

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

**CWP No.21489 of 2015
Decided on : 02.11.2015**

Apoorva Kalia

... Petitioner

Versus

Baba Farid University of Health Sciences, Faridkot and others

... Respondents

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

Present : Mr. R.S. Ahluwalia, Advocate
for the petitioner.

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

Mr. R.S. Sidhu, AAG, Punjab.

Ms. Ravinder Kaur Manaise, Advocate
for respondent No.6.

Mr. Vishal Aggarwal, Advocate
for respondent No.7.

G.S. Sandhawalia , J. (Oral)

The present writ petition has been filed for granting the admission to the petitioner for the MBBS Course against Border Area Category in terms of her PMET Rank, 2015.

The petitioner seeks the relief at the cost of respondents No.5 to 7, who are General Category students, one of whom would have to vacate, in case the argument of the petitioner is to be accepted which was noted in the order dated 09.10.2015.

The said order reads as under:-

“C.M. No. 13472 of 2015

Application for placing on record the prospectus as Annexure P-8 is allowed subject to all just exceptions.

The same is taken on record.

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Counsel submits that the petitioner belongs to the reserved category of candidates of border area having category code 15 and refers to clause 11 of the notification to submit that a candidate from the reserved category would have a right to compete for admission in the open merit or general category seats as per the merit and a candidate so selected is not to be counted towards admission in the reserve category.

It is submitted that the said category has 1% seats reserved. Reference is made to the tables at page nos. 14 and 17 to submit that the reserved candidates of the border area had higher rank namely Simram Aneja (rank 312), Smarth Gupta (rank 337), Angel Dhingra (rank 319) and were to be adjusted against the last candidates of the general category namely Mantavya Khanna (rank 314) and Harkirat Kaur (rank 343) respectively. Similarly, Smt. Prabhkiran Kaur had only secured rank of 418 and Arzoo secured 482 rank in the general category code, which was below ranking of the border area candidates and, therefore, petitioner having rank of 492 would be entitled for admission, in the reserved category.

Notice of motion for 19.10.2015.

Dasti.”

It is pointed out that the Clause 11 of the notification had to be followed by the respondent-University to adjust the reserve category candidate in the general category, in case they were higher in merit. The same reads as under:-

“11. A candidate from reserved category shall have the right to compete for admission in open merit or general category seats as per his/her merit on the day of counselling and candidate so selected will not be counted towards admission in the reserve category.”

Explanation given by the University is that three candidates i.e. respondents No.2 to 4 had been given admission in the first counseling by online process and they did not attend the last counseling held on 29/30.09.2015 and thus they were not shifted to the general category. The said explanation is not justifiable, as such. In view of the clause in the prospectus reproduced above, it is for the University to act upon the notification which is binding upon them. This Court hopes that in future admissions the University will keep in mind the said clause and take appropriate measures to shift the reserved candidates to the general category, if they are higher in merit. The benefit can thus be granted to the reserved category candidates, who are lower in merit.

However, the petitioner cannot be granted any relief in the present writ petition on account of the defence of the University that the petitioner in her Border Area Category is ranked at 154 and, thus, there are 153 students above to her. Thus, her locus standi to seek admission on the basis of merit is not justifiable. It is settled principle that admission is to be made on the basis of merit and not only because the petitioner has approached this

Court and she thus being not that meritorious in her category does not fall in the zone of consideration.

It is submitted by counsel for the petitioner that there are admissions which have been made upto 104 in the merit in the Border Area Category and, therefore, the petitioner would fall within the zone of consideration. The said submission cannot be accepted, as there is nothing on record to show the said fact. Even otherwise also still a large number of students over and above the petitioner figure in merit and, therefore, the petitioner cannot be entitled for admission.

In such circumstances, no relief can be granted to the petitioner, specially also keeping in view the fact that the last cut off date i.e. 30.09.2015 has now gone by and admission cannot be ordered at this stage.

Accordingly, there is no merit in the present writ petition and same is dismissed.

NOVEMBER 02, 2015
Naveen

(G.S. SANDHAWALIA)
JUDGE