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

**Date of decision : 14.06.2016**

**1.**

**CWP-10304-2016 (O&M**

Dr. Reecha

... Petitioner

Versus

Union of India and others

... Respondents

**2.**

**CWP-12084-2016**

Dr. Cheta Singh and another

... Petitioners

Versus

Union of India and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AMIT RAWAL**

Present: Mr. R.S. Panghal, Advocate  
for the petitioner (in CWP-10304-2016).

Mr.R.S.Bains, Advocate for the petitioner  
(in CWP-12084-2016).

Mr.Rajvir Singh Sihag, Advocate  
for the Union of India.

Mr. R.P.S. Bara, Advocate for  
Mr. M.S. Longia, Advocate  
for respondent No.2 (in both the petitions).

Mr.Ashish Rawal, Advocate for respondent No.4.

Mr. Ashok Bhardwaj, Advocate, for the applicant  
(in CM No. 6810 of 2016).

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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?

**AMIT RAWAL, J. (ORAL)**

This order of mine shall dispose of two writ petitions bearing **CWP No.10304 of 2016** titled as **“Reecha V/s Union of India and others”** filed at the instance of Dr. Reecha and **CWP No.12084 of 2016** titled as **“Cheta Singh and another V/s Union of India and others”**, filed at the instance of Dr. Cheta Singh and Dr. Anjuman.

**CM No.7108-CWP of 2016 in CWP No.10304 of 2016**

Before adverting to the facts of the case, during the interregnum, an application bearing **CM No.7108-CWP of 2016** at the instance of Dr. Cheta Singh and Dr. Anjuman has been moved for impleading as a party, for the reason that by virtue of the interim order dated 30.05.2016 passed in CWP No.10304-2016, a valuable right of the applicant (s) has been affected.

Short reply to the application at the instance of the petitioner- Dr. Reecha has been filed in Court today and the same is taken on record.

Since, the petitioner has already challenged the admission of Dr. Reecha, in the independent question, therefore, no further order is required to pass in the present application.

CM stands disposed of in the aforementioned terms.

**CM No.6810-CWP of 2016 in CWP No.10304 of 2016**

Prayer in this application is for impleading the applicant, namely, Dr. Deepinder Anand as petitioner No.2 in the aforementioned writ petition.

This Court had vide interim order granted permission to appear for counselling provisionally and grievance sought by the applicant, namely,

Dr. Deepinder Anand is identical to one that of Dr. Reecha and therefore, he may be impleaded as petitioner No.2 in the aforementioned petition.

Reply of the aforementioned application at the instance of the respondent No.4 has been filed in Court today and the same is taken on record.

Mr. Ashish Rawal, learned counsel appearing on behalf of respondent No.4 has opposed the impleadment of Dr. Deepinder Anand as petitioner No.2 on the premise that both the petitioners i.e. Dr. Reecha and Dr. Deepinder Anand, had not applied by the cut off date i.e. 30.05.2016 as per the terms and conditions of the prospectus and had different cause of action is made out in view of the law laid down by the Full Bench of this Court rendered in **“Rahul Prabhakar V/s Punjab Technical University, Jalandhar”, 1997 117 PLR 13.**

In view of the aforementioned facts, I am of the view that in case, the applicant, namely, Dr. Deepinder Anand had any grievance, was/is refused to move a separate writ petition, but not in the manner and mode as has been adopted for impleading as petitioner No.2 and accordingly, the application is hereby dismissed.

### **MAIN CASES**

Additional affidavit at the instance of respondent No.4 in **CWP No.10304 of 2016** and written statement on behalf of respondent No.5 in **CWP No.12084 of 2016** have been filed in Court today and same are taken on record.

Mr. R.S. Panghal, learned counsel appearing on behalf of the

petitioner-Dr. Reecha *in CWP No.10304 of 2016*, submits that challenge in the present petition is for issuance of the writ in the nature of certiorari for quashing the action of the respondents by promulgating the Notification dated 28.04.2016 (Annexure P-1), whereby number of streams of subject and seats have not been shown correctly by the respondent No.4- Government Medical College and Hospital, Sector 32, Chandigarh (hereinafter called 'GMCH').

He submits that for filling up the post of MD/MS, the respondent No.4-GMCH came out with the prospectus for filling up the 72 seats i.e. 36 in State Quota and 36 in All India Quota. The petitioner-Dr. Reecha belonged to All India Quota. He submits that as per Clause No.(iii), the last date for submission of the Form for the aforementioned posts was 26.03.2016 (12.00 PM).

