

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

Decided on: 07.11.2016

1. CWP No.18364 of 2016

Gurjinder Singh

.... Petitioner

Versus

Punjabi University, Patiala and others

..... Respondents

2. CWP-18366-2016

Aman Goyal

.... Petitioner

Versus

Punjabi University Patiala & Others

..... Respondents

3. CWP-18452-2016

Gurpreet Singh

.... Petitioner

Versus

Punjabi University Patiala & Others

..... Respondents

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

Present: Mr. Deepak Aggarwal, Advocate,
for the petitioner(s).

Mr. Vishal Khatri, Advocate,
for Mr. Sandeep Khatri, Advocate,
for respondent No.1.

Mr. Ashok Jindal, Advocate,
for respondent No.2.

None for respondent No.3.

G.S. Sandhawalia, J. (Oral)

This order shall dispose of three writ petitions i.e. CWP Nos. 18364, 18366 and 18452 of 2016 as the facts and common questions of law are involved. The facts are being taken from CWP No.18364 of 2016.

The petitioner seeks direction against respondent No.2-Institute, namely, Baba Farid College, Village Deon, District Bathinda, for issuance of a no objection certificate in favour of the petitioner for migration to respondent No.3-college. Further prayer has also been sought directing respondent No.1 to issue migration certificate in favour of the petitioner for migration from respondent No.2 to respondent No.3-college.

The petitioner has pleaded that admission for the course of Bachelor of Computer Application on regular basis with respondent No.2 in the year 2014 was taken and he has taken the examination of the 4th semester, result of which is awaited. Provisional certificate dated 10.06.2016 (Annexure P-1) had been issued, whereby, the petitioner was eligible to reappear. On account of not being satisfied with the faculty of respondent No.2, the petitioner had applied for migration from the said college (Annexure P-2). Respondent No.3-college had given no objection for migration but respondent No.2-college was not acting on the same. A legal notice dated 11.08.2016 (Annexure P-3) had also been issued. Thereafter, the University had also been approached vide representation dated 31.08.2016 (Annexure P-4), but no action had been taken. It is submitted that the petitioner

had also taken admission in the college of respondent No.3 but no objection certificate has not been issued. Resultantly, this Court has been approached.

The respondent-University in its reply stated that answering university has not received any representation till date and there was a prescribed form alongwith prescribed fee which is required to be filled by the petitioner seeking migration after obtaining NOC from both the colleges, only thereafter the answering respondent could grant the permission. Chapter XI of the Punjabi University Calender, Volume-II, 2010 (Annexure R-1) pertaining to migration of students from one college to another was referred. It was averred that for migration, sanction from the Vice Chancellor of the answering university will be obtained after the Principals of the concerned colleges agreed.

Respondent No.2-college in its response took the plea that the petitioner has not approached the Court with clean hands. The migration was sought on the account, that the functioning of the college was not satisfactory. He has not disclosed for migration which he applied on the ground that his mother is not well and there was a shortage of lectures. Reference was made to the application dated 28.06.2016 (Annexure R-2/1). There was a full faculty in stream of BCA and the petitioner has nothing to do with the Arts and Commerce. The consent of both the Principals was required and migration could only be granted thereafter. The petitioner had also studied for 4th semester and there was no question of dissatisfaction of the functioning

of the college. There was no sufficient reason/cause for the migration. The college could withdraw the application of any student for migration on account of unreasonable, false, baseless and irrelevant reasons since it was a private and self financed institution.

A perusal of the regulations in the Punjabi University referred to above would clearly show that consent of both the Principals is a factor and the sanction of Vice-Chancellor has to be obtained on the application form submitted by the student. Once the sanction has been obtained, then the Principal of the College is to issue a college leaving certificate within one month of sanction. The relevant Chapter XI reads as under:-

“Migration from one College to Another

1. No student who has joined one college shall be admitted to another college during the same course unless the principals of the colleges concerned agree and the sanction of the Vice Chancellor is obtained on the application form submitted by the student, alongwith prescribed fee latest by 15th December.
2. The Syndicate may allow migration in special cases not covered by Ordinance I.
3. The Principal of the college from which a student seeks migration shall issue a College Leaving Certificate, in the prescribed form, within one month of sanction for migration being notified by the University.
4. The migrating student must join the new college within fifteen days of the sanction of migration. Otherwise, his migration will automatically be cancelled unless the period is extended for sufficient cause by the Vice-Chancellor.
5. If a student changes his mind after putting in his application for migration, he must inform the colleges concerned as also the University immediately.
6. No transfer certificate shall be issued unless the student has been enrolled in the Register of Students maintained by the University.
7. The college from which a student seeks migration is entitled to charge the tuition fees for the month in which the migration is sanctioned by the University and the

college to which the student migrates shall not charge fees for that month.”

