

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

LPA No. 2201 of 2016 (O&M)

Date of decision: 21.11.2016

Sumit Singh and others

.....Appellants

Vs.

Union of India and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: Mr. D.S. Patwalia, Senior Advocate with
Mr. Gaurav Rana, Advocate for the appellants.

Ajay Kumar Mittal,J.

CM No.4554 –LPA of 2016

1. This is an application under Section 5 of the Limitation Act, 1963 for condonation of delay of nine days in filing the appeal.

2. For the reasons stated in the application and after hearing learned counsel for the appellants, the delay of nine days in filing the appeal is condoned. CM stands disposed of.

CM No.4555-LPA of 2016

3. This is an application under Order 41 Rule 27 of the Code of Civil Procedure for placing on record true typed/photo copy of Annexures A.1 and A.2 by way of additional evidence.

4. After hearing learned counsel for the appellants, the prayer for additional evidence is declined. CM stands dismissed.

5. This Letters Patent Appeal has been preferred by the appellants against the order dated 28.09.2016 passed by learned Single Judge in Civil Writ Petition No. 8488 of 2016 whereby prayer with regard to condonation of shortage of lectures for the upcoming examinations to be held in December, 2016 has been declined. However, the main writ petition has been admitted.

6. A few facts relevant for the decision of the controversy involved as available on the record may be noticed. The appellants were admitted in Gold Field Institute of Medical Sciences and Research, Village Chhainsa, Ballabhgarh, Faridabad, Haryana in the year 2013 on the basis of their merit. They are in their third year of Graduate course. Since January, 2015, they were continuously facing one problem or the other. They represented to the College authorities but nothing was done. Immediately after completion of the first year, there had been irregular classes pertaining to the second year of course as the Medical Council of India had failed to recognize the Institution. Even then by keeping faith upon the management of the respondent-college, the appellants deposited advance money. Since, no regular classes were being held, the appellants and other students approached the management of the respondent-college in order to seek redressal of their grievances. The appellants came to know that the Medical Council of India had failed to recognize the said Institution after considering the assessment reports dated 17.12.2015 and 22.01.2016 for the academic year 2016-2017. Earlier also for the year 2015-2016, the permission was not renewed and therefore, no batch had been admitted for the years 2015-16 & 2016-17. Pursuant to the order dated 18.09.2014 passed by the Apex Court in Writ Petition (Civil) No. 469 of 2014, the students were admitted in the year 2014-2015 in the respondent-college. The appellants had been making

requests to the authorities for shifting them to other places in view of non-recognition by the Medical Council of India. Having received no response, the appellants alongwith their parents approached the Deputy Commissioner who directed the SDO (Civil) to hear the appellants and submits his report. SDO (Civil), Ballabgarh, submitted his report to the Deputy Commissioner vide letter dated 10.03.2016 stating that there was deficiency of basic essential facilities in the College like electric connection had been cut due to non-payment of bills. There were certain other deficiencies. In the meantime, the Deputy Commissioner vide letter dated 11.03.2016 requested the Additional Chief Secretary of Medical Education and Research to look into the matter and appoint some Senior Officer from the office of respondent No.2 to inspect the respondent-College and take appropriate steps as the future of the students was at stake. The appellants also met the Chief Minister, Haryana. The respondent university constituted a Committee who inspected the respondent-College and submitted its inspection report, to the effect that the respondent-College did not fulfill even the minimum requirements as prescribed by the respondent university. Respondent No.2 after going through the said report directed the university to submit a proposal as to how and in what manner the students could be adjusted in different Medical Colleges in Haryana. After due deliberations, a proposal was carved out which was forwarded to the authorities so that formal permission could be obtained for adjusting the Medical students. As per minutes of meeting dated 25.03.2016, it was agreed by the various Medical Colleges that they were ready to take responsibility of the additional students subject to one time permission of the Medical Council of India. Vide letter dated 13.04.2016, Director, Medical Education and Research directed the respondent university to provide a clear cut proposal for shifting the students

as early as possible as the same was to be submitted to the Government by 18.04.2016. In response to the said letter, the respondent-University convened a meeting on 17.04.2016 wherein all the Directors of all the Government/Government Aided Medical Colleges participated and a proposal indicating as to where the students could be shifted was drafted and the same was forwarded to the Director, Medical Education and Research vide letter dated 17.04.2016. According to the appellants, once the Medical Council of India had refused to give recognition for the sessions 2015-16 and 2016-17, their entire future career was in jeopardy. Chairperson of the management of the Institute had been involved in FIR under Sections 406, 420, 467, 468 and 471 IPC and there was no one to run the college/institution. The appellants submitted that since there were seats available for the third year students in other Medical Colleges, they could be shifted there. The appellants alongwith their parents also represented to the authorities. Having received no response, they filed Civil Writ Petition in this court, with a prayer directing the respondents to shift them to any other Medical College duly affiliated and approved by the State of Haryana, in view of the non-recognition of the College by the Medical Council of India. Further prayer was made for a direction to the respondents not to charge any additional fee/registration fee/security deposit on account of shifting to any other Medical College.