He further submits that as per the notification dated 28.04.2016, Walk-in-Counselling for the remaining vacant seats, after the second counselling for admission to MD/MS Course-2016 was to be held on 13.05.2016 at 11 A.M. in the office of Director Principal, GMCH, Chandigarh and online applications were available on the official web-site from 01.05.2016 to 13.05.2016 till 5 p.m. The aforementioned notification is not in consonance with the prospectus, for, the notification did not envisage the number of vacant seats and as well as the streams/courses for which the candidates had to opt for.

He further submits that as per the list of vacant seats notified as on 04.04.2016 vide Annexure P-3, only 11 seats in the following Departments were notified:-

| Sr. No. | Department           | Vacant Seats |
|---------|----------------------|--------------|
| 1       | Anatomy              | 1            |
| 2       | Bio-Chemistry        | 1            |
| 3       | Forensic Medicine    | 2 (1 SC)     |
| 4       | Microbiology         | 2 (1 SC)     |
| 5       | Pathology            | 3            |
| 6       | Transfusion Medicine | 02           |
|         | Total                | 11           |

But later on, the GMCH has shifted 13 seats from All India Quota to State Quota and 26 unfilled/surrendered seats from State Quota i.e. 13 + 26 = 39 seats in 17 departments. The details of which are given as under:-

| Sr. No. | Name of Course        | No. of Seats reverted back from AIQ to State Quota | Unfilled/Surrendered Seats from State Quota | Total | Gen | SC |
|---------|-----------------------|----------------------------------------------------|---------------------------------------------|-------|-----|----|
| 1       | Anaesthesiology       | -                                                  | 4                                           | 4     | 4   | -  |
| 2       | Anatomy               | 2                                                  | 1                                           | 3     | 3   | -  |
| 3       | Biochemistry          | 2                                                  | 1                                           | 3     | 3   | -  |
| 4       | Community Medicine    | -                                                  | 1                                           | 1     | 1   | -  |
| 5       | Dermatology           | 1                                                  | -                                           | 1     | 1   | -  |
| 6       | Forensic Medicine     | 1                                                  | 2                                           | 3     | 2   | 1  |
| 7       | General Medicine      | 1                                                  | -                                           | 1     | 1   | -  |
| 8       | General Surgery       | -                                                  | 2                                           | 2     | 2   | -  |
| 9       | Microbiology          | 1                                                  | 2                                           | 3     | 2   | 1  |
| 10      | Obstt. & Gynae        | 1                                                  | 2                                           | 3     | 3   | -  |
| 11      | Ophthalmology         | 1                                                  | 1                                           | 2     | 2   | -  |
| 12      | Orthopaedics          | 1                                                  | 1                                           | 2     | 2   | -  |
| 13      | Oto-Rhino-Laryngology | -                                                  | 1                                           | 1     | 1   | -  |
| 14      | Pathology             | 1                                                  | 3                                           | 4     | 4   | -  |
| 15      | Pulmonary Medicine    | -                                                  | 2                                           | 2     | 2   | -  |
| 16      | Psychiatry            | -                                                  | 1                                           | 1     | 1   | -  |
| 17      | Transfusion Medicine  | 1                                                  | 2                                           | 3     | 3   | -  |

|  |       |    |    |    |    |   |
|--|-------|----|----|----|----|---|
|  | Total | 13 | 26 | 39 | 37 | 2 |
|--|-------|----|----|----|----|---|

He further submits that the notification is illegal, arbitrary, unjust and against the principles of natural justice as it has not been issued after the 3<sup>rd</sup> round of the counselling, therefore, number of seats could not be presumed to be available after the counselling. The action of respondent No.4-GMCH is totally imaginary and based on the conjectures and surmises.

The petitioner is an MBBS doctor, who has qualified the All India Post Graduate Medical Entrance Examination and therefore, she is entitled to appear in the Walk-in-Counselling and therefore, cannot be deprived of her right under Article 14 of the Constitution of India. The GMCH had no occasion to issue notification in view of the exact availability of the courses and the seats.

Mr. R.S. Bains, learned counsel appearing on behalf of the petitioner(s) in **CWP No.12084 of 2016** submits that owing to the passing of the interim order dated 30.05.2016 in **CWP No.10304 of 2016**, a valuable right has been taken away as the petitioner No.1 is falling under category No.2 i.e All India Quota, other than State Quota and the petitioner No.1 is falling under category No.1. The petitioner No.1 has scored 989.16 marks, whereas the petitioner No.2 has 787.11. Both the petitioners had submitted their applications upto 13.05.2016, whereas the petitioners, namely, Dr. Reecha and Dr. Deepinder Anand, have not submitted applications before the cut off date, aforementioned, therefore, they could not be given any right of consideration, what to talk of provisional counselling and by way of provisional admission, Dr. Reecha has been given admission which is

totally against the settled law as has been held by Full Bench of this Court in “Rahul Prabhakar's case (supra)”. The petitioner in CWP No.10304 of 2016 has also not brought to the notice of this Court Clause (iii) of PG.5.1 of the prospectus which prescribes that only those candidates shall be permitted to appear for counselling, who submits their applications for counselling upto cut off date, aforementioned, and thus, urges this Court for dismissal of the petition bearing CWP No.10304 of 2016 and allowing of the petition bearing CWP No.12084 of 2016.

