

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.24029 of 2014 (O&M)

Date of Decision.09.01.2015

Vijender

.....Petitioner

Versus

Pt. B.D. Sharma University of Health Sciences and others

.....Respondents

Present: Mr. J.S. Mor, Advocate
for the petitioner.

Mr. Anurag Goyal, Advocate
for the respondents.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. Costs as ordered by this Court is deposited. Reply filed by the respondent is taken on record.

2. The petitioner challenges the selection of the 4th respondent to the BAMS Course at the 3rd respondent Government Ayurvedic College. The petitioner's grievance is that the 4th respondent had 83 marks and ranked 63 while he had 89 marks and ranked 49 and the admission granted to him is in defiance of merit position.

3. The petitioner's case is for an admission for session 2014-2015 when on the basis of marks which he had obtained at the first counselling, he had been granted admission in BPT course at PGIMS, Rohtak in the reserved category. The admission norms provided that a

person can upgrade himself to a higher course in the next counselling when there are vacancies notified. At the second counselling, the petitioner took admission in B.Sc at the very same institute on 03.11.2014. It appears that the further notification issued for vacancies which had come about later and a third counselling had taken place on 17.11.2014. The petitioner's contention is that the vacancy position of one seat in the 3rd respondent college had not been specifically notified but it turned out that there was one vacancy and the 4th respondent had been admitted at 2.30 PM. He had given a written representation on the same day complaining that he had higher order of merit and therefore, he should have been admitted in preference to the 4th respondent. The writ petition, therefore, seeks for a challenge to admission to the 4th respondent and seeks for a mandamus that the petitioner must be admitted.

4. The University has filed a reply setting out the fact that the 3rd respondent college had written a letter dated 15.11.2014 that there arose a vacancy of one seat against SC category and that information reached on 17.11.2014, 15th November being the Saturday and intervening date 16.11.2014 being the Sunday. Since the 3rd counselling was already taking place, the admission for one seat in the 3rd respondent college was also immediately notified by putting up in the notice board and candidates who had turned up for counselling had, therefore, the benefit of information that a seat was available for BAMS course. The modes of admissions provided under the prospectus had clearly brought about a specific note that final distribution of seats shall be displayed at the time of counselling. The counsel for the respondent would state that

the vacancy position of one seat in the 3rd respondent college had been displayed and the 4th respondent who was present claimed the seat and his signature was taken at 2.30 PM and the record would show that the petitioner was not present at that time and he made representation only at 5.30 PM by which time the seat had already been filled up.

5. The counsel for the respondents would explain that the University could have absolutely nothing against the petitioner after he had been granted admission as per his merit position at the first and second counselling and at third counselling if he had been present and if he had claimed the seat at the time when the display was on, there would have been no difficulty in granting to him the admission. If he was not present and he had allowed yet another candidate to claim the same, he may not have a grievance that he should have been admitted.

6. The counsel for the petitioner states that there are two other candidates who were prepared to vouch for the assertion that they were all present at that time but the display had not been made. I would find this to be essentially a question of fact of which this Court cannot actually address. If there had been no display of vacant seat at all but the 4th respondent had been surreptitiously granted admission, the petitioner will surely have the case. If on the other hand, there had been display made in the manner asserted by the University and the petitioner was not there at that time to claim the same, there is no relief which is possible through the writ petition. The above position that involves of question of fact is not appropriate for adjudication in the writ petition and no intervention is possible.

7. The writ petition is dismissed leaving it to the petitioner any

other remedy, if available.

(K. KANNAN)
JUDGE

January 09, 2015
Pankaj*