

IN THE HIGH COURT OF PUNJAB AND HARYANA,
AT CHANDIGARH

201

CWP-22984-2015

Decided on : 22.10.2016

College of Nursing, Sigma Nursing Training Institute

... Petitioner

Versus

State of Punjab and another

.. Respondents

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

Present : Mr.N.K.Setia, Advocate
for the petitioner.

Ms.S.S.Chandumajra, Addl.AG, Punjab.

Mr.Sarabjit Singh, Advocate
for respondent No.2.

G.S.Sandhawalia, J. (Oral)

The petitioner-institute seeks direction for issuance of roll numbers to 22 students of the first year GNM course, and 11 students of the first year ANM course, as per the list (Annexure P/3) for the 2014-15 batch, and for permission to appear in the examinations to be held on 28.10.2015 for the first year of the GNM Course.

It is pertinent to mention here that vide order dated 29.10.2015 while issuing notice of motion, keeping in view the fact that two of the exams were already over and other two were to start, provisional admission had been granted to the concerned students subject to the final decision of the petition. Condition was also put that

in case there was any concealment on the part of the petitioner-institute,

exemplary costs, apart from the drastic steps, would be taken against the said petitioner-institute by this Court. The interim order had been passed to protect the interest of the students who would have no right of equity. The students were permitted to sit in the examinations which were to take place from the next day onwards. The said order was also passed in the presence of the counsel for respondent No.2-council, by noticing that the students who were figuring in the records, had been granted admit card, but the concerned students were not figuring in the record.

It is pleaded case of the petitioner-institute is that it had granted admission to 60 students in the GNM course and 50 students in ANM course, as per provisional permission dated 16.06.2014 (Annexure P/1) for the session 2014-15 given by the respondent-Council. It is also case of the petitioner that it has been imparting training/education since the year 1994-95, and was established in the year 1988. The petitioner-institute had admitted 55 students in the 1st year of GNM course and 15 students in the 1st year of ANM course before the cutoff date i.e. 15.11.2014 (wrongly pleaded as 2015).

Accordingly, the admission forms of all the students of GNM and ANM courses were sent to the respondent-council, and that were duly received vide letters dated 16.10.2014 and 14.11.2014 (Annexures P/2) (Colly), and the demand drafts have been duly encashed. As per the case of the petitioner, there were 37 students in

the first year of GNM course, and 12 students in first year of ANM course, continued studying, and 18 students of GNM and 03 students of ANM respectively, have abandoned their course. The details were given in Annexure P/3 (Colly).

It is case of the petitioner that respondent No.1 had shifted to the online method of functioning in addition to the manual method of operations and accordingly, list of eligible students was uploaded on the official website of the respondent council in April, 2015. Resultantly, 55 students of GNM course and 07 students of ANM course were shown in the list of students uploaded by the respondent council against the petitioner institute (Annexure P/4). Out of total 55 shown for GNM course, only 15 students of the petitioner institute had been shown and rest had not been enrolled with the institute. Resultantly, 22 students of GNM course who were actually studying in the petitioner-institute, had not been shown in the list despite their admission as well as examination requirements having been completed. Similarly, for the ANM course, only 01 student had been shown and remaining 06 who were shown, were never enrolled with the petitioner institute. 11 students who were actually studying in the petitioner institute, were not shown in the list (Annexure P/4) (Colly).

Resultantly, it was argued that 22 students of the GNM course have been wrongly left out by the respondent-council despite their attending classes. Payment of examination fee which had been

made on 09.07.2015 vide which fee of Rs.57,750/- for 55 students of 1st year GNM course and Rs.15,750/- for 15 students of 1st year ANM course duly received by the respondent council (Annexure P/5) (Colly) was referred to. Similarly, 11 students for ANM course had also been wrongly left out. Resultantly, this Court had been approached and an interim order was passed in favour of the petitioner institute on 29.10.2015, as noticed.

It is thus, matter of fact, that students of the petitioner-institute, in pursuance of the interim order, have completed almost a year of the course under the order of this Court, and as per the claim of the petitioner, they have studied a year earlier also.

The issue thus arises that whether the said students are now entitled for the confirmation of the said order in view of the above facts and in view of the stand taken by the respondent council.

Respondent No.2 council, in its reply submitted that only forms of 55 students of GNM course for the session 2014-15 had been submitted which were duly put on the website by the respondent council as Annexure R-1 which is equivalent to Annexure P/4. Only 22 examination forms of GNM 1st year students had matched with the list of admitted students, submitted by the institute, duly communicated, and the same was put on the PNRC website. The other examination forms were entirely different i.e. the name of students and parentage did not match with the list put on the website. The respondent No.2

council had issued roll numbers to those students whose name and parentage were matched with the list submitted by the petitioner institute, that was shown on the website. It was the case of the council that Principal of the petitioner institute had given in writing on 30.10.2015 that some of the students left their course and the institute had admitted the new students itself whereas petitioner institute was not authorized to admit the students after the cut of date i.e. 15.11.2014. Similarly, for ANM course, only 1 student's name had matched with the list submitted by the petitioner institute, and the same was shown on the website, whereas the remaining were entirely different. The names of the students and parentage had not matched with the list provided by the petitioner-institute and their names had not figured on the website. That is why the petitioner institute collected only one roll number of ANM 1st year student.

