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

LPA No.863 of 2015 (O&M)

Date of Decision: 22.09.2016

Kuljeet Singh Brar

..... Appellant

Versus

State of Punjab and others

..... Respondents

**CORAM: HONBLE MR. JUSTICE SURYA KANT
HONBLE 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: Mr. Arun Bansal, Advocate,
for the appellant.

Mr. Rajesh Bhardwaj, Addl. AG, Punjab.

Mr. K.K. Gupta, Advocate for respondent No.2.

Mr. Vikas Kathiala, Advocate for respondent No.3.

Mr. Tribhuwan Singla, Advocate for respondent No.4.

SURYA KANT J. (ORAL)

1. This Letters Patent Appeal is directed against the order dated 29.01.2015 whereby the appellant's writ petition seeking refund of the fee paid by him to respondent No.3-College on his admission to Bachelor in Civil Engineering Course, has been dismissed.

2. It is not in dispute that the appellant deposited a sum of ₹72,200/- on 25.08.2008 and 02.09.2008 towards tuition fee, transportation fee and other funds while getting admission in the Session 2008-09 in above mentioned Course. The appellant left respondent No.3-College as meanwhile he got admission in B.E. (Electrical) Course in Guru Nanak Dev

Engineering College, Ludhiana. Thereafter, he sought refund of the fee from

respondent No.3-College but the same was declined on the ground that the seat against which he was admitted, had gone waste.

3. In this backdrop, the issue which fell for consideration of learned Single Judge was whether the appellant was entitled to seek refund of the fee? Learned Single Judge has dismissed the writ petition keeping in view the stand of the college that the seat against which appellant was admitted remained vacant throughout. The appellant also failed to produce any proof that any other student was admitted against the seat vacated by him.

4. Still aggrieved the appellant has filed this intra Court appeal.

5. We have heard learned counsel for the parties and gone through the record. Though the appellant has placed on record some additional documents with this appeal but fact of the matter is that there is no proof on record regarding utilization of the seat vacated by him in respondent No.3-College. Unless there is a conclusive proof that the said seat was utilized and thus respondent no.3-College did not suffer any monetary loss towards fee etc., the appellant's claim for refund cannot be accepted. Since the issue raised by the appellant is a disputed question of fact which cannot be effectively decided in these summary proceedings, we dismiss this appeal but with liberty to the appellant to avail such remedy where question of fact can be adjudicated.

6. Disposed of accordingly.

(SURYA KANT)
JUDGE

22.09.2016

Bhumika

(SUDIP AHLUWALIA)
JUDGE