

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

Civil Writ Petition No.9991 of 2016

Date of decision: 5.10.2016

Ishan Nayyar

...Petitioner

Versus

State of Haryana and others

...Respondents

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

Present: Mr. Mandeep Singh, Advocate for the petitioner.

Mr. Rohit Arya, Assistant Advocate General, Haryana.

Mr. Manish Dadwal, Advocate for respondent no.2.

Mr. A.S.Virk, Advocate for respondent no.3.

G.S.SANDHAWALIA, J. (Oral)

Challenge in the present writ petition is to the illegal termination of the candidature of the petitioner from college rolls. Further direction is sought for cancellation of affiliation of respondent no.2-college and for debarring it from taking fresh courses in B.Sc.Nursing and other professional courses. Apart from that compensation of ₹ 5 lacs has also been prayed for against respondent no.2-college and that respondent no.3-University be directed to take action against respondent no.2-college for carrying out mal-practice.

From the pleadings, it transpires that the petitioner took admission in the B.Sc. Nursing course in respondent no.2-institute which started from 17.8.2015. Various allegations of harassment etc. were levelled that lectures were not conducted and that undertaking has been taken from the father of the petitioner under undue influence. It has also been pleaded that refund of the fees of the candidate has been given to the

father of the petitioner through cheques which were encashed on 3.2.2016.

In response, respondent no.2 has taken the plea that the college is affiliated with Pandit Bhagwat Dayal Sharma University of Health Science, Rohtak and not with respondent no.3-University. It has further been submitted that father of the petitioner had given undertaking and had also got encashed the refund of fees. The college is approved and recognised by Haryana Nurses Registration Council and the Indian Nursing Council. The petitioner was not serious qua his career and had left the course midway on his own choice. Allegation of lack of infrastructure had been denied on the ground that both the statutory bodies namely, Pandit B.D.Sharma University and the Indian Nursing Council of India have conducted various inspections and availability of infrastructure had been recognised. The fee was refunded through cheques which were duly encashed on 3.2.2016.

On the other hand, respondent no.3-University pleaded that all such Institutes including respondent no.2-college which were earlier affiliated with respondent no.3-University were disaffiliated and that answering respondent would continue to conduct examinations of only such students admitted to various courses in the said colleges prior to 2.6.2008.

The issues thus which have arisen pertaining to the lack of infrastructure etc. or whether the petitioner had left the college on his own or was forced by way of harassment are factual issues which cannot be adjudicated upon in the writ petition. A perusal of Annexure P/4 would also go on to show that the petitioner had some medical problem and had been asked to attend counselling to keep himself calm by the Senior Consultant in the field of Psychiatrist at Fortis Hospital.

In such circumstances, this Court is of the opinion that disputed questions of fact have arisen and the petitioner having taken refund of fees as such it would not be appropriate for this Court to go into these questions.

Accordingly, the present writ petition is disposed of with liberty to the petitioner to avail his alternative remedy and approach the Court of competent jurisdiction for claiming compensation etc.

October 05, 2016	(G.S.SANDHAWALIA)
Pka	Judge
Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No