

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

209

CWP-22957-2015

Decided on : 04.10.2016

Lajjawati Jain Memorial Charitable Society of Nursing and Hospital

... Petitioner

Versus

State of Punjab and another

.. Respondents

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

Present : Mr.Nitin Kant Setia, Advocate
for the petitioner.

Mr.S.S.Chandumajra, Addl.AG.,Punjab.

Mr.J.S.Rattu, Advocate
for respondent No.2.

G.S.Sandhawalia, J. (Oral)

The petitioner-institute seeks acceptance of the examination form of Pardeep Kaur, student of the institute for the 2014-15 batch of the ANM course. Consequently, permission to appear in the examinations to be held on October-November, 2015 had been prayed for.

Pursuant to interim directions dated 23.10.2015 passed by this Court, the said student was provisionally permitted to appear in the examination for ANM course, first year, subject to the final decision of the writ petition. It is the case of the petitioner-institute that it has been given provisional permission to admit students for the said examinations held in October-November, 2015 vide communication

dated 10.07.2014 (Annexure P/1) by the respondent-council.

Perusal of the Annexure P-1 (Colly) would go on to show that initially, the petitioner-institute was allotted 40 seats and 25% cut off was also imposed bringing seats down to 30 seats. It is the case of the petitioner-institute that Pardeep Kaur was admitted on 03.07.2014 and reference is made to the admission charges (Annexure P/2) and, also the subsequent deposit on 14.05.2015. It is the case of the petitioner- institute that the admission fee for the ANM and GNM courses of the 30 students, was duly deposited on 30.10.2014 and name of Pardeep Kaur was reflected at Sr.No.8 [Annexure P/3] (Colly)]. The respondents had however, uploaded list of all the 30 students including one *Sunita Devi* who figured at Sr.No.30 in place of *Pardeep Kaur*, in *April-May, 2015*. The said Sunita Devi d/o Roshan Lal, was a student of the *Jeevan Jot Nursing Institute, Jagraon*. The petitioner-institute, thereafter, submitted the examination form of Pardeep Kaur, but respondent No.2 refused to accept the same as the name of Pardeep Kaur did not reflect in the list of eligible candidate for examination as uploaded by the respondent-council qua the petitioner-institute (Annexure P/5). Representation dated 12.09.2015 (Annexure P/6) was also filed but of no avail.

In its communication, the petitioner-institute had represented to the respondent council, stating therein that Sunita Devi was not on its rolls and Pardeep Kaur should be included in the list. On account of non-issuance of the admit card, petitioner-institute had

approached this Court and interim order dated 23.10.2015 was passed, as noticed above.

Counsel for the petitioner has accordingly, argued that as Sunita Devi, being on the rolls of the petitioner-institute, had left the course before the cut off date, and joined the *Jeevan Jot Nursing Institute at Jagraon*, Pardeep Kaur was given admission. Therefore, the interim order is liable to be confirmed.

The stand of the respondent-council is that the admission form was duly uploaded on the website, as received. The admission form of Sunita Devi has been placed on record as Annexure R-2/1. It has been averred that list was uploaded on April, 2015 and the petitioner-institute had ample time since the exams were to be held on October, 2015. Just on the verge of the examinations, the writ petition was filed without approaching the respondent-council at an earlier point of time. It is accordingly, submitted that the petitioner-institute wanted to replace the name of Pardeep Kaur with Sunita Devi.

In the replication filed, plea taken is that Sunita Devi might have joined the petitioner-institute for a short interval, but had left the institute for taking admission in *Jeevan Jot Nursing Institute at Jagraon*. The petitioner-institute had inadvertently submitted 31 forms instead of 30 and respondent-council had uploaded the form of Sunita Devi instead of Pardeep Kaur who was a regular student of the petitioner-institute. Sunita Devi had inadvertently been given admission, who had left the college after attending only few classes and

paying only a fraction of fee, whereas Pardeep Kaur was a regular student of the petitioner-institute and had taken the admission after payment of entire fee.

Accordingly, counsel for the respondent-council has argued that only 30 admissions were to be made and accordingly, has referred to Annexure R-2/1 to show that Sunita Devi was admitted on 12.06.2014 and therefore, the alleged admission of 03.07.2014 could not have been made. Accordingly, the list of 30 students had been uploaded including Sunita Devi.

After hearing learned counsel for the parties, this Court is of the opinion that the petitioner-institute has held back the factum in the initial pleadings that Sunita Devi, was a student of the petitioner-institute. The crucial dates regarding as to when Sunita Devi took admission and when she left the course, have also not been averred. In the replication, once confronted with Annexure R-2/1, effort has been made to justify that Sunita Devi might have joined the petitioner-institute for a short interval but left the institute to take admission in *Jeevan Jot Nursing Institute at Jagraon*. Rather, admission has also been made that 31 forms had been submitted instead of 30 forms. It is thus apparent that petitioner-institute is only trying to take advantage of the fact that full fee was deposited for 30 forms. Sunita Devi having left the petitioner-institute, effort is being made to ensure that petitioner-institute which had granted admission to Pardeep Kaur subsequently be regularized by way of approaching this Court.

No material has been placed on record to show that between April 2015 to October, 2015, any effort had been made to rectify the list or to bring to the notice of the respondent-council that Pardeep Kaur already stood admitted well before the cut off date i.e. 15.11.2014. The reliance placed upon the self serving receipt dated 03.07.2014 (Annexure P/2) of the institute cannot be made in such circumstances to show that she stood admitted before the cut off date. Admittedly, the petitioner-institute has only sanctioned strength of 30 seats, and the said list was duly uploaded by the respondent-council in April 2015 [Annexure P/4] (Colly)].

A perusal of Annexure P/5 which is the application form would also go on to show that it is stamped and signed by the Principal of the petitioner-institute but there is no date mentioned in the said application form. Even a perusal of Annexure P/6 dated 12.09.2015 would go on to show that not a word has been mentioned that Sunita Devi was a student of the petitioner-institute on an earlier occasion and that Pardeep Kaur had been admitted against a vacancy caused by her. Petitioner-institute is carrying out the onerous duties of admitting students in the ANM/ GNM courses. It is well aware of the fact that petitioner-institute has permission to admit only 30 students, and a plea taken that it has inadvertently submitted 31 forms cannot be as such, accepted.

It is apparent that petitioner-institute has thus wrongly tried to take advantage of the fact that one of its students had left the

institute mid way of the course and it was trying to substitute her with another student in her place. The court cannot be made party to such acts and to give legitimacy to the illegalities conducted by the educational institute.

Accordingly, present writ petition is dismissed and the interim order dated 23.10.2015 is vacated.

It is made clear that it will be open to Pardeep Kaur to claim compensation from the petitioner-institute in separate proceedings before a court of competent jurisdiction.

With the above observations, the present writ petition is disposed of.

[G.S.Sandhawalia]
Judge

04.10.2016
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No