

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 16743 of 2016
Date of decision: 19.08.2016

Ms. Swati Jain

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

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

Present: Mr. Alok Mittal, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks a writ in the nature of mandamus directing the respondents to call the petitioner for counseling and consider her for the additional seats so created in PGIMS, Rohtak.

The cause of action which accrues to the petitioner is on account of a decision passed by this Court in **CWP No. 10700 of 2016, Komal Poswal vs. UOI and others** on 03.08.2016 (Annexure P-8). By the said decision, students of M/s. Gold Field Institute of Medical Science and Research (in short 'M/s. GFIMSR'), who were at Sr. Nos. 51 to 100 of the merit list, had been granted admission in the academic session 2014-15. The Apex Court had, in the litigation initiated by M/s. GFIMSR, directed vide orders dated 18.09.2014 and 25.09.2014, that the said institute will be entitled to make admissions only against the State quota. On account of the said institute closing down, the State Government had sought to adjust them in various medical colleges over the State of Haryana and on account of the State adjusting them in private institutes, necessary directions were issued.

The said directions were issued in view of the fact that the State was under the statutory duty to take over the responsibility of the students who had been admitted to GFIMSR which had closed down and they had to be adjusted in the government colleges since in the peculiar facts and circumstances, the students were liable to the benefits of the orders of the Apex Court for payment of fees at government rates. It was also accordingly held that the orders could not be held to be binding upon the private colleges in the State of Haryana as they were not party to the said lis. The petitioner is also of the batch of 2014 but had been given admission in the respondent no. 6 college-Shaheed Hasan Khan Mewati Govt. Medical College, Nalhar (Mewat), Haryana. The claim of the petitioner is that she is at Sr. No. 425 and was admitted against the government quota seat whereas, the first candidate which has been adjusted from GFIMSR for the same academic year was at Sr. No. 471 and, therefore, had stolen a march over the petitioner. In such circumstances, the writ petition has been filed.

It is not disputed that the petitioner and other similarly situated students who have been granted admissions in State quota would be higher in merit than the students of M/s. GFIMSR who are now sought to be adjusted in the government medical colleges. The same, as noticed, has been done only on account of the closure of M/s. GFIMSR. They have been given the said benefit in view of the directions of the Apex Court whereby specifically, it had been directed that admissions made for the said year would only be against the government quota even for the management seats. The fees had also been specified at ₹60,220 per annum. Keeping in view the said background, the necessary relief was granted in *Komal Poswal's case (supra)*. The said students from Sr. Nos. 51 to 100 form a

different category altogether who had been directed to be adjusted in government colleges all over the State of Haryana. The petitioner, on her own merit at that point of time, had taken admission in respondent no. 6-institute. The said students have been adjusted only on account of the closure of M/s. GFIMSR as it has been held by this Court that the State is under an obligation as such to adjust the students in view of the terms of the essentiality certificate. The petitioner does not fall in the same category or class and cannot seek any claim over and above those students who have gone through extreme hardship on account of the uncertainty of their college which was facing closure and litigation right from day one. Tinkering with the merit list of 2014 on that account would be opening a pandora's box and disturbing the well settled admissions which have been given for the last 2 years in all the colleges in the State merely because on account of some fortuitous circumstances that one of the institutes had closed down leading to the adjustment orders passed by this Court.

Resultantly, in the absence of any legal vested right in favour of the petitioner and on account of the fact that the petitioner was never placed at the same status of the students of M/s. GFIMSR, this Court is of the opinion that the relief prayed for cannot be granted. Accordingly, the present writ petition is dismissed in limine.

19.08.2016
shivani

(G.S.SANDHAWALIA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No