

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

**CWP No.19745 of 2015
Decided on : 23.12.2015**

Punjab Pvt. ITI/ITC Association Regd.

... Petitioner

Versus

Union of India & others

... Respondents

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

Present : Mr.A.S.Virk, Advocate, for the petitioner.

Mr.Vivek Singla, Advocate, for respondents No.1 & 2.

Mr.L.S.Virk, Addl.A.G., Punjab, for respondent No.3.

G.S. Sandhawalia , J. (Oral)

The petitioner-Association has filed the present writ petition for setting aside the order dated 31.08.2015 (Annexure P8), issued by respondent No.2, whereby the private affiliated training institutes had been restricted from participating in the second and last round of counselling.

The grouse of the petitioner-Association is that the Government institutes were permitted to participate in the 7th and the last round of counselling and institutes which had already been set up earlier and were functioning, had not been permitted.

It is submitted that there were vacant seats and the infrastructure would go waste if the cut-off date is not extended.

Counsel for respondents No.1 & 2 could not bring to the notice of this Court that there were any statutory power by

which cut-off date was fixed for the ITI institutes and accordingly, vide order dated 21.10.2015, the members of the petitioner-Association were allowed to fill up the vacant seats till 31.10.2015, subject to final decision of the writ petition.

Today, an affidavit has been filed by respondent No.3, bringing to the notice of this Court that 17609 seats are lying vacant in the Government and private ITIs and in view of the interim order, passed on 21.10.2015, 3771 seats were filled up upto 30.10.2015, as per the details given in Annexure R1 and 13800 seats still remain vacant.

A Division Bench of this Court in ***Association of Education Colleges Vs. Haryana State 2009 (1) SCT 157*** examined the issue whereby a large number of seats for the B.Ed. Course were going vacant and the University was opposing the said prayer for admission on the ground that it was at a belated stage and the students had not appeared in the entrance test. It was noticed that the seats were available in the Colleges and were supported by the infrastructural requirements stipulated by the NCTE, which was a valuable resource and should not be allowed to go waste, subject to the fulfilment of the academic standards. Accordingly, it was held that the students should be allowed to be admitted on the basis of merit who had appeared in the qualifying examinations, without holding any independent Common Entrance Test. Relevant portion of the judgment reads as under:

“14. The next question then is whether this Court should permit admissions or let the available seats go waste, Which out of the two options would serve the ends of justice is the only question that detained us. If one were to adopt a pedantic and hyper technical approach, one could say that admissions need not be made at this stage as the University's apprehension of dilution of academic standards and disturbance of academic calendar should not be disregarded. The wisdom behind that approach however, appears out- weighed by the compelling need to avoid the wastage of seats and denial of an opportunity to eligible students to get admitted against the same. It is true that academic standard needs to be maintained and academic decisions by expert bodies respected as far as possible, but it is equally true that when admissions are delayed, a certain amount of adjustment can and ought to be made by the Institutions as also the affiliating University. These adjustments do not, however, necessarily dilute the academic standard as is apprehended by the University in the instant case. The Institutions are ready and capable of making up the requisite number of working days by holding special classes for the students, who have joined late. The admission granted at this stage will not also require the University to compromise on the 40 days practice teaching or the percentage of lectures, which a student must have for being declared eligible for taking the examination. It is noteworthy that candidates admitted to a session has to perform by the same standard as is required of the other candidates in order to be declared successful in the examination. If a student, otherwise admitted late, is unable to come up to the standard of the University, he/she will be declared unsuccessful. Super-added to the above is the fact that the number of students, who may even now seek admissions, may not be very large to require holding of any test to determine their inter-se merit for grant of admission. The argument advanced by Mr. Gupta that the Colleges may have to hold independent CET for granting

admissions, which may delay the completion of admission process, is in our opinion, misplaced. Such a situation could arise only where the number of students applying is more than the number of seats available in the Institutions. That, however, is not the position in the instant case. Even so, the apprehension that lesser merited students may be admitted while ignoring meritorious students, can be allayed by directing that the Institutions shall grant admissions strictly in accordance with the merit in the qualifying examination, which is one of the recognized norms for granting such admissions.”

Accordingly, the present writ petition is disposed of with the observations that the interim order dated 21.10.2015 stands confirmed. The admissions made in pursuance of the interim orders, shall be regularized and the students shall be entitled for declaration of results and other consequential benefits.

DECEMBER 23, 2015
sailsh

(G.S. SANDHAWALIA)
JUDGE