

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

LPA No.1511 of 2015 (O&M)
Date of Decision:18.12.2015

Vishal Sharma

...Appellant

Versus

Union of India and others

...Respondents

**Coram: Hon'ble Mr. Justice S.S. Saron
Hon'ble Mr. Justice Amol Rattan Singh**

Present:Mr. Arun Bansal, Advocate
for the appellant.

None for respondent No.1.

Mr. PPS Thethi, Addl. Advocate General, Punjab

S.S. Saron, J.

This appeal has been filed by the appellant Vishal Sharma, against the order dated 28.09.2015, passed by the learned Single Judge in CWP No.15122 of 2015 whereby his limited claim against there being no reservation of seats for riots/terrorists affected candidates seeking admissions to the MBBS course in the government quota of seats in the Medical Institutions under the Baba Farid University of Health Sciences, Faridkot (respondent No.4) ('University'- for short) has not been accepted.

The appellant appeared in the Punjab Medical Entrance Test 2015 on 17.5.2015 for seeking admission to the MBBS course in the Medical Institutions under the respondent No.4-University. He belongs to the category of riots/terrorists affected. He secured 432 marks and ranked at No.4138 in the general rank. In the reserved category No.19 i.e. terrorists affected, according to the merit list that was prepared, he ranked at No.6.

There were 400 seats for the MBBS course in three Government Medical Institutes in the State of Punjab, besides, about 320 seats in three affiliated Institutes, i.e. Private Medical Colleges of the respondent No.4-University.

The provisional distribution of seats was displayed by the respondent No.4-University on its website on 28.05.2015 (Annexure P-7). In the provisional distribution of seats, there are two columns namely 'Terrorist Affected' and 'Sikh Riot Affected', in which reservations were mentioned to the extent of 1% each only in Government Medical Colleges. The grievance of the appellant is that no such reservation has been provided for the said category in the Government quota of the privately managed colleges.

The learned Single Judge noticed that the notification for admissions to MBBS/BDS courses provides for reservation in Government Medical Colleges/Dental Colleges of the said category and Clause 21 provided for admissions to private Institutes, where seats were divided between 50% belonging to

Government quota and 50% for the Management quota. There was no reservation in the prospectus provided for the terrorists affected in the Government quota of the privately managed Medical Colleges. It was held that the petitioner (now appellant) had taken a chance while applying for admission, besides, the terms of the notification had never been challenged at that stage and that having failed to get admission on the basis of seat reservation, he was estopped from challenging the terms of the prospectus at this stage.

According to the learned counsel for the appellant, in an earlier notification dated 20.02.2006 (Annexure P-8), it was provided as follows:-

"5. November 1984 riots-affected displaced persons, children of the Army deserters killed/100% physically disabled, children of the families of persons killed as a result of terrorist violence or by security forces acting in aid of civil authorities and the children of innocent civilians who have sustained 100% disability in terrorist violence or during operation by Security forces acting in aid of civil authorities (2%)."

This has been reiterated in the notification dated 06.03.2006 (Annexure P-9), the relevant extract of which reads as under:-

"Subject:- Implementation of the recommendation of Justice Nanavati Commission of

Inquiry into 1984 riots regarding uniformity in compensation and Relief/Rehabilitation-review of policy regarding riots affected and terrorist affected families.

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It has been inter alia mentioned in para 5 of the said notification that "facility of free education up to final (MA/M.Sc. etc.) completion in general education in Government/Government aided institutions/Universities; payment of stipend to School/college going children; and reservation of seats in admission of professional/technical/medical institution will continue."

This also finds mentioned in the minutes of meeting held under the Chairmanship of Chief Secretary, dated 25.02.2011 (Annexure P-12). However, despite the said reservation being continued, it is not being provided in the Government quota of the privately managed college.

After giving our thoughtful consideration to the matter, we are of the view that it is for the respondents No.2 and 3 to consider, where reservation has to be provided as provisions providing for said reservations are enabling provisions. However, we request respondents No.2 and 3 to consider the matter with regard to providing of reservation to the riots affected/terrorist affected victims in the Government quota of privately managed college in the next academic sessions of 2016-17.

We hope that respondents No.2 and 3 shall consider the

matter before issuance of notification for the admission to the MBBS/BDS course of the session 2016-17.

In the circumstances, nothing survives in the appeal and the same is accordingly disposed of.

(S. S. Saron)
Judge

18.12.2015
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(Amol Rattan Singh)
Judge

Note: Whether to be referred to the Reporter: Yes