

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

**LPA No. 1639 of 2015 (O&M)  
Date of decision: 23.04.2016.**

Apoorva Kalia

..... Appellant.

Versus

Baba Farid University of Health Sciences, Faridkot and others

..... Respondents.

**CORAM: HON'BLE MR. JUSTICE S.S. SARON  
HON'BLE MR. JUSTICE SHEKHER DHAWAN**

Present: Mr. R.S. Ahluwalia, Advocate, for the appellant.

Mr. Manish Dadwal, Advocate, for respondent No. 1.

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**S.S. SARON, J.**

This appeal has been filed by appellant - Apoorva Kalia against the judgment and order dated 02.11.2015, passed by the learned Single Judge in CWP No. 21489 of 2015 titled 'Apoorva Kalia versus Baba Farid University of Health Sciences, Faridkot and others', whereby the petition of the appellant seeking admission to the MBBS/BDS Course for the session 2015 in the reserved category of border area has been dismissed.

The appellant applied for admission to the MBBS/BDS Course and appeared in the Pre-Medical Entrance Test ('PMET' - for

short), 2015 being conducted by the Baba Farid University of Health Sciences, Faridkot ('University' – for short). She secured 492 marks out of 800. She applied for admission to MBBS/BDS Course under general category (Code-11) and also in the border area category (Code-15). Her rank in the open merit was 2320, while that in the border area category was 154. Four seats were reserved for the border area category against which four candidates namely Shivam Singla (respondent No. 3) with PMET rank 171 and border area rank 14, Simran Aneja (respondent No. 2) with PMET rank 312 and border area rank 20, Angel Dhingra (respondent No. 4) with PMET rank 319 and border area rank 22 and one Smarth Gupta (not a party) with PMET rank 337 and border area rank 23 were granted admissions.

The case set up by the learned counsel for the appellant is that Simran Aneja, Angel Dhingra (respondents No. 2 and 4) and Smarth Gupta (not a party) had secured higher rank in merit in the open general category than the last general category candidate. Therefore, according to him, in terms of notification dated 30.03.2015, which provides the criteria for admissions, the reserved category candidates were to be counted towards admission in the general category or open merit. The said three candidates namely Simran Aneja, Angel Dhingra (respondents No. 2 and 4) and Smarth Gupta (not a party) were to be admitted against the general category seats. In this manner, three seats of border area category were liable to be filled from the students of the border area category only.

According to learned counsel for the appellant, the learned Single Judge held that there were 153 candidates above the appellant and the last selected candidate on the basis of merit. However, except for about

ten candidates, it is submitted, the others have been adjusted in the other colleges/courses. From amongst the ten candidates above the appellant, the other candidates have exercised their preference for other than the border area reserved category. In short, the case of the appellant is that the appellant was liable to be adjusted against the border area seat by giving the seat to the candidates of the border area from the open merit or general category seats as they came on merit in the open general category.

In response, learned counsel for the University has submitted that assigning of seats is not based on merit alone and the candidates applying for the reserved category seats are also to be given preference in a particular category or institution; besides, there is difference in fee structure and also the nature of colleges. As such, it is not possible to implement the reservation on the overall seats rather it is to be done college-wise so as to make necessary adjustment depending upon the preference of the candidates for the reserved category seats, which may also be of fee structure of the college or the preferred college and the reserved category candidates even though higher in merit cannot be compelled to consume only a general category seat, which may not be of their preference.

We have given our thoughtful consideration to the contentions of learned counsel for the parties and with their assistance gone through the record of the case.

