

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

CWP No.8559 of 2013
Decided on: 14.12.2015

Dr. Roohi Kapoor

.... Petitioner

vs.

Baba Farid University of Health Science & ors.

.... Respondents

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

Present: Mr. Anupam Bhardwaj, Advocate
for the petitioner.

Mr. Manish Dadwal, Advocate
for respondent Nos.1 & 2.

Mr. Tushar Sharma, Advocate
for respondent Nos.3 & 4.

Mr. Suvir Sehgal, Addl. AG, Punjab.

G.S.Sandhawalia, J.(Oral)

The petitioner seeks refund of Rs.2,15,725/- along with interest @ 18% from the date of deposit of fees to the date of actual payment to the petitioner as per the provisions made in the prospectus of respondent No.1-University for the year 2012-13.

It is pleaded case of the petitioner that she had taken admission in MDS course with respondent No.3 - Genesis Institute of Dental Sciences & Research, Ferozepur. Thereafter, she shifted to respondent No.6 -institute namely Sri Guru Ram Dass Institute of Dental Sciences and Research Amritsar. She paid a total sum of Rs.6,80,000/- towards tuition fee, hostel fee and security etc. on

25.04.2012 to respondent No.3. As per Note 3 of the prospectus for the year 2012-13, the fee was to be refunded/adjusted when the candidate was shifted from one college to another in the subsequent counselling. The said note read as under:

“Note 3: The fee shall be refunded/adjusted if candidate is shifted from one college to another in the subsequent counselling on operation of the waiting list.”

However, only a sum of Rs.4,64,275/- was paid to her and an amount of Rs.2,15,725/- was not refunded for which the present writ petition has been filed.

State in its reply took the plea that vide letter dated 02.04.2013 (Annexure P-3) respondent No.1 directed respondent No.3-college to refund the full tuition fees to the petitioner along with proportionate deduction of hostel fees depending on stay of the petitioner in the hostel of the said respondent.

University in its written statement took the plea that the complaint was received on 13.12.2012 regarding non-refund of the fee and respondent No.3 – college was asked not to charge etc. fee as per letter dated 10.01.2013 (Annexure R-1/1). Another letter was written on 02.04.2013 (Annexure R-1/2) to the college in view of the legal notice dated 11.03.2013 received from the petitioner wherein the said respondent dated 09.04.2013 (Annexure R-1/3) took the defence of the petitioner attending the college from 07.05.2012 to 19.09.2012 and availing the facilities for 4½ months by her and therefore, the relevant proportionate fee for the said period should be

refunded from the institute where she got admitted subsequently in second counselling.

A perusal of letter dated 16.04.213 (Annexure R-1/4) was written by the University for refund of the fee as per Punjab Govt. notification. The University again on 18.04.2013 had written to the same effect and accordingly, the stand by the University is that petitioner is entitled for the full refund of the fee.

Reply of respondents No.3 & 4 also indicated that the petitioner had been refunded a total amount of Rs.4,64,275/-. The petitioner had also utilised the facilities of respondent No.3 – college from 07.05.2012 to 19.09.2012 i.e. for a period of 4½ months.

Respondent No.6 was thereafter impleaded vide civil miscellaneous application No.1416 of 2014 in view of the fact that issue of adjustment of fee had to be worked out inter se the institutes and was duly served but none has put in appearance on behalf of the said respondent.

An additional affidavit was filed by respondent No.3 & 4 wherein they have taken the specific plea that the said course is of 3 years as per Dental Council of India Revised MDS Course Regulations, 2007 and the petitioner had stayed with respondent No.3 from 07.05.2012 and passed out in May 2015 from respondent No.6. Reliance upon the result card has been made. It is submitted that subsequent admission was made on September, 2012 till September, 2015 against the seat vacated and the students against

the said admissions have paid the fee for full three years for that period. The refund of fee for the period from May to September, 2012 is accordingly, to be charged from respondent No.6, who has charged full fee from the petitioner on her shifting to the said institute in spite of the fact that the petitioner had utilized the facilities with the said respondent and never utilized the facilities with respondent No.6 for the said period. Thus, it is rightly justified that respondents No.3 & 4 cannot be made liable for refund.

The said argument is liable to be accepted. It is apparent that respondent No.6 has charged the full fee for the said course though the petitioner had taken the admission only in September, 2012 and therefore, the necessary benefits of refund have to be made by the said respondent, who has chosen not to contest the petition.

Resultantly, respondent No.6 is directed to refund the amount of Rs.2,15,725/- within a period of one month from the date of receipt of certified copy of the order. In case the amount is not refunded within the above said period, the petitioner will be entitled for interest @ 9% from the date of deposit i.e. 25.04.2012.

With above said observations, the writ petition stands allowed.

14.12.2015
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(G.S. SANDHAWALIA)
JUDGE