

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

Civil Writ Petition No.22958 of 2015

Date of decision: 26.10.2016

Ashoka Educational Trust

...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. Advocate General, Punjab

Mr. J.S.Rattu, Advocate for respondent no.2-PNRC.

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks mandamus directing the respondent-council to accept the examination forms of 14 left out students of the petitioner-institute of 2014-15 batch of General Nursing and Midwifery Course (GNM) and allow them to appear in the examinations to be held from 28.10.2015 for the Ist year of GNM Course.

Vide interim order dated 26.10.2015, respondent was directed to issue necessary admission card for the examination of General Nursery and Midwifery Course which was to begin on 28.10.2015 and also the candidates were permitted to appear for examination whose names were reflected in Annexure P/1 at serial No.26-Sarabjeet Kaur to serial no.40-Poonam Devi. The said order reads as under:-

“Pending disposal of this petition, the second respondent is directed to issue necessary admission cards for the examination of

General Nursery and Midwifery course to begin on 28.10.2015 and also permit candidates to appear for examination whose names are reflected in Annexure P-1 at Serial No.26-Sarabjeet Kaur to Serial No.40 – Poonam Devi.

The petitioner is directed to furnish copy of the interim order along with the petition copy to the second respondent in order to comply the interim order.

Learned counsel for the petitioner submitted that he is ready to pay the prescribed examination fees so also examination forms. If the examination forms are in order, the same shall be accepted while implementing the interim directions.

Notice of motion for 5.12.2015.”

The case of the petitioner is that it is a registered trust and is running a nursing college in the State of Punjab under the name “Ashoka Institute of Nursing” which is functioning since 2012. Admission of 40 students had been made for the GNM Course for the session 2014-15 as per sanctioned strength vide letter dated 28.11.2014 (Annexure P/1). The detail of the 40 students and demand draft of ₹ 40,000/- was forwarded along with letter dated 28.11.2014 (Annexure P/1). The forms were to be uploaded for the forthcoming examination of October, 2015. In April, 2015, list of students (Annexure P/2) was uploaded but names of 14 students did not figure on the website. The matter was taken up with the respondent-council vide letter dated 25.6.2015 (Annexure P/3) that names of 14 students were missing and reference was made to earlier letter whereby admission forms had been deposited on 28.11.2014. The detail of the list of 26/27 students uploaded on the website was also appended with the list of 40 students studying in the GNM Course. It was mentioned that one candidate was mentioned at two places and only names of 26 students was uploaded for valid admission. The examination fee of 26 students

was deposited on 8.7.2015 (Annexure P/4) and again a request was made for updating the list of admission on the website as total 40 students had been studying in the GNM Course. Thereafter, on 8.9.2015 (Annexure P/5) the fee of 14 students to the tune of ₹ 14,700/- by way of demand draft no.694307 dated 8.9.2015 was sought to be deposited which was not accepted. Resultantly, this Court was approached and the interim order dated 26.10.2015 was passed.

The respondent-council in its reply has mentioned that 14 names were sought to be added by the petitioner and the petitioner-institute had chosen not to file any application for rectification nor approached the authorities since the list was uploaded in the month of April, 2015. The examination forms had been received only of 27 students. Resultantly, the denial of the receipt of letters Annexures P/3 to P/5 was made .

A perusal of letter dated 8.7.2015 (Annexure P/4) would go on to show that a specific averment has been made regarding the fact that a request had been made vide letter dated 25.6.2015 and examination fee of 26 students was being deposited. The request was also made for updating the list accordingly as per letter dated 28.11.2014 (Annexure P/1).

The respondent-council admittedly does not deny the fact that it received a sum of ₹ 27,300/- as examination fee of 26 students. It is not being explained as to how examination fee had been received for 26 students vide covering letter dated 8.7.2015 (Annexure P/4) once receipt of the same has been denied. The relevant part of the letter reads as under:-

“Kindly reference to our letter letter **No.AIN/2014/154** dated 25.6.2015, we have already requested for correction in admitted students of GNM for the year 2014-15 total number of 40 student. As already requested total 40 nos student are studying in our institute

form the date of admission. The list of total students attached here with.

As per website of PNRC list disclosed for the timing examination form for the 26 No student here by submitted along with requisite fee of 26 student (examination fee of Rs.1000 X 26= 26000/- + examination form fee Rs. 50 X 26 = 1300/-) of Rs.27300/- vide D.D.No.694253 dated 08.07.2015 in favour of Registrar, Punjab Nurses Registration Council, Chandigarh for your kind perusal.

You are again requested to go through the submission **letter No. AIN/2014/81 dated 28.11.2014** and update the list of admission on the website so that balance examination form could be submitted according.”

It is thus apparent that the respondent-council has failed to act upon the representations filed by the petitioner-institute (Annexure P/3 to P/5) and not redressed its grievance. The petitioner-institute has thus been constrained to approach this Court.

Another issue which is to be noticed is that in an application for renewal/validity of its affiliation for the year 2015-16 submitted to the Indian Nursing Council on 12.1.2015 (Annexure P/9) made by the petitioner-institute, number of students admitted in the GNM Course was mentioned as 40 against the year 2014-15. The said application has been duly certified by the Registrar of the respondent-Council before forwarding it to the Indian Nursing Council.

In similar circumstances, in **Civil Writ Petition No.22980 of 2015-Ashoka Educational Trust Vs. State of Punjab and another** decided on 3.10.2016, this aspect was also dealt with and it was held against the respondent-Council while noticing that the application having been duly certified by the Registrar of the respondent-council, question of admission

Keeping in view the above, this Court is of the opinion that the fault does not lie with the petitioner-institute and the lapse was on the part of the respondent-council as it had failed to act upon the representations (Annexures P/3 to P./5).

Resultantly, the present writ petition is allowed with costs of ₹ 10,000/- which will be paid to the petitioner-institute for unnecessary litigation.

The interim order dated 26.10.2015 is accordingly confirmed. The result of the said students shall be declared and they will be entitled to continue with their course.

October 26, 2016
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No