

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

CWP No.1702 of 2015 (O&M)
Date of Decision:13.04.2015

Advanced Institute of Pharmacy

. . . .Petitioner

Versus

Pandit Bhagwat Dayal Sharma University of Health Sciences and
another

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Animesh Sharma, Advocate,
for the petitioner.

Mr.Ramesh Hooda, Advocate,
for respondent No.1.

Mr.P.K. Chug, Advocate,
for respondent No.2.

RAKESH KUMAR JAIN, J.

The petitioner is affiliated to Pandit Bhagwat Dayal Sharma University and Health Sciences, Rohtak. It has prayed for the issuance of a writ in the nature of certiorari to quash the order dated 12.1.2015 passed by respondent No.1/University rejecting the admission of its two students namely, Tushar Manocha s/o Sushil Manocha and Mr.Sourab s/o Bhagat Singh on the ground that they were admitted on 16.8.2014, after the cut off date i.e. 15.8.2014. It has also prayed for a writ in the nature of mandamus for issuance of a direction to the respondents to validate the admissions of the concerned students.

The brief facts, culled out from the petition, are that the petitioner was allowed by the Pharmacy Council of India [for short 'the PCI'] for intake of 60 students in B. Pharmacy course upto session 2016-17. The petitioner applied to the All India Council for Technical Education [for short 'the AICTE'] for increase in intake from 60 to 120 seats for the session 2014-15. The AICTE though allowed the prayer of the petitioner but it was declined by the University and PCI. The petitioner filed CWP No.12261 of 2014 against the decision of the University and PCI, which was allowed on 5.8.2014 directing the University to grant approval and the PCI to follow suit in regard to the increase in intake from 60 to 120 seats. However, on clarification sought vide CM No.9828 of 2014, the seats were reduced from 120 to 100 students vide order dated 14.8.2014. However, order of the Single Bench in CWP No.12261 of 2014 is under challenge in a pending LPA No.1307 of 2014.

According to the petitioner, the University did not give the key dates including the last date for admission rather the last date for admission was given by the Haryana State Technical Education Society (for short 'the HSTES') as 16.8.2014 till 5:00 P.M. It is alleged that the petitioner admitted both the students on 16.8.2014 in terms of the cut off date and sent information to the University. The University, in turn, informed the petitioner vide the impugned letter dated 12.1.2015 that it had sought clarification regarding admission of students in B. Pharmacy course admitted upto 5.9.2014 from HSTES, Panchkula and AICTE, New Delhi and received the response on 4.12.2014 that B. Pharmacy course is not in the purview of HSTES and Director Legal, AICTE informed about the decision of the Supreme Court in IA No.56 of 2014 filed by

Shekhawat Institute of Management and others that it would be applicable to the colleges/institutions, who had filed applications, for impleading them as the parties to the appeal and the colleges/institutions for whom the permission has been sought by the AICTE but the institution of the petitioner is not mentioned as a party in that case, therefore, the University decided that admission given by the petitioner to the two students on 16.8.2014, after the cut off date i.e. 15.8.2014, was not permissible. It was also observed that in regard to the additional seats, decided in CWP No.12261 of 2014, intra Court appeal bearing LPA No.1307 of 2014 is pending in which it has been ordered that every student, who has been allowed admission, against the additional seat, is at his/her own risk and subject to the final outcome of the appeal.

In reply filed by the University/respondent No.1, it is urged that the admission to the two students given by the petitioner, after the cut off date is in the absence of the University representatives at their own level.

In reply filed by respondent No.2, it is categorically averred that the admission in B. Pharmacy Course is not within their purview.

Learned counsel for the petitioner has argued that the University did not give any key dates for the admission rather it was given by the HSTES which was 16.8.2014 till 5:00 PM. It is further submitted that the petitioner was involved in the unnecessary litigation by the respondents at the time of enhancement of intake of seats from 60 to 120 students in the college, which was ultimately decided on 5.8.2014 and in spite of following the direction issued in that order, an application was filed for seeking clarification which

was disposed of on 14.8.2014, as a result thereof, the petitioner could get only one day for the purpose of admission. It is submitted that as enough time is given to the petitioner, the seats which were vacated by two students, against which the present students have been admitted on 16.8.2014, could have been filled before the cut off date without any inconvenience either to the students or to the petitioner.

In support of his contention, he has relied upon a decision of this Court in the case of **“Alisha Sehjal Vs. State of Punjab and others”** 2014 SCC Online P&H 14910 and decisions of Supreme Court in the case of **“Varun Saini and others Vs. Guru Gobind Singh Indraprastha University”** 2014 SCC Online SC 834 and **“Medical Council of India Vs. Manas Ranjan Behra and others”** (2010)1 Supreme Court Cases 173.

On the other hand, learned counsel for the respondents have submitted that CWP No.12261 of 2014 was only pertaining to enhancement of seats from 60 to 120 students which was decided by the Single Bench of this Court on 6.8.2014 raising it to 60 to 120 students but the said Bench clarified its order vide order dated 14.8.2014 on an application, namely, CM No.9828 of 2014, reducing the seats from 120 to 100. Finally, it was adjudicated as to how many seats could be filled by the petitioner. It is further submitted that the admission process was already done and according to the petitioner all the 100 seats were filled up on 15.8.2014 but two students withdrew their admission and the petitioner, on its own, in the absence of the University representative, filled up those two vacant seats also on 16.8.2014, after the cut off date fixed by the Supreme Court, therefore, the appointment has been cancelled and

none of the judgment relied upon by the learned counsel for the petitioner is applicable. It is further argued that the petitioner cannot take the cut off date given by HSETS because the HSETS has already declared that the admission of B. Pharmacy does not come within its purview.

I have heard learned counsel for the parties and perused the record.

Much emphasis has been laid by learned counsel for the petitioner on the issue that the matter with regard to number of seats to be filled up by the petitioner was finally adjudicated upon on 14.8.2014 and there was hardly any time available with it to meet with the situation like the one which has arisen in this case by an order by which total number of seats were reduced, which were filled up on 15.8.2014 but two students withdrew their admission and in order to fill up those seats, the petitioner has to give admission on the next day i.e. 16.8.2014. This argument, though appears to be attractive but has to be rejected because the cut off date has been given by the Supreme Court to fill up the seats by 15.8.2014 and in the present case, the dispute is that all the 100 seats given to the petitioner were filled up on 15.8.2014 but due to some reason, two students out of 100 students vacated the seats which does not mean that the petitioner had the competence to fill up those vacant seats after the cut off date even without the presence of University representative which is otherwise required.

Insofar as the judgments relied upon by the counsel for the petitioner is concerned, those are not on the facts of the present case, which is even admitted by the learned counsel for the petitioner during the course of arguments.

Thus, I do not find any merit in the present writ petition and the same is hereby dismissed.

13.04.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**