It is thus the case of the respondent-council that petitioner-institute had made more admissions in the GNM and ANM courses, beyond the sanctioned strength and respondent No.2 was never informed in this regard. No record was available with the council regarding the additional admissions made, and the roll numbers had been obtained by the institute by filing the writ petition.

In the replication filed by the petitioner-institute, a plea was taken that other students mentioned in the list, Annexure P/4, had never been enrolled with the petitioner-institute. The students who were

actually studying in the petitioner-institute, had not been shown in the list uploaded on the website, despite their admission as well as examination requirements having been completed. Therefore, claim was put upon the council that on account of mishandling the online process, the error had occurred. Regarding the undertaking given by the Principal on 31.10.2015, it is submitted that it was a pre-written forms and the Principal was to write exactly the same, therefore, it was written under compulsion.

Vide interim order dated 08.07.2016, it was directed that the matter would be inquired into by the council since the dispute was of factual aspect of the non-submission of admission forms and examination forms. Accordingly, a fact finding inquiry was to be done and its report was to be submitted.

Report has accordingly been placed on record by the council. It was concluded in the fact finding inquiry that petitioner-institute had admitted 77 students against the total sanctioned strength of 60. The students who left the institution were 41 in numbers, and the petitioner-institute had submitted the examination forms and fee of those students who were left over with the institute. The petitioner-institute had admitted the new students in lieu of those already left the institute after the cut off date 15.11.2014. Resultantly, the examination forms submitted by the petitioner-institute, had not matched with the list uploaded on the website. Similarly, for the ANM course also, only

one examination form matched with the said list. 07 students had left the institute after their forms were accepted by the council, and roll numbers were issued to them, but these students choose not to appear in the examination, and they remained absent in the examination. As per admission register, the remarks given, were left. Resultantly, the admission procedure was not genuine, and therefore, the dispute had arisen and the institute was playing with the future of the students for its personal gain.

Counsel for the petitioner has vehemently argued that the original record (Annexure P/4) should be produced to show how in Annexure P-4, the names of the students, who were not connected with the petitioner-institute, figured, and thus, tried to find fault with the procedure followed by the council. On 07.10.2016, the record regarding ANM students, was produced and a perusal of the same went on to show that original certificates of the ANM students from serial Nos.2 to 7 (Annexure P/4 (colly) at page 29 found mention in the record of the council. Rather, the forms had been duly stamped by the petitioner-institute, and had been duly forwarded by the Principal of the petitioner-college. Therefore, whole argument as such, of the counsel for the petitioner, does not inspire any confidence, and the fact finding inquiry seems to be justified.

It is thus, apparent that the students who left their course and their names were duly uploaded by the council qua them on

account of late and excess admissions made, the petitioner-institute sought adjustment of those students against the total sanctioned strength. At the last moment it has approached this Court to get their admission regularized and, taken a permission to sit in the examinations, subject to final decision. It is not disputed that from April, when the forms were firstly uploaded till July, when the fees was deposited for the said courses, no effort was made by the petitioner-institute to correspond with the council. Nothing is on record to show that anything was brought to the notice of the respondent council by the petitioner-institute that there were discrepancies in the forms and the list which was uploaded on the website. It further goes on to show that there is substance in the fact finding inquiry that these students were admitted after the cut off date i.e. 15.11.2014. Therefore, the argument of the counsel that the students mentioned in the list uploaded on the website, were not associated with the course of the institute at all, and were stranger as such, and the fault lies with the respondent council, is not acceptable.

Counsel for the petitioner-institute further submitted that admission forms of GNM course for the other candidates are not available on record, and therefore, it substantiated his arguments. The explanation given by the council that due to shifting of the office from Chandigarh to Mohali, it is not traceable, but as noticed, ANM record has been produced.

In such circumstances, this court is of the opinion that even though the disputed facts had arisen, normally, the petitioner would have been relegated to its remedy with the Civil Court to substantiate its case. However, since interest of the students is involved, a caveat had been put and the interim order also directed that institute would pay the costs so to be imposed. On account of the opinion that for the fault of the petitioner-institute on account of late admission, the students should not be penalized. As noticed, under the order of this court, they have at least undergone one year course, and given examinations also. The contention of the petitioner is that they have studied a year before passing of the interim relief from the court, which has been of course disputed by the counsel for the respondent.

Keeping in view the above, and balance of equity inter se, and to protect the interest of the students, this Court is of the opinion that the interim order is liable to be confirmed however, subject to costs, which the petitioner-institute will have to pay for the adjustment of the students, which has been apparently done.

Accordingly, the petitioner-institute is burdened with the costs of Rs.10,000/- per student, which will be deposited with the respondent council. Out of the said costs, so deposited, 50% of the costs would be redeposited by the council with the Punjab State Legal Services Authority, Chandigarh, whereas, 50% would be retained with itself, on account of the unnecessary litigation preferred by the

petitioner. It is further directed that the council will ensure that the said amount will not be recovered from the students by the petitioner-institute, in any manner.

Needful be done within four weeks. On deposit of the said costs, the students will be entitled to continue with the course and their result will be declared, accordingly. The students will be permitted to appear in the examinations to be held in November, provisionally.

[G.S.Sandhawalia]
Judge

22.10.2016
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No