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

**Civil Misc. No.14139 of 2016 in/and
Civil Writ Petition No.22961 of 2015
Date of decision: 7.11.2016**

Bibi Chankaur College of Nursing

...Petitioner

Versus

State of Punjab and others

...Respondents

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

Present: Mr. Jangjit Singh Dahiya, Advocate for the petitioner.

Ms. Lavanya Paul, Assistant Advocate General, Punjab.

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

Mr. Munish Jolly, Advocate for respondent no.3.

G.S.SANDHAWALIA, J. (Oral)

Civil Misc. No.14139 of 2016

Prayer made in the present Civil Misc. Application for placing on record additional affidavit of Dr. Ramesh Pal Malik, Manager of the petitioner-institute along with documents Annexure P/11 to P/17 is allowed.

The same are taken on record.

The Civil Misc. Application stands disposed of accordingly.

Civil Writ Petition No.22961 of 2015

The petitioner seeks quashing of action of respondents to return the examination forms of the students of the petitioner-institute and non issuance of roll numbers for examination of GNM Ist year for the session

It is the case of the petitioner-institute that it had admitted students provisionally in the month of August, 2014. Vide Civil Misc. Application No.14139 of 2016, documents Annexures P/11 to P/17 have been placed on record show that the petitioner-institute had been provisionally recognised from the session 2009 onwards till 2015-16. It is further case of the petitioner-institute that initially vide demand draft no.443434 dated 30.9.2014 amounting to ₹ 2000/- admissions forms had been sought from the respondent-council but on account of affiliation being not there, the said demand demand was returned.

The affiliation thereafter for 40 seats was granted on 31.10.2014 (Annexure P/16) and the admission forms after receiving a sum of ₹ 2000/- had been issued. Thereafter, demand draft no.570283 dated 30.9.2014 amounting to ₹ 60,000/- (₹ 20,000/- as annual fee + ₹ 40,000/- as admission fee) had been deposited which was encashed by the respondent-council. However, when examination forms were sought to be deposited on 12.8.2015 along with demand draft No.533370 dated 12.8.2015 on account of examination fee of ₹ 44,000/- and demand draft No.641057 dated 12.8.2015 of ₹ 48,000/- on account of late fee, the same were returned back. The respondent-council had neither intimated the petitioner-institute regarding non availability of the admission forms which had been submitted earlier nor any reminder had been given in this regard. Resultantly, this Court had been approached.

Vide order dated 26.10.2015, interim directions were issued for permitting the candidates whose names were reflected in Annexure P/5 at serial no.1-Sheeta Sharma to serial no.40-Sahil to sit in the examination

commencing from 28th October, 2015. 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-5 at Serial No.1-Sheetal Sharma to Serial No.40 – Sahil.

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.”

In the written statement submitted by the respondent-Council the defence taken is that the admission forms had not been submitted and the examination forms had been returned on 18.8.2015 (Annexure P/6). Thereafter, the replication has been filed by the petitioner.

No rejoinder to the replication has been filed wherein the specific averment has been made regarding deposit of demand draft no.570283 dated 30.9.2014 amounting to ₹ 60,000/- (₹ 20,000/- as annual fee + ₹ 40,000/- as admission fee) which was encashed by the respondent-council.

Counsel for the petitioner submits that in similar circumstances in **Civil Writ Petition No.21075 of 2015-Sardar Patel Medical Institute of Nursing and Hospital Vs. State of Punjab and another** decided on 4.8.2016, relief has been granted and the admissions had been regularised

on account of the fact that the amount regarding admission fee had been deposited and duly encashed no communication as such had been made by the respondent-council. Once the respondent counsel had accepted the fee of ₹ 60,000/-, it was under a bounden duty to have written at an earlier point of time that there was a discrepancy as such regarding the admission made by the petitioner-institute. It is not the case of the respondent-council the amount had been refunded and that the said demand draft had not been duly encashed.

In such circumstances, this Court is of the opinion that fault does not lie with the petitioner-institute and it was on account of mistake of respondent-council as such. In view of above, the interim order dated 26.10.2015 is liable to be confirmed.

Accordingly, the present writ petition is allowed. Interim order dated 26.10.2015 is made absolute. The result of the students mentioned in Annexure P/5 shall be declared forthwith and their admission will be regularised by the respondent-council. They shall be allowed to complete their studies subject to fulfillment of other eligibility conditions. They will also be allowed to sit in the forthcoming examination which is to be held from tomorrow i.e. 8.11.2016.

Mr. Dahiya, counsel for the petitioner submits that the examination fee which had been returned will be deposited today itself, if not already deposited.

Mr. J.S.Rattu, counsel for respondent-council assures the Court that the necessary compliance of the order passed today will be made by the respondent-council.

Copy of this order be supplied under the signature of the
Special Secretary of this Court to counsel for the parties.

November 07, 2016
Pka

(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No