The Government of Punjab, Department of Medical Education and Research (Health-III Branch) issued notification dated 30.03.2015 on the subject of admission to MBBS/BDS Courses in Medical and Dental

Institutes in the State of Punjab for the session 2015. Clause 11 of the said notification, which is relevant for the present controversy, reads as follows:

*“11. A candidate from reserved category shall have the right to compete for admission in open merit or general category seats as per his/her merit on the day of counselling and candidate so selected will not be counted towards admission in the reserved category.”*

In terms of the above clause, a reserved category candidate has the right to compete for his admission in open merit or general category seats as well, as per his/her merit on the day of counselling and in case a candidate for admission competes in open merit or general category then he is not to be counted in the reserved category. However, if he competes for a seat in the reserved category, then he is to be counted in the reserved category.

The respondent-University has submitted detailed affidavit dated 05.12.2015 of Dr. Darshan Singh Sidhu, Registrar, Baba Farid University of Health Sciences, Faridkot wherein the fee structure of Government Medical and Dental Colleges, Private Self-aided Medical Colleges and Private Self-aided Dental Colleges has been given. It is submitted that due to difference in fee structure and nature of colleges, it is not possible to implement reservation on aggregate seats rather it is made college-wise. It is also mentioned that before inviting online applications for counselling, all the available seats are displayed college-wise on the University website. Candidates give preference of college/category/course/quota at the time of filling online application forms. It is at that particular moment that the student decides which college he/she would

prefer. The reasons for preference have been mentioned namely that some students are financially sound and career conscious and prefer private colleges instead of government colleges; some students, it is mentioned, due to their financial constraints leave available open category seat in private colleges and prefer to opt for seat in the reserve category at government colleges; besides, there is preference amongst medical colleges. The border area category is a special category and provides for horizontal reservation. The seats of border area are kept reserved at Government Medical/Dental Colleges of the State only. The details of the seats for border area category which are reserved are as under:

|       |                                             |   |
|-------|---------------------------------------------|---|
| (i)   | Government Medical College, Patiala         | 2 |
| (ii)  | Government Medical College, Amritsar        | 1 |
| (iii) | Guru Gobind Singh Medical College, Faridkot | 1 |
| (iv)  | Government Dental College, Patiala          | 1 |

Once a seat is allocated to an eligible candidate as per merit and his/her choice, it cannot be taken back without his/her consent. In the present case, respondents No. 2 to 4 have taken admissions in the MBBS seat in the first round of online counselling. They have joined their course/college as per their choice. The details of the candidates applied for counselling in the first round and the number of seats allocated to eligible candidates and the number of candidates who did not join the college after provisional allocation of seats has been mentioned. The information of last candidate selected under the open category and border area category at Government Medical/Dental Colleges of the State has been given as follows:

| <b>1<sup>st</sup> Round of online counselling (08.09.2015)</b> |                      |                                       |                                    |                                       |                                          |                                    |                                              |
|----------------------------------------------------------------|----------------------|---------------------------------------|------------------------------------|---------------------------------------|------------------------------------------|------------------------------------|----------------------------------------------|
| <b>General category candidate</b>                              |                      |                                       |                                    | <b>Border Area category candidate</b> |                                          |                                    |                                              |
| <b>Sr. No.</b>                                                 | <b>PMET Roll No.</b> | <b>Name and Father's Name</b>         | <b>PMET Marks and Overall Rank</b> | <b>PMET Roll No.</b>                  | <b>Name and Father's Name</b>            | <b>PMET Marks and Overall Rank</b> | <b>College</b>                               |
| 1.                                                             | 503881               | Navi Garg d/o Sh. Gian Chand          | Marks 588<br>Rank 139              | 504795                                | Shivam Singla s/o Sh. Naresh Gupta       | Marks 588<br>Rank 171              | Government Medical College, Patiala.         |
|                                                                |                      |                                       |                                    | 502169                                | Richa d/o Sh. Raj Kumar Gupta            | Marks 576<br>Rank 293              |                                              |
| 2.                                                             | 512579               | Harprinder Kaur d/o Sh. Gurmail Singh | Marks 584<br>Rank 203              | 511145                                | Simran Aneja d/o Sh. Vinod Aneja         | Marks 575<br>Rank 312              | Government Medical College, Amritsar.        |
| 3.                                                             | 513560               | Sahil s/o Sh. Anil Kumar              | Marks 580<br>Rank 239              | 505842                                | Angel Dhingra s/o Sh. Anil Kumar Dhingra | Marks 572<br>Rank 319              | Guru Gobind Singh Medical College, Faridkot. |
| 4.                                                             | 510608               | Ritika Bawa d/o Sh. Kamaljit Singh    | Marks 556<br>Rank 613              | 500932                                | Rakshanda d/o Sh. Bhim Sain              | Marks 555<br>Rank 648              | Government Dental College, Patiala.          |

