

LPA-2268-2016

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-2268-2016

Date of Decision: November 21, 2016

Yudhanshu Angural

.....Appellant

Versus

Baba Farid University of Health Sciences, Faridkot and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

- | | | |
|----|---|---------|
| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Arvind Thakur, Advocate
for the appellant.

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SURYA KANT, J.

This Letters Patent Appeal assails the *interlocutory* order dated 07.11.2016 in a pending writ petition vide which interim relief sought by the appellant to allow him to continue his studies in the MBBS Course on the ground that he was admitted to such Course without any fault on his part, has been declined by the learned Single Judge.

[2] The facts are not in dispute.

[3] The appellant is admittedly a *bona fide* resident of State of Himachal Pradesh. He belongs to Scheduled Caste category and a certificate of his being Scheduled Caste has been issued by the Executive Magistrate of Indora, District Kangra (Himachal Pradesh). After doing his matriculation from a private school at Indora, District Kangra (Himachal Pradesh),

appellant got admission in 10+2 year course in a private School at Pathankot

(State of Punjab).

[4] On the basis of his 10+2 qualification, the appellant appeared in 'Punjab Medical Entrance Test (PMET-2016)' and as per his overall merit, he applied for admission to 'MBBS Course' against a reserved seat of 'Scheduled Caste' and for that purpose he relied upon the 'Scheduled Caste Certificate' issued by the authorities of Himachal Pradesh.

[5] Respondent No.1-Baba Farid University of Health Sciences, Faridkot, granted 'Provisional Allotment Letter' to the appellant for admission to 'MBBS Course' through online counselling against a reserved seat of 'Scheduled Caste Category' and based upon that, he was admitted to Government Medical College at Amritsar on 19.09.2016.

[6] Appellant is said to have attended classes from 23.09.2016 to 28.09.2016. Meanwhile the authorities having detected that the appellant was not entitled to get admission against a reserved seat of 'Scheduled Caste Category' as he is not a Scheduled Caste belonging to the State of Punjab, he was not permitted to attend any classes.

[7] The above-stated action of the authorities prompted the appellant to approach this Court in which, as noticed above, learned Single Judge has declined him *ad interim* relief. Hence, this *Intra-Court* appeal.

[8] We have heard learned counsel for the appellant. One Junior Assistant from Government Medical College, Amritsar, is also present in Court, who has assisted us with reference to the appellant's eligibility to seek admission.

[9] The other undisputed fact which have emerged during the course of hearing is that the appellant admittedly applied against the 'State Quota Seat' and not against the 'All India Quota Seat'. It is also an admitted fact that

the appellant sought benefit of reservation meant for 'Scheduled Castes Category' and without such reservation he is not entitled to admission on the basis of his overall merit. The question which falls for consideration is, thus, whether the appellant, who is a resident of Himachal Pradesh, is entitled to seek benefit of reservation meant for 'Scheduled Castes Category' in the State of Punjab?

[10] We have gone through the contents of prospectus for 'PMET-2016 in which the Government of Punjab Notification dated 18.03.2016 is also reproduced. Clause 14 thereof reads as follows:

“14. The candidate should be a bonafide resident of Punjab. The resident status of Punjab state shall be taken in terms of Punjab Government, Department of Personnel and Administrative reforms (PP-II Branch) letter No.1/3/95-3 PP II/9619, dated 6th June, 1996, ID No.1/2/96-3PP-2/8976, dated 7th July, 1998 and ID No.1/3/95-3PP/II/81, dated 1st January 1999 and any further instructions issued by the Department of Personnel, if any, and the same shall be adhered. Candidate must have passed 10+1 and 10+2 examination from Punjab. Candidate who passed his/her 10+1 and 10+2 examinations or other equivalent examination from a recognized School/Institution situated in Chandigarh (Union Territory), who is a bonafide residents of Punjab shall also be eligible.

The following categories shall be exempted from this condition:-

- i) Children/wards/dependents (whose parents are not alive) of all those regular Punjab Government employees, members of All India Services born on Punjab cadre, Serving Judges and the employees of the Punjab and Haryana High Court, employees of Boards/Corporations/Statutory Bodies established by an act of the State of Punjab who have been holding

post outside Punjab on or before 1st January of the year of passing 10+2 examination and their children/wards/dependants were compelled to do class XI and /or XII outside Punjab.