The issue that arises as to whether college can hold back the decision making and force the student only for the reason it is not agreeing as such. The said issue may not detain this Court long. The students are free to study where they chose. The proposition sought to be projected by the college cannot be held to be justified that once the students take admission, it is not permissible to them to migrate to the college of their choice on any valid ground. The college can only take fees for the time the petitioners studied with them. It cannot force as such the students to study with them for all times to come for the course without taking a decision. In the present case, the respondent No.2-college has not rejected the case of the petitioner but is only delaying the decision making knowing very well that there is a cut off date i.e. 15.12.2016.

Counsel for the petitioner has relied upon the judgment of the Delhi High Court passed in **Ashish Manghani vs. Principal, Sri Guru Gobind Singh College of Commerce and other** 1997(65) DLT 623 to submit that college cannot refuse to act. Similarly, reliance has also been placed upon the judgment passed in **Aarushi Jerath vs. University of Delhi** 2010(9) AD(Delhi) 161. In the said judgment, the order of Division Bench in **Aman Ichhpuniani vs. Vice Chancellor, Delhi University**, 71 (1998) DLT 202 was followed and it was held as under:-

“15. We are today living in an age of competition. There is inter-university as well as inter-college competition. Every

year various newspapers/magazines conduct surveys of Colleges/Institutions in different subjects and publish lists ranking the Colleges/Institutions. The said surveys have a large component of public perception. The surveyors ask from the concerned members of the public their perception of different Colleges/Institutions and rank the Colleges/Institutions accordingly. If the said surveys, rank the respondent no.3 Hindu College above the respondent no.2 Gargi College, whether it be correct or not, the fact remains that the esteem of the petitioner amongst her friends, relatives and acquaintances would go up if the petitioner is a student of the respondent no.3 College. A large number of future employers of students also read the said surveys carefully and form an opinion on the basis thereof while interviewing prospective employees. Campus placements are a norm today. The surveys aforesaid rank the Institutions also on the basis of the quality of the placements from the Institute/College. Thus it cannot be said that the desire of the petitioner, if perceives the respondent no.3 Hindu College to be better for her future prospects, to migrate to the said College is unreasonable or unfounded.

16. Such choices are now also accepted in the universally accepted principle of admission through counseling. During such counselling and repeated rounds thereof, a student is given option to improve his/her College/course. I see no reason why, when the respondent no.1 University by its Ordinance permits migration till 2nd year, to deprive a student from improving the College, if not at the time of admission to the 1st year, by migrating at least in the 2nd year. A student should not be allowed to lose in the competition at the threshold only by refusing migration for the vague reasons of demoralizing the faculty of the College from which migration is sought and/or for leaving a seat vacant. Rather such circumstances should drive the

faculty and the College to perform better in the following years so as to be the best and to rather attract students from other colleges. Ordinarily a student would not leave a College if considers the same to be best which he/she can have.

17. The Single Judges of this Court, as would be apparent from the judgments cited above, all following Aman Ichhpuniani (supra) have taken different views. However the guiding principle remains as laid down by the Division Bench i.e. of balancing the conflicting interests of the student and the Institution. In the present case there is a lot for the petitioner student to lose if not allowed to migrate, while I do not find any tangible loss to the respondent no.2 Gargi College.

18. The writ petition is therefore allowed. The respondent no.2 Gargi College is directed to, within three days of the petitioner approaching the College, issue NOC to the petitioner for migration to the respondent no.3 Hindu College; the respondent no.1 University having not opposed the petition is accordingly directed to facilitate the migration of the petitioner from the respondent no.2 Gargi College to the respondent no.3 Hindu College and the respondent no.3 Hindu College is directed to, upon the petitioner complying with the formalities admit the petitioner in terms of the NOC already issued by it.

19. Though the petitioner has been compelled to litigate owing to the conduct aforesaid of the respondent no.2 Gargi College but I refrain from imposing any costs on the respondent no.2 Gargi College.

The petition is disposed of . No order as to costs.

Dasti under signatures of court master.

Petition disposed of.”

Keeping in view the above and the arguments raised by respondent No.2, this Court is of the opinion that migration was sought

for and accordingly issuance of no objection certificate from respondent No.2 was sought for continuing balance of their course with respondent No.3. A candidate cannot be forced to study with respondent No.2-college by it not taking a decision on the application of the migration.

Resultantly, these writ petitions are allowed. Respondent No.2 -institute shall issue NOC to the petitioners within a period of one week from today. The respondent-university shall thereafter decide the case of the petitioners for migration as per the rules and regulations. The petitioners shall be liable to deposit the fees till the grant of the College Leaving Certificate as per the rules.

07.11.2016
Dinesh

(G.S. SANDHAWALIA)
JUDGE

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