

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

CWP No. 22963 of 2015
Date of decision: 20.12.2016

Bankey Bihari Educational and Charitable TrustPetitioner(s)

Versus

State of Punjab and another ...Respondent(s)

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

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

Ms. Lavanya Paul, AAG, Punjab.

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

G.S.SANDHAWALIA, J. (Oral)

The petitioner seeks issuance of roll numbers to 21 students of the ANM course shown in Annexure P-3 and resultantly, prayer has been made for appearance in the examinations to be held from 28.10.2015.

The stand of the respondent-Council, in its written statement, is that the admission forms of the students were not received after the cut off date on 15.11.2014. The website had been uploaded in April, 2015 and the names of the students made available by the petitioner had been put up after verifying the record. The petitioner wanted to add 21 students, who were not permitted by the respondent-Council and neither the petitioner had chosen to file any application for rectification nor approached the authorities. The writ petition had been filed at the last moment and accordingly, on the basis of the interim order dated 26.10.2015, 21 students

have been permitted to sit in the examination.

Counsel for the petitioner, on the other hand, has vehemently argued that the fees of 30 students had been deposited by way of bank drafts dated 13.10.2014 vide correspondence dated 11.11.2014 (Annexure P-2 colly) and the bank drafts had been duly encashed on 03.12.2014. It is the case of the petitioner that the consolidated list of 30 students was appended alongwith Annexure P-2 and alongwith the prescribed full admission forms with supporting documents. It is, thus, the contention of the petitioner that the institute would not as such submit the full fees for 30 students if it had not admitted the said students. The necessary averments have been made in para no. 3 regarding the same.

However, the stand of the respondent-council is very clear. It is the categorical case that except the list which was uploaded i.e. of 9 students, the list of 21 students was not there. It is further the case of the respondent-Council that once the list was uploaded in April, 2015, the respondent-institute did not even correspond with the Council regarding the other students from April till October, 2015. It firstly approached this Court only in October, 2015 that the names of above 21 students had not been uploaded and, therefore, they were going to be prejudiced. Even before this Court also, nothing has been placed on record by way of any attendance record to show that the said 21 students have attended the course and were duly marked and had been admitted before the cut off date.

The petitioner-institute, as noticed, is running a nursing institute. If the total list of 21 students has not been uploaded, they would necessarily have corresponded with the respondent-Council regarding the same. It is, thus, apparent that the *modus operandi* of the petitioner-institute

was that the fee for the full sanctioned strength was submitted to the Council. At that point of time, only 9 students had been admitted and the benefit of the deposit of admission fee was, thus, sought by getting interim orders by approaching this Court to fill in the gap of the students admitted subsequently.

In such circumstances, this Court is of the opinion that the interim orders are not liable to be regularized in favour of the institute.

However, the fact remains that there is an interim order dated 26.10.2015 for the first year permitting to sit in the examinations. Thereafter also on 04.11.2016, similar order was passed for the next year since exams were coming up which was subject to the decision of the writ petition. Thus, in order to protect the interest of the students who have sat under the interim orders, this Court is of the opinion that the only way out to regularize their admission is to impose exemplary costs on the petitioner-institute which has violated the cut off date and made admissions after that. This is the only way to redeem the future of students since the students have already paid the fees and would face extreme hardship and would lose two precious academic years only at the instance of the institute who, in their greed to get fees, has admitted the students after the cut off date. Accordingly, costs of ₹10,000/- per student is imposed upon the institute. If the petitioner-institute deposits the sum of ₹2,10,000/- with the respondent-Council, the result of the said students shall be duly declared. In case the institute does not pay the amount, it will be open to the students to take effective steps against the institute for depositing the amount by taking appropriate recourse to law.

Accordingly, the writ petition is allowed in the above terms.

20.12.2016 shivani	(G.S. SANDHAWALIA) JUDGE
Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No