7. On September 28, 2016, the main writ petition was admitted. The other issues raised by the appellants were resolved. However, the specific prayer with regard to condonation of shortage of lectures was declined.

8. After hearing learned counsel for the parties and perusing the record, we find that it was categorically recorded by the learned Single Judge that the Committee constituted by the Government shall look into the issues with regard to shortage of lectures and eligibility of the students for the forthcoming examinations and wherever the students were short of lectures both of theory and practical, a list will be displayed on the notice board of the Institutions where the students were studying, within ten days. In case, the students had any objection against the said shortage, it will be open to them to place the relevant material before the Committee to show that they had requisite eligibility to appear in the forthcoming examinations. In case, any student was to be considered ineligible, he will be informed about the reasons for his ineligibility. With regard to the prayer of the appellants that they had fallen short of lectures and therefore, there should be exemption from the shortage of lectures, it was recorded that in the absence of their eligibility, it would not be appropriate to accord any such exemption. The State had already taken reasonable steps to adjust the students, so that their academic career was affected to the minimum. In such circumstances, the prayer of the appellants for exemption, on account of shortage of lectures could not be accepted and was declined. The said findings were recorded taking into consideration the affidavit of Sh. DK. Behra, Director Medical Education and Research Department dated 17.09.2016 filed on behalf of the respondent-State. Learned counsel for the appellants has not been able to produce any material on record to controvert the said findings. The relevant findings recorded by the learned Single Judge read as under :-

“The affidavit of Sh. D.K. Behra, Director Medical Education Research Department dated 17.09.2016 has been filed. The said affidavit resolves in principle many of the issues, which were

noticed in the earlier order as reproduced above. In principle the State has recognized the fact that the students who have migrated from M/s Gold Field Institute of Medical Sciences & Research (GFIMSR)-respondent No.6 to the private institutes, namely, SGT University, Budhera and M.M. University, Mullana respondents No.7 and 8, respectively would continue studying in those institutes and their examinations would also be certified from those institutes, which are private/deemed universities. The charges the students would be required to pay would be as per the public notice in pursuance of which they have already been shifted from GFIMSR and, thus they can have no such grievance regarding the said charges for fee for the course which they have to complete on account of the closure of the GFIMSR, since GFIMSR was affiliated with the respondent No.4-University. Therefore, it is necessary that these students be issued migration certificates by respondent No.4-University. However, the exercise is to be done by consultation with the MCI by taking necessary approval.

Accordingly, the respondent No.4-University shall apply to MCI for the approval of the migration of those students to the private/deemed universities within a period of four weeks. The MCI shall then process the said cases positively and take a decision on the same and allow the said migration within four weeks thereafter, keeping in view the peculiar facts and circumstances, since GFIMSR has closed down and the essentiality certificate stands withdrawn. The State Government has thus taken positive steps to adjust the students to the other institutes to save their academic careers.

It has also been suggested to the Additional Chief Secretary who has agreed that a Committee will be set up consisting of the (i) Vice-Chancellor of the respondent No.4-University alongwith; (ii) the Vice Chancellors of the two private /deemed universities; (iii) Director, Medical Education & Research and (iv) Dean Academics of respondent No.4 University. The said Committee shall go into the other issues

regarding the shortage of lectures and the eligibility of the students for the forthcoming exams. Wherever the students are short of lectures both of theory and practical a list will be displayed on the notice board of the institutions where the students are studying within ten days from today. In case, the students want to protest and want to raise any objection against the said shortage, it will be open to them to place relevant material before the Committee to show that they have the requisite eligibility to give the forthcoming examinations. In case any student is to be considered ineligible, he will be informed the reasons for his ineligibility.

Counsel for the petitioners have raised objections to this fact and submitted that for no fault they have fallen short of lectures and therefore, there should be exemption granted from the shortage of lectures or extra classes should be held.

The said prayer has been opposed by the counsel for the State and counsel for the MCI on the ground that the courses in question are of medicine and the students have to have adequate clinical and theory training. Therefore, in the absence of their eligibility, it would not be appropriate to grant any such exemption. The said objection is well justified. It has also been pointed out that on account of additional students of 4 batches, the medical institutions of the State are already under strain and therefore the faculty as such is not able to conduct extra classes. The State has already taken responsible steps to adjust the students, so that their academic career is effected to the minimum. In such circumstances, the prayer of the petitioners as such for exemption, on account of the shortages of the lectures cannot be accepted and is, accordingly, declined.”

9. In view of the above, we do not find any justification to interfere with the findings recorded by the learned Single Judge. Consequently, finding no merit in the appeal, the same is hereby dismissed.

However, in case the appellants have any grievance, they may take recourse to such remedies as may be available to them in accordance with law.

(Ajay Kumar Mittal)
Judge

November 21, 2016
‘gs’

(Ramendra Jain)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes