

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.1200 of 2016(O&M)

Decided on : 16.11.2016

Chirag Malik & others

... Petitioners

Versus

Union of India & others

... Respondents

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

Present: Mr.Sandeep Lather, Advocate, for the petitioners.

Mr.Harsh Aggarwal, Advocate, for respondents No.2 & 3.

G.S. Sandhawalia, J. (Oral)

Petitioners seek quashing of the action of the respondents for not granting the enrolment numbers and confirmation of admission of the petitioners and not issuing the Identity Card, despite the payment of admission fee. Resultantly, a writ of mandamus is sought for confirming the online admission of the petitioners after receiving the requisite fee for the session 2015-16 for the secondary and senior secondary examinations.

It is not disputed that vide order dated 20.01.2016, the petitioners had been permitted to deposit the examination fee with the Regional Director, National Institute of Open Schooling, Chandigarh by way of bank draft, which was to be done on the same day. Deposition of fee was provisional and subject to the result of the writ petition. The examination was scheduled in April, 2016 and the last date had been fixed as 20.01.2016, for deposition of examination fee. Resultantly, the petitioners had approached this Court.

It is a matter of fact that inspite of the interim relief given, out of the 20 petitioners, only petitioners No.12 & 13, namely, Sonia and Naveen Kumar have complied with the terms of the interim order whereas the rest of the petitioners did not. Resultantly, the writ petition is liable to be dismissed qua them and it is ordered accordingly.

Regarding petitioners No.12 & 13, the fact remains that they had applied vide online application dated 28.08.2015 and 27.07.2015, respectively, on deposit of the late fee, as the cut off date was 31.07.2016. As per the requirement, proof of address had to be mentioned in the application forms along with hard copies which had to be submitted. It is the case of petitioner No.12 that the address proof by way of ration card had been submitted and in the case of petitioner No.13, the AADHAR card had been submitted. It is not disputed that as per the addresses mentioned in the application forms and the addresses mentioned in the ration card and AADHAR card, there was a discrepancy.

Resultantly, the respondents, vide intimations dated 20.10.2015 and 18.08.2015, asked for proper address proof, within 5 days, failing which, the admission was to be automatically cancelled. The same had not been complied with and the copies of ration card and AADHAR card were again sent on 09.11.2015. Resultantly, the admit cards were not issued and the petitioners approached this Court.

Respondents No.2 & 3, in their reply, have placed reliance upon Clause 2.4(C) of the prospectus, to submit that proof of residential address was essential for all and that the cut-off date had been fixed, which was within 5 days of the intimations given, on 20.10.2015 & 18.08.2015, but the same had not been complied with. Even thereafter also, the address proof which was sent, was not as per the requirement and resultantly, the admission was not confirmed due to the violation of the terms of the prospectus.

Counsel for respondents No.2 & 3 has, accordingly, submitted that since study material has to be sent by the candidates who have joined a correspondence course and in order to avoid bogus candidates, the requirement of the true proof of residential address is necessary which the petitioners have failed to submit. Clause 2.4(C) reads as under:

(c) Proof of Residence	
Proof of residential address is essential for all. Attach a copy of any one of the following.	
1.	Ration Card, or Adhar Card, or appointment letter from the Employer on letter head, or water/telephone/electricity bill/ statement of running bank account or income tax assessment order/ Elections Commissions Voter Identity Card, Parents Passport in case of minor.
2.	For applicant living in rented accommodation, any proof of permanent address along with any proof of present rented accommodation will be accepted.
3.	For applicants belonging to the category of street children/ destitute/ migrants/ slum dwellers/ orphans who are without any residential address of their own at present, they will have to furnish a self certificate stating their category (from the above) and certify that they do not have their own residential address and for the purpose of correspondence with NIOS, they would furnish a contact address. This self certificate will have to be countersigned by the sponsoring Guardian including NGO/ Orphan Homes and attested by any Govt. Servant/ Panchayat Level Officials/ Nagar Nigam Officers/ Block Level Officers/ District Level Officers or higher level Officers. Both the sponsoring and the attesting authorities are required to furnish their complete name, designation and address with their official stamp.”

Reliance has also been rightly placed upon Annexure R2, decision of this Court in CWP-12366-2015 titled *Virender Kumar & others Vs. Secretary National Institute of Open Schooling*, decided on 24.08.2015, wherein also, similar dispute had arisen. Relevant portion reads as under:

“8. The chart (Annexure R2) would also go on to show that apart from 3 candidates, the addresses of all the petitioners was 'C/o Naresh Kumar, Gali No.2 W.No.13, Tarsem Nagar, Behind Baba Balk Nath Mandir Hisar, Haryana 125001'. The purpose of the admission by way of open schooling is also to ensure that genuine persons take admission and give examination and the requirement of furnishing the address of residence by way of Ration Card or AADHAR Card, is only for eliminating the bogus candidates sitting in the examination. Once the necessary proof of residence had not been furnished, no fault can be found in the action of the authorities in refusing the admission. Regarding the admission of the other 3 candidates, admittedly, their applications have been received beyond the stipulated period, as provided by the clause.

9. A Full Bench of this Court in **Rahul Prabhakar Vs. Punjab Technical University, Jalandhar 1997 (3) PLR 13** has held that the information brochure has the force of law and the conditions have to be strictly construed. It was held that delay on account of postal authorities in delivering the necessary documents for the purpose of admission could not be regularized and the last date for admission could not be extended. It is for the petitioners to remain vigilant for their rights. The sacrosanct dates cannot be extended and in the present case, the petitioners have themselves failed to comply with the conditions and therefore, no ground is made out for interference.

10. Writ petition, accordingly, stands dismissed.”

Accordingly, keeping in view the above facts, this Court is of the opinion that the petitioners have failed to fulfill the necessary requirement as per the terms of the prospectus. Resultantly, finding no merit in the present writ petition, the same is, hereby, dismissed. The interim protection granted stands vacated.

NOVEMBER 16th, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No