

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1.

CWP No.20542 of 2014
Date of Decision: 01.07.2015

Naina Krishan

. . . .Petitioner

Versus

Union of India and others

. . . . Respondents

2.

CWP No.6087 of 2015

Kunal Shangari

. . . .Petitioner

Versus

Union of India and others

. . . . Respondents

3.

CWP No.7267 of 2015

Hymanshoo Goel

. . . .Petitioner

Versus

Union of India and others

. . . . Respondents

4.

CWP No.7252 of 2015

Kanav Arora and another

. . . .Petitioners

Versus

Union of India and others

. . . . Respondents

5.

CWP No.9932 of 2015

Saksham Arora

. . . .Petitioner

Versus

Union of India and others

. . . . Respondents

6.

CWP No.10099 of 2015

Ms. Sukriti Bhutani

. . . .Petitioner

Versus

Panjab University and others

. . . . Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

In CWP No.20542 of 2014

Present: Mr.Vikas Bahl, Sr. Advocate with
Mr.Avinit Avasthi, Advocate,
for the petitioner.

Mr.Aseem Aggarwal, Advocate,
for respondent No.1/UOI.

None for respondent No.2.

Mr.Vivek Chauhan, Advocate, and
Mr.Vikram Anand, Advocate, for
respondent No.3.

In CWP No.6087 of 2015

Present: - Mr.Gaurav Chopra, Advocate,
for the petitioner.

Mr.Vipul Aggarwal, Advocate,
for respondent No.1 /UOI.

Mr.Amar Vivek, Advocate, Advocate,
for respondent No.2 & 3.

In CWP No.7267 of 2015

Present: - Mr. Gaurav Chopra, Advocate,
for the petitioner.

Mr.Vipul Aggarwal, Advocate,
for respondent No.1 /UOI.

Mr.Amar Vivek, Advocate, Advocate,
for respondent No.2 & 3.

In CWP No.7252 of 2015

Present: - Mr.Vasu Gambhir, Advocate, for
Mr.Gurinder Pal Singh, Advocate, the
petitioners.

Mr.Amar Vivek, Advocate, Advocate,
for respondent No.1 to 3.

In CWP No.9932 of 2015

Present: Ms. Diya Sodhi, Advocate,
for the petitioner.

Mr.Manish Dadwal, Advocate,
for Respondent No.1

Mr.Amar Vivek, Advocate, for
respondents No.2 and 3.

In CWP No.10099 of 2015

Present: Mr.Vasu Gambhir, Advocate, for
Mr.Gurinder Pal Singh, Advocate, the
petitioners.

Mr.Amar Vivek, Advocate, Advocate,
for respondent No.1 to 3.

Mr. Gaurav Chopra, Advocate,
for respondent No.4.

RAKESH KUMAR JAIN, J. (ORAL)

This order shall dispose of six petitions bearing CWP
No.20542 of 2014 and CWPs No.6087, 7267, 7252, 9932 &
10099 of 2015. However, the facts are being extracted from
CWP No.20542 of 2014 treating it to be the lead case.

An Information Brochure-2014 was issued for
admission to Bachelor of Engineering (B.E.) and Bachelor
of Architecture (B.Arch.) courses in six
universities/colleges including Chandigarh College of

Architecture (CCA). According to Clause 5.5.3 of the said Brochure, the Chandigarh College of Architecture (CCA) conducts five year Bachelor of Architecture (B.Arch) degree course for which it is affiliated to Panjab University in the Faculty of Design and Fine Arts. The total sanctioned intake of the CCA is 40 seats including 5 seats allotted by the Ministry of Human Resource Development (Department of Secondary & Higher Education), Government of India for Nominees of States/UT's Deficient in Technical Education Facilities. The break-up of the 40 seats provided in the Brochure is as under: -

(A)	CHANDIGARH QUOTA <i>All those candidates who have passed their qualifying examination (+2) from Schools/ Colleges located in the Union Territory, Chandigarh and recognized by the Chandigarh Administration.</i>	No. of seats
	(i) Scheduled Caste (15%)	4
	(ii) Scheduled Tribes (Nil)	Nil
	(iii) Military/ Para Military (5%)	1
	(iv) Physically Handicapped (3%)	1
	(v) Children of Freedom Fighter (2%)	1
	(vi) Open	20
	(vii) Sportspersons (2%)	1
	TOTAL	28
(B)	OUTSIDE CHANDIGARH QUOTA <i>Candidates who have passed their qualifying examination, but are not covered under category (a) above</i>	
	(i) Scheduled Caste (15%)	1

	<i>(ii) Scheduled Tribes (5%)</i>	<i>Nil</i>
	<i>(iii) Military/ Para Military (5%)</i>	<i>Nil</i>
	<i>(iv) Physically Handicapped (3%)</i>	<i>Nil</i>
	<i>(v) Children of Freedom Fighter (2%)</i>	<i>Nil</i>
	<i>(vi) Open</i>	4
	TOTAL	5
	ALL INDIA QUOTA	
	<i>*Ward of Kashmiri Migrant</i>	1
	<i>*Ward of Director Descendents of Kargil Martyrs</i>	1
	<i>** Nominee of States/ Union Territories Deficient in Technical Education</i>	5

The candidate desirous to take admission in the B.Arch. has to appear in the JEE (Main)-2014 entrance examination. The petitioner appeared in the JEE (Main)-2014 and her over all State rank was 67 and all India rank was 6491. After the declaration of result, the counselling was held on the following dates: -

- i) 1st round on 20.7.2014*
- ii) 2nd round on 26.7.2014*
- iii) 3rd round on 30.7.2014*
- iv) Spot round on 14.8.2014*

The petitioner could not get admission in all the four rounds though she had applied in the spot round of counselling and deposited a sum of ₹40,000/- at that time to participate which was later on refunded to her because she was unsuccessful. The petitioner came to know that even after the four rounds of counselling, seven seats remained vacant,

namely, one seat of open/General Chandigarh quota, one seat of the ward of Kashmiri Migrant all India quota and five seats of the Nominees of State/UT's deficient in Technical Educational Facilities.

