

CWP No.24007 of 2014

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

**CWP No.24007 of 2014
Date of decision:04.08.2015**

Jeewan Jot Nursing Institute

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. N.K.Setia, Advocate,
for the petitioner.

Mr. Anant Kataria, DAG, Punjab.

Mr. Sarabjit Singh, Advocate,
for respondent no.2.

Mr. Munish Jolly, Advocate,
for respondent no.3.

Rakesh Kumar Jain, J.

The petitioner has prayed for a writ in the nature of *mandamus*, seeking direction to the respondents to accept the examination forms of 18 students and allow them to appear in the examination of 1st year of the GNM course, which were scheduled to be held in December 2014-January 2015.

After notice, on 23.12.2014, the following order was passed by this Court:-

“The students who were allowed to be re-admitted through the order CWP No. 12824 of 2011 had not been permitted to take the examinations even in January,

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2014, although the necessary applications had been given for issuance of roll number by sending a list even in June, 2013.

The counsel appearing on behalf of the respondent No. 2 seeks for time to file reply. He states, however, orally that the petitioner has been seeking permission for 18 students which is more than the sanctioned strength of 40 students who have been admitted. The petitioner would explain that in the writ petition No. 12824 of 2011, the reversion or readmission of the students who were expelled on account of denial of NOC belong to 2010-2011 batch and their re-admission ought to be taken as pertaining to 2010-2011 and they cannot be clubbed along with the intake permitted for the subsequent year. Consequently, they cannot be treated as having been admitted in excess of strength.

Interim directions are necessary on account of the fact that inspite of a favourable order in favour of the petitioner as early as on 19.10.2011, the students who had been re-admitted have not secured any benefit and it would be seen prima-facie to be grossly unfair to deny them the right to take examination. I provisionally allow for the examinations to be taken by the students who were re-admitted pursuant to the order dated 19.10.2011

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passed in CWP No. 12824 of 2011 for examination that commences in January, 2015, for the 1st year of GNM course. Needless to state that the petitioner is bound to conform all other requirements regarding payment of fee, if it has already not been paid. If it has been already paid, the petitioner is bound to submit the proof of payment to the respondents university for the 18 students for whom permission is sought now.

Adjourned to 12.2.2015.

Copy of the order be given dasti against usual charges.”

Thereafter, respondent no.2 filed its reply, in which it is averred in the preliminary objections that the petitioner has only submitted the forms of 18 students, but it never deposited the examination fee and without completing the necessary formalities, filed the present petition.

During the course of hearing, learned counsel for the petitioner was specifically asked as to whether he wanted to file rejoinder to the written statement filed by respondent no.2 to deny the averment made in para no.2 of the preliminary submissions of the written statement wherein it has been averred that the petitioner has not deposited the examination fee.

Learned counsel for the petitioner has candidly submitted that he does not want to file the rejoinder to the written statement and want to argue the case on merits.

The next question put to him was to produce the proof of

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having paid the examination fee of those 18 students, but counsel for the petitioner has miserably failed to produce the same.

In view thereof, there is hardly any substance in this petition as the examination forms cannot be accepted by the respondents in the absence of examination fee and, thus, the roll numbers were not rightly issued.

In view thereof, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.

August 04, 2015
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(Rakesh Kumar Jain)
Judge