

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1267 of 2015 (O&M)

Date of Decision: 30.08.2016

Dr. Sunil Garg

... Appellant

VS.

State of Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

1. Whether speaking / reasoned?

Yes / No

2. Whether reportable?

Yes / No

3. Whether Reporters of local papers may be allowed to see the judgment?

Yes / No

4. To be referred to the Reporters or not?

Yes / No

5. Whether the judgment should be reported in the Digest?

Yes / No

Present: Dr. Rau PS Girwar, Advocate for the appellant

Mr. Rajesh Bhardwaj, Addl. AG Punjab

Mr. Abhay Sharma, Advocate for

Mr. Manish Dadwal, Advocate for respondent No.2

Mr. BBS Sobti, Advocate for respondent No.3

SURYA KANT, J. (Oral)

(1) The appellant was an aspirant for admission to MD/MS Course in the Academic Session 2012-13 in the respondent-Medical College, namely, Dayanand Medical College at Ludhiana. He succeeded before the learned Single Judge to get 'institutional preference' but that order dated 31.07.2013 was reversed in Intra Court Appeal. The appellant then approached the Hon'ble Supreme Court by way of SLP No.35861 of 2013 which he withdrew with liberty to file review application. He was successful in the review as it was allowed vide order dated 13.03.2015 and the main appeal was restored to its original number and file. Subsequently, the appeal filed against the appellant was dismissed as not pressed on 25.05.2015.

(2) He then filed the instant writ petition seeking a direction that he

be granted admission in the Academic Session – 2015 but the learned Single

Judge has declined such relief observing that on the basis of his claim for a seat in the year 2013, the appellant cannot seek admission in 2015 without passing the Eligibility Test held for that year.

(3) We have heard learned counsel for the parties and gone through the record.

(4) It may be true that the appellant is not to be blamed for the delay which has occurred on account of one or the other adjudicatory judicial processes. Nonetheless, the reasoning given by learned Single Judge cannot be faltered with as the appellant cannot be granted admission in the year 2015 without securing merit position in the Eligibility Test held for that year. In the given circumstances where the appellant contends that he has been deprived of admission due to illegal action of the respondent-Medical College, we decline to interfere with the order under appeal but with liberty to the appellant to avail his remedy to claim damages, if so permissible in law and the respondent-Medical College too shall be entitled to oppose the appellant's claim in accordance with law.

(5) Disposed of.

CM-1102-LPA-2016

Since the appeal has been decided on merits, no specific order is required to be passed in this application filed by the appellant seeking to place on record copies of CWP No.15018 of 2013 and LPA No.1544 of 2013. Disposed of.

(Surya Kant)
Judge

30.08.2016
vishal shonkar

(Sudip Ahluwalia)
Judge