was seeking admission. She belongs to very humble background and had been socially affected by the disturbances/riots in the year 1984 and had to shift base from another State back to the State of Punjab for safer environment. In such circumstances, the technical approach is not to be adopted and keeping in view the fact that she has also completed one year of her study, it would travesty of justice if the admission is not confirmed.

The Apex Court in **Dolly Chhanda Vs. Chairman, JEE 2005 (9) SCC 779** dilated upon the issue of fulfillment of the eligibility conditions and the acceptance of the correct certificate and held that it is within the domain of the procedure and the procedural provisions could be relaxed in such case. The said observation can be applied to the present case in the peculiar facts and circumstances which have been noted above. In the said case admission was given in the subsequent year to the candidate and it was ordered that even one extra seat shall be created for the candidate who was a disabled person and had been issued a wrong certificate.

Resultantly, the present writ petition is allowed and the provisional admission given to the petitioner vide orders dated 24.7.2014 and 30.7.2014 is confirmed.

October 06, 2015
Pka

(G.S.SANDHAWALIA)
Judge