

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

CWP No. 26756 of 2013 (O&M)
Date of decision: January 29, 2015

Suneel Chauhan

...Petitioner

Versus

Post Graduate Institute of Medical Education and Research, Chandigarh and
another

...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?**

Present: Mr. Karan Nehra, Advocate,
for the petitioner.

Mr. Rajesh Garg, Senior Advocate with
Mr. Manoj Kumar Pawal, Advocate,
for the respondents.

K. KANNAN, J. (Oral)

1. The petitioner who sought for admission to a Ph. D programme in the 1st respondent institute which is the Post Graduate Institution of Medical Education and Research (PGMER) was shunted out even at the threshold of his not having the minimum eligibility as prescribed in the prospectus. The prospectus required the students to have minimum 55% marks in the aggregate in MBBS course or MD or MS in the subject concerned or Diploma of National Board of Examination. The petitioner had less than 55% marks in the aggregate in the MBBS, did not have a post graduate course in MD or MS but had a post graduate diploma in radiation

and he did not qualify with any diploma from the National Board of Examination. The petitioner challenge to the prospectus which was notified in October was brought just one day before the entrance examination and the court, therefore, did not pass any interim order. Indeed, the court itself observed that the petitioner had not even sought for any interim order. The issue would seem, therefore, academic of whether the point raised must be considered at all but the counsel pleads with passion that if the same eligibility criteria were to be invoked in future, he would continuously be disqualified, which, according to him, would be grossly unfair and would mean arbitrary rejection of his candidature.

2. The petitioner's contention is founded on a reference to MCI guidelines which prescribe qualification that allow for a candidate who has 55% marks in MBBS and also a person who may have a PG Diploma or MSC in medical subjection. The prescription in the prospectus which sets higher bench mark and excludes a PG diploma course of what MCI prescribes is, according to the petitioner, untenable and arbitrary. In my view, these submissions are not tenable at all, for, the MCI guidelines must always be understood as the minimum required qualification which standard cannot be diluted. It cannot be taken to mean that an institute cannot place a higher bench mark than what the MCI guidelines lay down. In a reversal of the situation of when a College reduced the marks lower than what the minimum was prescribed in MCI guidelines, a Constitution Bench of the Supreme Court in Preeti Srivastava (Dr.)Vs. State of M.P. (1999) 7 SCC 120 held that the minimum qualifications, as prescribed by MCI, cannot be lowered at all and that is how the law must be understood. It will be a travesty for an institution to be compelled to lower the standards set by

them. If there are institutes which regulate competition through entrance examination to candidates who have already secured above a particular percentage which is even more than the percentage prescribed by MCI, they should only be taken that the Institute is prepared to regulate its own admission norms to persons of exemplary academic record. There can be no argument that such a decision, which is at variance with MCI only, that places higher bench mark as arbitrary. Indeed, the issue of eligibility has been placed before the Academic Council and they have taken a decision setting down the eligibility criteria.

3. The counsel for the petitioner would not be satisfied that the decision for the eligibility criteria has been laid down by the Academic Council. For him, the nature of such a decision by the Academic Council must spell out reasons why a deviation from the MCI guidelines have been made. The Academic Council does not decide a quasi judicial dispute of any sort for a reasoned decision. If it takes a particular agenda item subject to qualifications and decides restrictive criteria for eligibility that would be higher standard than the MCI standards, that ought to be sustained, irrespective of whether reasons were given or not. The nature of decision is such that it does not require the reasons to be given. An Academic Body of an exemplary institute must have a reasonable play in joints to take a decision of on they do and what they are competent, without having setting down reasons why they were keeping highest standard.

4. What would apply to the marks should apply also to the fact that the Academic Council excluded consideration of Diploma in Post-graduate or M.Sc in medical subjects as eligibility. This also ought to be taken as only giving room for a restrictive eligibility which is fair enough

for an institute to set down. I will not repeat the reasoning of what I have made for a higher percentage of marks.

5. The counsel would submit that there needs to be a reasonable nexus of restrictive eligibility criteria to the object sought to be achieved. According to the petitioner, if the relative merit of the students was to be examined by the performance in the entrance examination, then a restriction at the time of who participates in the examination with what percentage ought not to be relevant at all. I will again discard this argument, for, it is a common practice followed by almost all the universities that a full weightage is never assigned to the performance in the entrance examination only. A weightage in the academic course is also given only to assess that the students had a fairly good record over a span of time and a mere spike in performance at the entrance examination could not be deciding criterion for assessing merits. The nexus is seen from the fact that the choice to Ph. D programme is restricted to persons from higher academic cadre. It is a repeated theme that the candidates who register for Ph.D who have to submit research paper within a stipulated time are invariably before the Academic Council seeking for extension of time or before the Court for relaxation of time. We look to exemplary academic record for the varified field of doctorates and if the PGIMER sets a very higher standard for consideration for admission, there can be no scope for judicial intervention. It is nobody's case that seats are going abegging and if only relaxed consideration is made, the seats could be filled up. The challenge to selection, therefore, cannot be made on this ground as well. The counsel for the petitioner has referred me to the judgments rendered in The State of Madhya Pradesh Vs. Gopal D. Tirthani and others AIR 2003 SC 2952, Dr.

Chanemouga Soundaram C. Vs. All India Institute of Medical AIR 1996 Delhi 291 and Dr. Riaz Ahmed and others Vs. Competent Authority and another, decided on 24.03.29913. None of the decisions has considered on issue on the controversy of a university to prescribe standards of eligibility higher than Apex Regulatory Bodies. They have no relevance to the points dealt with by this Court and the same are not applicable to the facts of the present case.

6. The writ petition is dismissed.

January 29, 2015
prem

(K.KANNAN)
JUDGE