

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

**CWP No.22610 of 2015
Reserved on: 11.08.2016
Decided on :27.08.2016**

Ganagdeep Kaur @ Gagandeep Kaur

... Petitioner

Versus

Punjab Nurses Registration Council and others

... Respondents

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

Present : Mr. Kumar Vishav Aggarwal, Advocate
for the petitioner.

Mr. J.S. Rattu, Advocate
for respondents No.1 and 2.

Respondent No.3 ex parte.

G.S. Sandhawalia, J.

The petitioner seeks a direction for regularization of admission and for issuance of roll number for the 1st year examination of ANM (Auxiliary Nurse & Midwives) Course which was scheduled to be held on 26.10.2015.

The pleaded case of the petitioner is that she was studying in the said course with the respondent No.3-college, who has chosen not to appear and has been proceeded against ex parte. She had taken admission on 30.10.2014 on account of a student having left the course. Registration fee was sent to respondent No.1 on 12.11.2014 in the shape of demand draft of ₹1,000/- by the college (Annexures P-1 to P-3) alongwith the admission form. Further reliance was placed upon the merit list (Annexure P-4) of the college in which her name figured. It is

her case that she had duly attended all the classes, successfully appeared and passed the examinations of the respondent-college. Copy of the attendance registers was also enclosed as Annexure P-5. It was further averred that the petitioner belongs to a poor family and is a Schedule Caste candidate. This fact has also been mentioned in the application form (Annexure P-8), which shows that she is a Schedule Caste candidate.

On 11.07.2015 the form of the students of the ANM Course with respondent No.1 was submitted for permission to appear in the examination (Annexures P-7 and P-8). The exams were scheduled in September, 2015, as per the notice dated 24.09.2015 (Annexure P-9). On 28.09.2015, the respondent-college had submitted the form of all the students, who were appearing in the October, 2015 examination. However, it came to the notice of the petitioner that her form was rejected and her roll number was not being issued, since the cut-off-date was 30.10.2014 and her form had been sent, thereafter on 11.11.2014. It is her case that as per the notification of the Government, submission of admission form could be made by 15.11.2014. Resultantly, she approached this Court and vide interim order dated 21.10.2015, she was provisionally allowed to appear in the said examination, subject to the final decision of the case.

Respondents No.1 and 2 in their reply have taken the plea that whether the petitioner had taken admission in the said course on 30.10.2014 is not in their knowledge. The registration form on

12.11.2014 was not received. There was no acknowledgement of having received Annexure P-1. However, the demand draft dated 11.11.2014 which was mentioned in the said letter having been received was admitted. Similarly, the averments that the merit list signed by respondent No.3 was not received in the office of respondent No.1 and was not available by the council in the office of respondent No.1, was made. It has been specifically averred by the council that vide letter dated 14.10.2014, 30 admission forms of ANM students, who had been admitted in the college on 01.09.2014 had been given alongwith the demand draft. The merit list Annexure R-1/1 to Annexure R-1/4 had been received vide the said letters. The respondent No.1 had displayed all the names of the students on the website of the PNRC in the month of April, 2015 whose names have been recommended by the respondent No.3 to respondent No.1. The said list is attached as Annexure R-1/5. The petitioner having attended the class of respondent No.3 and the declaration of the exam did not bind the answer respondent in any manner. The name of the petitioner had never figured in the list Annexure R-1/3 to Annexure R-1/4 and, therefore, the petitioner had not taken admission in the college-respondent No.3, as her name did not figure in the said list. The question of issuing roll number, thus, did not arise, as her name did not figure in the record of the council.

On the basis of the said pleadings, counsel for the petitioner has referred to the attendance register to show that she had been attending classes from 30.10.2014 and, therefore, was entitled for the confirmation

of the interim protection and to complete her course.

Counsel for the respondents on the other hand has referred to the Annexure P-8, the examination form filled out by the petitioner on 01.07.2015 to submit that there was a cutting in the same and in Column No.4 the date of admission had been mentioned as 30.10.2014. It was submitted that even from the photocopy of the same, it would be apparent that the date of admission was later from 30.10.2014. The petitioner was shown at Sr. No.30 of the attendance register in October, 2014 and her name could be incorporated at the bottom at any point of time and she had been admitted after the cut-off-date of 31.10.2014 and had never been registered with the Nursing Council. Therefore, the writ petition was liable to be dismissed.

The fact, however, remains is that vide letter dated 12.11.2014 (Annexure P-1), the respondent-college had submitted a demand draft No.711862 dated 11.11.2014 (Annexure P-2) in favour of the respondent-council for a sum of Rs.1,000/-, as admission fee of the petitioner. In the said letter details of the petitioner have been mentioned that she has been admitted as one of the students had left the course. The factum of the said draft having been received by the respondent-council is not denied.

As noticed above the covering letter sent by the respondent-college on 12.11.2014 had attached the demand draft bearing No.711862 dated 11.11.2014 and the form of the student had also been attached with the said letter. Once the respondent-Council acknowledged and admitted

the receipt of the said draft and the respondent-college was entitled to make 30 admissions and the petitioner was part of those 30 and it was the case of the respondent-college itself that vide letter Annexure P-1 the petitioner had replaced the student who had left the course. Thereafter, also it is the specific averment of the petitioner that the college had submitted the eligibility certificates of all the students in which her name figured on 28.09.2015 (Annexure P-10). The admission of the petitioner is not over and above the sanctioned strength.

A perusal of the said list would go on to show that the petitioner's theory percentage and practical percentage etc. has been mentioned and the list has been sent by the Principal of the respondent-college, who has chosen not to contest the litigation. Thus, the averments as such have to be taken as true. It is also the case of the petitioner that she has taken clinical training in Community Health Centre and in a Charitable Hospital from May, 2015 to July, 2015. Thus, sufficient material has been placed on record by the petitioner to substantiate her case that she was part of the batch of 30 students, which was of the ANM and enrolled with the respondent No.3-college.

As noticed above, the respondent No.3-college has not put in appearance to rebut the case of the petitioner to submit that she was not their student. It is the specific case of the petitioner that she was student of the respondent No.3-college, who had been substituted with one of those 30 students who had left the course and had been granted admission against the said vacancy. The admission fee had thus been deposited with

the respondent-council prior to the cut-off-date i.e. 15.11.2014 (Annexure P-11). The admission form had also been sent before 15.11.2014.

A perusal of the attendance sheets which is in alphabetically form also goes on to show that subsequently the name of the petitioner started figuring at the top of the list and, thereafter, she had been attending classes.

Keeping in view the cumulative facts and the fact that she was granted interim protection also on 21.10.2015, and she has given her 1st year examination and she is a SC candidate and has placed sufficient material on record to show that she had attended classes from 30.10.2014, it would be in the interest of justice that her admission be regularized.

Accordingly, the present writ petition is allowed. The respondents No.1 and 2 are directed to regularize the admission of the petitioner and declare her result of the 1st year examination.

AUGUST 27, 2016
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No