

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 16004 of 2015

Date of decision: 26.08.2015

Tushan Rawal

....Petitioner(s)

Versus

Panjab University & others

...Respondent(s)

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

Present: Mr. Rajiv Atma Ram, Sr.Advocate
with Mr.Arjun Pratap Atma Ram, Advocate, for the petitioner.

Mr. Amar Vivek, Advocate
and Mr.Indresh Goel, Advocate, for respondents No.1 & 2.

Mr. Rahul Rathore, Advocate, for respondent No.3.

G.S.SANDHAWALIA, J. (Oral)

The present writ petition has been filed for grant of admission on the basis of migration to the 3rd semester course of B.A.LL.B (five years course). Further prayer has been made to direct the respondents to decide the applications of the petitioner (Annexure P7 & P8).

It is the case of the petitioner that he had applied for admission to the respondents No.2 & 5-Institutes, namely the University Institute of Legal Studies, Panjab University, Chandigarh and the Jindal Global Law School, O.P.Jindal Global University, Sonapat, respectively. He achieved high marks in both the institutes and opted for admission in the respondent No.5-Institute. Due to health issues, he could not take the examinations of the 1st semester in the said institute which were held in December, 2014 and prayed for exemption and thereafter, was admitted to the 2nd semester.

His health condition further deteriorated and reliance is placed upon the medical certificates (Annexure P1 & P3) issued by the PGIMER and Annexure P4, issued by private Doctor to substantiate the said fact. Exemption had, thus, been got from appearing in the 2nd semester examinations also. The petitioner has,

thus, sought migration to the respondent No.2-Institute, which is permissible in the 3rd semester. It is the case of the petitioner that inspite of representations having been made, no action has been taken.

In the written statement filed by the respondent-University, it has been mentioned that migration is allowed in the 3rd, 5th and 7th semesters, on the basis of the merit-list drawn. The case of the petitioner is on the basis of medical grounds and there is no provision in the rules for the answering respondents for considering such like cases of hardship on medical grounds. The prayer has to be made for creation of an additional seat to the Bar Council of India. Relevant para reads as under:

“3. That however, the petitioner is not seeking migration on the basis of merit but on the basis of medical grounds and peculiar facts and circumstances alone. It is submitted that there is no provision in the Rules of the Answering Respondent University for consideration of such like cases of hardship on Medical grounds. As such, for this purpose, the petitioner has to make a prayer to this Hon'ble Court for creation of an additional seat by the Bar Council of India.

If at all such special seat is created in that event, the answering respondent would put forward the case of petitioner for consideration before its competent bodies like Syndicate and Senate in accordance with law, so as to enable them to consider the candidature of petitioner for migration to answering respondent university on medical grounds as a special case.

It is further respectfully submitted that although the result of the second semester is not yet out, but even finally, the petitioner is unable to meet the grade in answering respondent university, as he is not coming for migration on merit. The further action for migration of all other students shall be taken after declaration of results by the University Examination Branch.”

The Bar Council of India has failed to file its written statement inspite of two opportunities granted and more time is prayed for. In such circumstances, it would be appropriate that the Bar Council of India takes a decision on the stand of the University as to the entitlement of the petitioner and whether they are willing

to act on the same. However, it would be necessary for the respondent-University also to forward the requisite request to the Bar Council of India.

Accordingly, it is directed that the respondent-University shall make the necessary request to the Bar Council of India, within one week from today, which shall take a decision on the said request of the University, two weeks thereafter. It will also be open to the petitioner to make appropriate request to the Bar Council of India, in view of the plea taken by the respondent-University.

Writ petition stands disposed of in the abovesaid terms.

26.08.2015
sailesh

(G.S. SANDHAWALIA)
JUDGE