Mr. Ashish Rawal, learned counsel appearing on behalf of respondent No.4-GMCH, submits that the petitioner-Dr. Reecha, though under the interim order passed by this Court was provisionally allowed to appear in the counselling and had been given admission, but the fact remains that she had never submitted her application by cut off date. Due explanation has been given in the reply with regard to the number of seats as the condition bearing No.PG.5.2 of the prospectus envisages that number of seats notified may increase or decrease after the final counseling for UT Chandigarh pool candidates.

He further submits that after 1<sup>st</sup> round of counselling, 11 seats under the State Quota remained unfilled on 04.04.2016, but however, due to shifting and non-joining of the selected candidates upto 15.05.2016, 13 unfilled seats of All India Quota were also shifted to the State Quota as per the notification, thus, total number of 39 seats had fallen vacant and availability for second round of counselling was scheduled on 21.05.2016. The details of the vacant seats were uploaded on official web-site on 19.05.2016 i.e. a day prior to the 2<sup>nd</sup> round of counselling. The second

round of counselling was held on 20.05.2016 and after that round, 20 seats remained unfilled up. On coming to know about the aforementioned vacant seats, father of the petitioner-Dr. Reecha had met the officials for allowing her extension or submission of form after cut off date, which was rejected in view of the provisions of condition bearing No.PG.5.2. As per the prospectus, the date of submission of the form could not be extended.

He further submits that after first round of counselling, number of candidates have to shift from one institution to other and even they change their streams, so it is totally uncertain to the institution concerned on the date of the notifying the date of 2<sup>nd</sup> round of counselling or subsequent counselling regarding availability of the left over seats, therefore, there has been nothing wrong in the impugned notice (Annexure P-1). He further submits that in response to the notice (Annexure P-1), 57 applications were received and the process of segregating/category-wise had been done and total number of vacant seats has been uploaded on the web-site on 27.05.2016 and thus, prays for dismissal for writ petition.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no merit in the contentions of Mr. R.S. Panghal i.e. Counsel representing Dr. Reecha in **CWP No.10304 of 2016** and force in the submissions of Mr. R.S. Bains i.e. Counsel representing the petitioners in **CWP No.12084 of 2016.**

Without adverting to the merit of the students, first question which has to be posed in the present writ petition as to whether the terms and conditions of the prospectus are sacrosanct or not. This aforementioned proposition of law as already been settled by the Full Bench of this Court

rendered in “Amardeep Singh Sahota V/s State of Punjab” 1993(4) SLR 673, and even the aspect of extended of cut off date has been pondered upon and it has been held that it cannot be extended or starched as per the ratio decidendi culled out in “Rahul Prabhakar's case (supra)” .

It is a conceded position on record that the petitioner had not applied within the cut off date i.e. 01.05.2016 to 13.05.2016. By way of interim order, right and interest of the petitioner in CWP no.12084 of 2016 has also been affected, in essence, their admission had been disturbed as both the petitioners are falling in the category Nos.1 & 2 and had applied before the cut off date, aforementioned.

Owing to such legal position, I am of the view that by virtue of the interim order, the petitioner has enacted a turbulent situation for the students, who were not at fault, despite the fact that they had submitted their applications within time.

In view of the interim order, the petitioner has been given admission in the Department of Anaesthesiology, in my view, the petitioner is not entitled to admission, therefore, her admission is hereby quashed.

\ It is a matter of record that there are certain other candidates, who are figuring in the merit list, but have not approached this Court, therefore, as per the judgment rendered by the Supreme Court in Writ Petition (Civil) No.76 of 2015 titled as “Ashish Ranjan & Ors. V/s Union of India & Ors.”, whereas time schedule for commencement of the admission has been laid down and the last date for permitting the admission is 31.05.2016.

Keeping in view the aforementioned situation that no other

candidates have approached this Court, I deem it appropriate to issue directions to respondent No.4-GMCH to grant admission to the petitioner No.1-Dr. Cheta Singh in **CWP No.12084 of 2016** in the Department of Pathology which would be vacated by petitioner No.2, who has already got admission in the Department of Pathology and she would get the admission in the Department of Anaesthesiology, which shall be vacated by Dr. Reecha, in view of the observations given hereinabove.

Resultantly, the petition bearing **CWP No.10304 of 2016** is dismissed and petition bearing **CWP No.12084 of 2016** is allowed with the aforementioned terms.

**14.06.2016**  
yogesh

**( AMIT RAWAL )  
JUDGE**