

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

**CWP No.10410 of 2016
Decided on :19.12.2016**

Cheshtha Singla

... Petitioner

Versus

The State of Punjab and others

... Respondents

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

Present : Mr. A.S. Khaira, Advocate
for the petitioner.

Ms. Lavanya Paul, AAG, Punjab
for respondents No.1 and 3..

Mr. Manpreet Singh Longia, Advocate
for respondent No.2-MCI.

G.S. Sandhawalia, J. (Oral)

The petitioner seeks quashing of the order dated 25.01.2016 (Annexure P-19) passed by the Medical Council of India (MCI), which was duly conveyed to the petitioner on 01.03.2016 (Annexure P-20) by respondent No.3, whereby the request of the petitioner for migration was rejected.

The reasoning given in the impugned order is solely on the ground that the NOC had been issued by the Baba Farid University of Health Sciences, Faridkot (BFUHS) on 10.11.2015 i.e. beyond the cut-off-date of one month for applying for migration. Therefore, it was held that she was not eligible to be considered for migration from Adesh Institute of Medical Sciences & Research, Bathinda to Government Medical College, Patiala.

It is not disputed that the petitioner had taken admission in the

MBBS Course in the year 2014 and had been admitted with the institute at Bathinda. She had applied for migration on 15.09.2015 (Annexure P-8) after her result had been declared on 26.08.2015. As per Graduate Medical Education Regulations, 1997 (amended in the year 2008), the candidate could submit his application within a period of one month of passing (declaration of result of the 1st Professional Examination). However, the application is to be accompanied with the NOCs of the college and University from where the candidate is studying alongwith the NOCs of the college to which the migration is sought and the University to which that college is affiliated.

It is submitted that the petitioner had already got the benefit of NOC from the college and University at Bathinda, which was issued on 11.09.2015 (Annexure P-4 & P-7), but the BFUHS, Faridkot dragged its feet on the application for NOC. The NOC was also issued on 31.08.2015 (Annexure P-3) by the college at Patiala, subject to her passing her 1st Prof MBBS Examination, which she has duly done. The second representation was filed on 25.09.2015 (Annexure P-9) and thereafter, the petitioner was constrained to issue legal notice dated 07.10.2015 (Annexure P-10). Resultantly, only after issuing the legal notice, NOC was issued on 10.11.2015 (Annexure P-11).

A perusal of the same would go on to show that the same shall not result in increase in the sanctioned intake of the academic year at Government Medical College, Patiala and the application for migration had been submitted within a period of one month of passing the

declaration of the result of the first professional MBBS examination.

The amended regulations thus provide that the application is to be submitted within a period of one month alongwith the NOCs. The petitioner was never at fault as such for the delay which has occurred on behalf of the BFUHS, Faridkot and counsel for the petitioner has rightly argued that only after the legal notice dated 07.10.2015 (Annexure P-10), the NOC was issued on 10.11.2015 (Annexure P-11), due to which the statutory period of one month expired. The amended regulations (Annexure P-15) providing for four NOCs reads as under:-

“6 (4) For the purpose of migration an applicant candidate shall first obtain “No Objection Certificate” from the college where he is studying for the present and the university to which that college is affiliated and also from the college to which the migration is sought and the university to it that college is affiliated. He/she shall submit his application for migration within a period of 1 month of passing (Declaration of result of the Ist Professional MBBS examination) alongwiththe above cited four “No objection Certificates” to: (a) the Director of Medical Education of the State, if migration is sought from one college to another within the same State or (b) the Medical Council of India, if the migration is sought from one college to another located outside the State.”

Thus, four NOCs had to be taken, which have been duly taken. In such circumstances, the petitioner cannot be put to fault and be declined the case for consideration on merits by the respondent-MCI. It is not the case of the respondent-MCI that the petitioner had applied beyond the prescribed period or there was unwarranted delay on her part.

Accordingly, this Court is of the opinion that for the fault of

the BFUHS, Faridkot, the petitioner cannot be penalized.

In such circumstances, the impugned order dated 25.01.2016 (Annexure P-19) is quashed. The respondent-MCI shall re-consider the case of the petitioner on merits as per the abovesaid regulations. The necessary exercise be completed within a period of one month from the receipt of the certified copy of this order.

With the abovesaid observations, the present writ petition stands allowed.

DECEMBER 19, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

Yes