

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 15292 of 2015 (O&M)
Date of decision: 7.1.2016

Dr. Deepak Kumar

.. Petitioner

v.

PGIMER and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Rajiv Prashad, Advocate for the petitioner.
Ms. Alka Chatrath, Advocate for the respondents.

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Rajesh Bindal J.

The petitioner has approached this court, *inter alia*, impugning office order dated 5.6.2015, passed by the respondents, whereby admission of the petitioner in MD (Microbiology) has been cancelled.

Learned counsel for the petitioner submitted that the petitioner after completing his MBBS from A. N. Magadh Medical College applied for admission to MD course in Post Graduate Institute of Medical Education & Research, Chandigarh (for short, 'PGIMER') in the session commencing in January, 2015. In the entrance test, the petitioner was ranked at No. 649 in the merit list. He being a candidate belonging to OBC category, in terms of his merit, was granted admission in MD (Microbiology). He deposited the requisite fee and was pursuing his course. As the branch in which the petitioner got admission was not of his liking, he applied for appearance in the entrance test notified for the session July, 2015. However, noticing the fact that the petitioner was not eligible to get admission once he was already pursuing the course, despite the fact that he had been issued the requisite

admit card for appearance in the entrance test, he did not appear in the same. On a wrong information furnished by the authorities to the Committee concerned that the petitioner by concealing the fact had appeared in the competitive examination for admission in July, 2015 session, cancelled his admission in MD (Microbiology) in session January, 2015. The submission is that it was by mistake that in the form, which was to be filled on-line that the petitioner had filled the column requiring information as to whether the candidate is already admitted in a course by stating 'No', as only two options were available. The moment he came to know that he was not eligible, he did not appear in the entrance examination. It was not a case of fraud, as is sought to be projected. Even the condition laid down in the prospectus merely provides that subsequent admission of a candidate can be cancelled and not the earlier one. A candidate, who may be applying for admission in a Post-Graduate course in PGIMER may not necessarily be admitted in PGIMER only, as he may be a student in other institute as well. PGIMER will not have the jurisdiction to cancel his admission in other institute.

Learned counsel further submitted that though the provisions in the prospectus did not provide that in case admission of a student is cancelled by PGIMER, the student is liable to pay a penalty. In the case in hand, the petitioner had not left himself voluntarily, rather, his admission was cancelled by the authorities, hence, he could not be directed to pay the penalty. He further submitted that besides taking aforesaid two actions, PGIMER authorities had even written to Bihar Council of Medical Registration, Patna to take action against the petitioner. In fact, the effort is to spoil the entire career of the petitioner for minor inadvertent mistake.

On the other hand, learned counsel for the respondents submitted that the petitioner having been successful in the entrance examination was admitted in MD (Microbiology) in January, 2015 session. He joined as Junior Research Fellow on 28.1.2015. The prospectus for admission in session July, 2015 was issued. As per the condition laid down in the prospectus, a candidate who had already done or was doing MD/MS in any subject at the time of applying, was not eligible to apply for

Heard learned counsel for the parties and perused the paper book.

In the case in hand, the petitioner appeared in the entrance test for admission to MD course conducted by PGIMER and being a candidate belonging to OBC category and as per his merit position, was granted admission in MD (Microbiology) in January, 2015 session. The prospectus for admission to MD course in July, 2015 session was issued by PGIMER. The petitioner with a view to see as to whether he can have better merit position and get admission in a better subject filled up the form. No doubt, in the column where the information was sought as to whether a candidate had either completed MD/MS course or a student thereof, he had mentioned 'No'. He was even issued the admit card for appearance in the test. It is not in dispute that the petitioner finally did not appear in the entrance test. Finding that the petitioner had, in fact, furnished wrong information in the application, his admission in MD (Microbiology) in session January, 2015 was cancelled by PGIMER vide impugned order dated 5.6.2015. Besides this, the petitioner was also directed to deposit a sum of ₹ 75,000/-. For the purpose, PGIMER has relied upon one of the conditions laid down in the prospectus issued for admission in July, 2015 session. The same is extracted below:

“XX XX XX

8. Candidates who have already done, or are doing, MD/MS in any subject at the time of applying, shall not be considered for admission to MD/MS courses. If it is found during active verification at a later stage, that the candidate has given wrong information, his/her registration will be cancelled without any notice.”

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A perusal of the aforesaid condition shows that the candidates, who have already done or are doing MD/MS in any subject at the time of filing the application shall not be considered for admission to MD/MS course. It further provides that if during verification, at a later stage, it was found that the candidate had given wrong information, his/her registration will be cancelled. The aforesaid provision provides that application for admission is not to be considered in case the candidate had already done or was pursuing his MD/MS course. In case, still a candidate by furnishing wrong information is able to get admission, his admission is liable to be cancelled, meaning thereby, the admission, which a candidate gets while appearing in competitive examination for which the prospectus had been issued, namely, July, 2015 session. It does not talk about cancellation of admission which a candidate had got earlier or cancellation of the degree, which he may have already got on completion of his MD/MS.

In the case in hand, the situation is that the petitioner is pursuing his MD course in PGIMER. There can be an instance where a candidate may be pursuing his MD course in some other institute. The cancellation of admission certainly depends on the terms on which that admission was granted. No doubt, in the present case, the petitioner had filled up in the form that he was not pursuing his MD course but finally it is not in dispute is that he did not appear in the entrance test. The mistake cannot be said to be fatal, which should lead to cancellation of admission, which the petitioner had already got in January, 2015 session. In our country, we already have shortage of doctors. Cancellation of admission of the petitioner from MD (Microbiology) course in a premier institute, like PGIMER, would result in wastage of one seat and non-utilisation of the facilities created to teach a student, which, in my opinion, should not be made to waste.

Hence, in my opinion, cancellation of admission of the petitioner in MD (Microbiology) course in January, 2015 session vide impugned order dated 5.6.2015 cannot be legally sustained and the same is set aside. The petitioner be permitted to continue in his MD (Microbiology)

course in January, 2015 session.

As a necessary consequence thereof, even direction of the respondents and consequent deposit of ₹ 75,000/- by the petitioner for the reason that he left the course in between is also declared illegal and the respondents are directed to refund the amount to the petitioner within a period of one month from the date of receipt of copy of the order after adjusting any dues from the petitioner.

The writ petition stands disposed of accordingly.

(Rajesh Bindal)
Judge

7.1.2016
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(Refer to Reporter)