

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No.1339 of 2015 in
CWP No.7252 of 2015

Date of Decision: 11.09.2015

Kanav Arora and another

..... Petitioners

Versus

Panjab University and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Jagbir Singh Malik, Advocate
for the appellants.

S.S. SARON, J.

Mr. Amar Vivek, Advocate has put in appearance on behalf the respondents. He has submitted memo dated 14.08.2015 issued by the Chandigarh Administration Technical Education Department addressed to the Principal Chandigarh College of Architecture, Chandigarh (respondent No.3). The same is taken on record.

Heard learned counsel for the parties.

This Letters Patent Appeal has been filed by the appellants Kanav Arora and Anmol Narad against the judgment and order dated 01.07.2015 passed by the learned Single Judge in CWP

No.7252 of 2015.

The appellants applied for admission to the Bachelor of Architect ('B-Arch.' - for short) Course in six universities/colleges including the Chandigarh College of Architecture, Chandigarh ('College' – for short) (respondent No.3) through JEE. According to the Information Brochure - 2014 of the respondent No.3 - College, the College conducts five years B-Arch. degree course, which is affiliated to the Panjab University, Chandigarh (respondent No.1) in the faculty of Design and Fine Arts. The total sanctioned intake strength of the seats for the B. Arch. five years course in the respondent No.3 – College is 40 seats. According to the information brochure these 40 seats included 5 seats allotted by the Ministry of Human Recourses Development (Department of Secondary and Higher Education), Government of India for the nominees of States/Union Territories deficient in technical education facilities.

In the information brochure of the respondent No.3 - College, the 5 seats for nominees of the States/Union Territories deficient in technical education facilities are mentioned as inclusive of the 40 seats which is the sanctioned strength. However, according to the learned counsel for the parties, these five seats should be over and above 40 seats as per the documents that have now been received. In other words, there are 40 sanctioned seats for the B. Arch. five years degree course in the respondent No.3 – College and 5 seats are for the nominees of States/Union Territories deficient in technical education facilities. This fact is evident from the letter (Annexure A-1) written by the Principal of the respondent No.3 – College to the Ministry of Human Resource Development (Department of Higher Education). The Ministry of

Human Resource Development (Department of Higher Education) vide its letter dated 21.07.2015 (Annexure A-2) has clarified that the seats allotted by the ministry are for students of the North Eastern States/Union Territories and for certain other agencies/ministries and are supernumerary in nature. These seats, it is mentioned, are over and above the sanctioned strength and do not affect the total strength/intake of the students of the respondent No.3 - College. It is further stated in the said letter dated 21.7.2015 (Annexure A-2) that college/university is competent to take an appropriate decision for filling up the vacant seats out of its total sanctioned strength. However, the supernumerary seats of the Ministry could only be allotted by the ministry. The letter (Annexure A-1) from the Principal of respondent No.3 - College to the Ministry of Human Resources Development (Department of Higher Education) and the reply vide letter dated 21.7.2015 (Annexure A-2) from the Ministry of Human Resources Development (Department of Higher Education) were not before the learned Single Judge when the impugned order dated 01.07.2015 was passed.

The appellants, it is admitted case of the parties stand provisionally admitted to the B. Arch. course in the respondent No.3 - College prior to the last cut off date i.e. 21.05.2015 i.e. last date for issuance of Registration number by the University; besides they have appeared in the first and second semester examinations. It has been clarified that the first semester examination was taken by the appellants in a private college and thereafter they were provisionally admitted in the respondent No.3 - College as there

were vacant seats.

In terms of the memo dated 14.08.2015 addressed by the Chandigarh Administration Technical Education Department to the Principal of the respondent No.3 – College, that has been placed on record, it is mentioned regarding the subject of reservation of seats in degree level technical courses for States/Union Territories lacking in such facilities and for foreign and other categories of students for academic session 2014-15, that the College is free to admit students upto the sanctioned strength and that the nomination, if any, by the Government of India are over and above it.

Therefore, evidently a mistake had occurred in brochure in counting the sanctioned strength of 40 seats for intake of students to the B. Arch. five years degree course by including 5 seats of the Ministry of Human Resource Development (Department of Secondary and Higher Education), Government of India for nominees of States/Union Territories deficient in technical education facilities. These in fact were to be excluded from the sanctioned strength of 40 seats as is evident from the Government of India communication dated 21.07.2015 (Annexure A-2), wherein it has been clarified that the seats for States/Union Territories deficient in technical education facilities are over and above the sanctioned strength being supernumerary seats. Besides, the Chandigarh Administration, Technical Education Department has vide communication dated 14.8.2015 addressed to the Principal of respondent No.3 – College has further made it clear that the said College is free to admit students upto the sanctioned strength and

nominations, if any, in respect of seats reserved in degree level technical courses for States/Union Territories lacking in such facilities are over and above the sanctioned strength.

The calculations done by the learned Single Judge is by including the 5 seats for nominees of States/Union Territories deficient in technical education facilities within the 40 sanctioned strength seats. This was done in accordance with the Information Brochure - 2014. The position in respect of which is, however, now different. In terms of the order passed by the learned Single Judge, both the appellants have been non-suited for admission in B.Arch. course of the respondent No.3 - College.

In view of the fact that the Chandigarh Administration has now conveyed that the respondent No.3 - College is free to admit students upto sanctioned strength and nomination, if any, by Government of India are over and above it, the appellant No.1 who ranks at serial No.77 is within the merit and is entitled to be admitted. The ranking of appellant No.2 is at No.433. According to Sh. Amar Vivek, Advocate learned Counsel for the respondents, he is also liable to be admitted against the seats available due to migration of Charvi Saxena; besides, both the appellants were provisionally admitted before the cut off date of 21.5.2015.

Therefore, the impugned judgment and order dated 01.7.2015 insofar as it was passed in CWP No.7252 of 2015 is set aside. The appeal of the appellants Kanav Arora and Anmod Narad is allowed and they shall continue in their course of B.Arch. as one of them i.e. appellant No.1 falls within the merit of 5 seats and appellant No.2, according to learned counsel for the respondents

can be adjusted against the migration seats as they were provisionally admitted against vacant seats before the cut off date of 21.05.2015. No costs.

(S.S. SARON)
JUDGE

(SHEKHER DHAWAN)
JUDGE

11.09.2015
Bhumika/amit

Note: Whether to be referred to the Reporter: Yes/No.