The case set up by the petitioner is that those seats can be converted into open category and can be offered to the petitioner, who was at Sr. No.406 in the merit list.

At the time of notice of motion, learned counsel appearing for the University has stated at the Bar that there is a vacant seat available in B.Arch. course. The petitioner was ordered to be considered for provisional admission but subject to final outcome of the writ petition. Later on, a statement was made by counsel appearing on behalf of the petitioner that the petitioner has been provisionally admitted.

The petition is contested by respondent No.3. It is argued that the seat meant for Kashmiri migrant (outside Chandigarh) is vacant but the seat meant for Kargil Martyrs (All India) has already been given to Karandeep Singh Bajwa and the vacant seats were: one seat in the category of Kashmiri Migrant (outside Chandigarh), one seat open/General Chandigarh quota and five seats of the Government of India Nominees from Deficient States.

Learned counsel for the petitioner has vehemently argued that as per Clause 5.6.1 of the Brochure, in case, seats belonging to any reserved category remain vacant for want of eligible candidates, the same may be filled from amongst

General category candidates belonging to the same quota.

On the other hand, learned counsel for the respondents has argued that the seats meant for the Nominees of State/UT's Deficient in Technical Education cannot be shifted to any other category and has referred to the note in the 'Eligibility Criteria' of Clause 5.5.3 of the Brochure. However, it has not been denied that if the seat meant for Kashmiri Migrant and Direct Descendents of Kargil Martyrs remain vacant then it can be filled from open category of UT Chandigarh.

Learned counsel for the petitioner, in order to lay claim on the five seats of the Nominee of States/Union Territories Deficient in Technical Education, has also referred to Sub-Clause 15 of Clause 5.6.3 of the Brochure wherein it has been mentioned that the Chandigarh Administration can, at any time, relax or change any of the above conditions from time to time. Any interpretation or clarification subsequently required can only be issued by the Secretary Social Welfare, Chandigarh Administration.

Learned counsel for the petitioner has also argued that the petitioner had filed the writ petition, namely, CWP No.20542 of 2014, prior to CWP No.22077 of 2014 filed by Vaibhav Passi and is higher in merit as she is at Sr. No.406.

Learned counsel for the University has argued that this Court has already granted admission to one Vaibhav Passi, who was at Sr. No.411 in the merit list on the basis of first-cum-first-serve in CWP No.22077 of 2014 (Annexure P-8). It is further submitted by him that the Court can always

mould the relief in equity as these five seats would remain vacant whereas the total intake of the CCA is 40 seats and the students have already taken admission under the order passed by this Court in other connected writ petitions.

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

The only issue in this case is whether the five seats meant for Nominee of States/Union Territories Deficient in Technical Education can be offered to General category quota candidates from U.T., Chandigarh.

A bare perusal of the note appended to the 'Eligibility Criteria' of Clause 5.5.3 of the Brochure shows that if any seat under category of Nominee of States/Union Territories Deficient in Technical Education remains unfilled, it cannot be shifted to any other category. There is a clear embargo which cannot be diluted by the Court for the purpose of giving admission to the petitioners in this category, therefore, their request for consuming these five seats as well in the open General category of U.T. is hereby declined.

Insofar as the other two seats, namely, Kashmiri Migrant and Union Territories General category are concerned, there is no dispute raised by the respondents as it is covered not only by the note appended to the chart provided in Clause 5.5.3 of the Brochure in which it is mentioned that if such a seat remains vacant, it may be filled from open category UT Chandigarh. Thus, these two seats can be given to the candidates in General category quota of UT and in that

matter, one seat goes to Naina Krishna (the petitioner in CWP No.20542 of 2014), who is at Sr. No.406 in the merit list and other seat has already been given to Vaibhav Passi (petitioner in CWP No.22077 of 2014) by order passed by this Court on 11.3.2015. So far sub-Clause 15 of Clause 5.6.3 of the Brochure is concerned, it is not applicable because it pertains to free education for meritorious SC students and for that Chandigarh Administration has been given power to relax or change any of the condition from time to time in the said clause. Therefore, it does not relate to the 5 seats of the Nominee of States/Union Territories Deficient in Technical Education with which we were concerned in the earlier part of the order.

With the aforesaid observation, the present writ petition i.e. CWP No.20542 of 2014, filed by Naina Krishan, is hereby allowed and her admission is regularized which was provisionally given on 16.10.2014. However, the writ petitions, namely, CWPs No.6087, 7267, 7252, 9932 and 10099 of 2015 are found to be without any merit and are hereby dismissed.

01.07.2015

Vivek

(RAKESH KUMAR JAIN)
JUDGE