

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

LPA-800 of 2015

Date of decision : 19.10.2015

Khayati Moudgil

.....Appellant

Vs.

Union of India and Others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE S.S.SARON
HON'BLE MR.JUSTICE AMOL RATTAN SINGH**

**Present:- Ms.Anu Chatrath, Sr.Advocate with
Mr.Rakesh Sobti, Advocate for the appellant.**

Mr.Naveen Kaushik, Addl.A.G.Haryana.

**Mr.Ashok Kumar Sharma, Advocate for
Mr.S.K.Sharma, Advocate for respondent No.3.**

**Mr.Harsh Aggarwal, Advocate,
for respondent No.5.**

S.S.SARON, J.,

This Letters Patent Appeal has been filed by the appellant against the judgment dated 9.02.2015 passed by the learned Single Judge in CWP No.12518 of 2014.

The appellant filed a civil writ petition before this Court assailing the validity of the decision taken by the Pharmacy Council of India-respondent No.3 which was communicated by the Council vide its letters dated 13.06.2007 and 17.07.2009, Annexure P-6 and P-7 respectively, to the State Pharmacy Council Haryana-respondent No.4 and other authorities and the Universities conducting the approved courses in Pharmacy. The decision taken was to the effect that the students who had passed 10+2 examination (Senior Secondary

Examination) from National Institute of Open Schooling, New Delhi-respondent No.5 had been declared ineligible for admission to Diploma/Degree in Pharmacy, besides, also ineligible for the purpose of registration as Pharmacist. It was submitted on behalf of the appellant that the students who had 10+2 (Senior Secondary Examination) in science stream from other examining bodies like Universities, Boards, established by an Act of Legislature and were the members of the Association of Indian Universities were eligible for admission in all the educational institutions and the Diplomas/Degrees awarded to them were valid for employment under the State and the Union Government. As such, the action of the Council was stated to be arbitrary, discriminatory, unreasonable and unrealistic.

The learned single Judge by its impugned order dismissed the writ petition of the appellant. Reference was made in the impugned judgment to the decision of this Court in the case titled Babita and Others Vs. Pharmacy Council of India and Others (CWP No.11427 of 2008) wherein, it was held that there was no illegality in the action of not recognizing the educational qualification. It was also observed by the Division Bench that Pharmacy Council of India after giving thoughtful consideration to the courses conducted by open schools had decided not to recognize courses done from National Open Schools. The reasoning adopted in Babita's case (supra) was followed in the case of Sajjan Kumar and Others Vs. Pharmacy Council of India in CWP No.4295 of 2012.

Notice of motion was issued in the present appeal on 26.5.2015.

On 10.09.2015, when the case was taken up, learned counsel

for Pharmacy Council of India-respondent No.3 submitted a public notice dated 30.07.2015 regarding eligibility of Open School Education System of the Central Government/State Governments Institutions for admission in Pharmacy courses for the purpose of registration as a Pharmacist under the Pharmacy Act, 1948. The said public notice contains the decision of 97th Central Council of the Pharmacy Council of India (June, 2015). According to the decision, the Pharmacy Council of India in its 97th Central Council meeting held in June, 2015 decided to approve a pass from Open School Education System of the Central Government/State Government Institutions for admission to various Pharmacy courses for the purpose of registration as a Pharmacist.

Learned counsel for respondent No.3 had taken time to submit regarding the status of the appellant.

When the case was taken up today, learned counsel for respondent No.3-Pharmacy Council of India has submitted that Pharmacy Council of India-respondent No.3 has decided that a person who has passed 10+2 examination (Senior Secondary Examination) from National Institute of Open Schooling, New Delhi-respondent No.5, shall be treated as pass for admission to various pharmacy courses for the purpose of registration as Pharmacist.

In view of the said statement of learned counsel for respondent No.3, learned Senior counsel for the appellant submits the appellant was given admission on the basis of her merit in the written test for B Pharmacy in Kurukshetra University-respondent No.6 for the Session 2008-2012. The appellant completed her Bachelor of Pharmacy degree in first division in May 2012. When she applied for registration as Pharmacist with Haryana State Pharmacy Council-

respondent No.4, it refused to register her as Pharmacist on the ground that she had done her 10+2 from National Institute of Open Schooling, New Delhi-respondent No.5. However, on the basis of degree of B Pharmacy, the appellant has also done her D-Pharma (Post Baccalaureate course) during the academic session from 2012 to 2015 under the JSS University, Mysore and Certificate Annexure A-1 in this regard has been placed on record. She is not being registered as a Pharmacist as she had done her 10+2 from the National Institute of Open Schooling-respondent No.5.

In view of the statement made by learned counsel for Pharmacy Council of India-respondent No.3, the appellant would now be entitled for registration as a Pharmacist as she passed 10+2 examination (Senior Secondary Examination) from National Institute of Open Schooling, New Delhi-respondent No.5, which is stated to be recognized.

In the circumstances, the appeal is allowed and judgment and order dated 09.02.2015 passed by learned Single Judge in CWP No.12518 of 2014 is set aside and writ petition filed by the appellant is allowed as prayed for.

The Haryana State Pharmacy Council-respondent No.4 shall register the appellant as a Pharmacist preferably within a period of three weeks from the date of receipt of certified copy of this order. No costs.

(S.S.SARON)
JUDGE

(AMOL RATTAN SINGH)
JUDGE