A perusal of the above chart shows that Navi Garg of the general category secured 588 marks while Shivam Singla and Richa of the border area category secured 588 and 576 marks respectively. However, both the border area category candidates preferred admission in Government Medical College, Patiala against which they have been granted admissions. According to learned counsel for the respondent-University, they may not have been granted admission in Government Medical College, Patiala had they opted in the open or general category. Similarly, Harprinder Kaur of the general category secured 584 marks

while Simran Aneja of the border area category secured 575 marks and the border area category candidate opted for Government Medical College, Amritsar. Sahil of the general category secured 580 marks while Angel Dhingra of the border area category secured 572 marks and the border area category candidate opted for Guru Gobind Singh Medical College, Faridkot. Ritika Bawa of the general category secured 556 marks while Rakshanda of the border area category secured 555 marks and the border area category candidate opted for Government Dental College, Patiala. In this manner, both the seats at Government Medical College, Patiala, one seat at Government Medical College, Amritsar, one seat at Guru Gobind Singh Medical College, Faridkot and one seat at Government Dental College, Patiala have been consumed by the students of the border area category according to their preference; besides, they are admittedly higher in merit than the appellant. The admitted students of the border area category cannot be dislodged by asking them to seek admissions in the open or general category against their preferences. As such, clause 11 of the notification dated 30.03.2015 has been applied in the manner that not only an option is given to the reserved category students to compete for admissions in open merit or general category but an opportunity is also given to exercise their preference of the institution in which they are desirous of doing their course at the time of counselling.

Learned counsel for the appellant has referred to the 'important instructions' to fill up the online admission application forms and give course/college option/preferences of the PMET 2015 (MBBS/BDS). Clause 4 of the said 'important instructions' reads as under:

*“4. Seats will be allocated by the computer to the candidates as per their merit cum choice basis in the following manner:*

- a. In first step, computer will check the availability of college as per the preference/choice of candidate.*
- b. In second step, computer will check availability of government quota seat in preferred college and allocated the seat, if available in the preferred college.*
- c. If candidate belongs to any reserve category then computer will first allocate the open merit seat in the preferred college if available.”*

The above clause shows that the seats are to be allocated by the computer to candidates as per their merit-cum-choice in the manner as has been mentioned. The computer is to check the availability of the college as per the preference/choice of candidate in the first step. Then, the computer is to check the availability of government quota seats in the preferred college and allocate the seat, if available in the preferred college, in the second step; and if the candidate belongs to any reserved category then the computer would first allocate the open merit seat in the preferred college, if available.

It is submitted that in terms of above sub-clause (c), in respect of reserved category candidates, the computer is to allocate first the open merit seat in the preferred college, if available. It is submitted that this process had not been adhered to. Be that as it may, it cannot at this stage be said that the candidates did not give their preference/choice against the colleges against which they have been given admission. However, it is for

the respondent-University in future to take steps to implement its policy in letter and spirit.

In the circumstances, there is no merit in the present appeal. Accordingly, the appeal is dismissed and the judgment and order dated 02.11.2015 passed by the learned Single Judge is upheld. There shall, however, be no order as to costs.

**(S.S. SARON)**  
**JUDGE**

**(SHEKHER DHAWAN)**  
**JUDGE**

23.04.2016  
Ramesh

Note: Whether to be referred to the Reporter: Yes