- ii) Children/wards/dependents (whose parents are not alive) of all those regular Central Government employees, employees of Boards/ Corporations /Statutory Bodies of the Central Government who have remained posted inside Punjab for at least two years out of the three years preceding year of passing of 10+2 examination but were posted outside Punjab for some time during these three years due to which their children/wards/dependants were compelled to do class XI and/or XII or equivalent qualifying examination outside Punjab. However those who remained posted in Punjab continuously for these three years shall not be entitled to be exempted as they are equally placed with other Punjab Government employees posted in Punjab.
- iii) Children/wards/dependents (whose parents are not alive) of all those Punjab Government pensioners who have retired on or before 1st January of the year of passing 10+2 examination and have settled outside Punjab on or before 1st January of the year of passing 10+2 examination and their children/wards/dependants were compelled to do class XII outside Punjab.
- iv) Children/wards/dependents (whose parents are not alive) of those military/para -military forces personnel who were born in the territory of Punjab as per their service record at the time of entry into service.
- v) Children/wards/dependents(whose parents are not alive) of those Ex-employees of military/Para military forces who were born in the territory of Punjab as per their service record at the time of entry into the service and have retired on or after 1st January of the year

preceding two years of the year of passing 10+2 examination.

- vi) Candidates belonging to minority community who are competing for the minority quota in the minority institutions.
- vii) Candidates seeking admission under NRI category.
- viii) Wards of defence personnel posted in Punjab.”

[11] It may be seen that against the 'State Quota Seat' the candidate was required to be a *bonafide* resident of State of Punjab. The appellant admittedly is not a *bonafide* resident of Punjab State.

[12] As regard to benefit of reservation meant for 'Scheduled Caste Category', Annexure -III of the Prospectus prescribes format of 'Certificate of Scheduled Caste', which reads as follows:-

“It is certified that Shri/Shrimati/Kumari _____ son/daughter of Sh. _____ of village/town _____ District/Division _____ State of Punjab belongs to _____ caste which has been recognised as Scheduled Caste as per 'The Constitution (Scheduled Castes) Order, 1950’.

2. Shri/Shrimati/Kumari _____ and his/her family lives in village/ town _____ District/Division _____ of Punjab State.

Date _____	Signature
Place _____	Designation
	Seal of office”

[13] There can hardly be any doubt that for the purpose of availing benefit of reservation, the candidate must be a resident of Punjab State and he must belong to a caste which has been recognized as Scheduled Caste in the State of Punjab.

[14] No such certificate has been concededly issued in favour of the

appellant by the Prescribed Authority in the State of Punjab. He was, thus, not entitled to seek benefit of reservation in 'MBBS Course' in a Medical College run by the State of Punjab. Having held so, there can be no escape but to further hold that the appellant is partly guilty of misleading the authorities by relying upon a certificate of Himachal Pradesh so as to secure admission against a reserved seat which in the ordinary course ought to have gone to a candidate belonging to State of Punjab, as per merit.

[15] The fact remains that the authorities committed a mistake and admitted the appellant against the reserved seat. The second question that has been pressed into service is whether such a mistake on the part of authorities vests the appellant with an enforceable and indefeasible right to pursue the Course?

[16] Learned counsel for the appellant urges that once the appellant got admitted to the MBBS Course, as a resultant effect, he was deprived of seeking such admission in the Medical College at Tanda (Himachal Pradesh) where he would have got admission but for the mistake of the respondents, hence the principle of Promissory Estoppel is fully attracted and he is entitled to continue with the course. He relies upon the following decisions in support of his contention:-

- “1. Sanatan Gauda vs Behrampur Uni.& others, 1990 AIR SC 1075;
2. Ashok Chand Singhvi vs Uni.of Jodhpur & others, 1989 AIR SC 823;
3. Rajendra Parsad Mathur vs Karnataka Uni. & another, AIR 1986 SC 1428;
4. P.Ranjitha vs UGC, 1990(41) DLT (444);
5. Manish Tanwar vs Pr.Rajdhani College State, 1996(5) SLR 538
6. Kanishka Aggarwal vs Uni.of Delhi, 1992 AIR (Delhi) 105;
7. D.C.I.Vs Harpreet Kaur & others, 1995 SCC 304; &
8. Javed Akhtar vs Jamia Hamdard & others, (W.P.(C)No.15257-58/2006) decided on

05.12.2006.”

[17] We do not find any merit in the second contention also. It is well settled that principle of Promissory Estoppel can be invoked only in a situation where there is no conflict between equity and law. There cannot be estoppel against the law. The legal position, as it emerges from the fact situation of the case in hand is that benefit of reservation is admissible only to a candidate who is a *bonafide* resident of State of Punjab. Any undue benefit extended to a candidate by mistake cannot materialise into a legally vested right to attract the Principle of Promissory Estoppel. The cited decisions are totally distinguishable and do not apply to the facts of the case in hand. In Sanatan Gauda's case (supra), the student was admitted to a three-year Law Course in the year 1983. He was allowed to complete the first and the second year of the Course. He was in the final year when mistake regarding his ineligibility for admission was detected and the University refused to declare the results. It was, keeping in view such belated stage that the Hon'ble Supreme Court intervened and issued the desired directions.

[18] In Kanishka Aggarwal's case (supra), the Delhi High Court found as a matter of fact that there were about 70 candidates to whom provisional admissions in LL.B Ist Year Course was granted. None of the candidates was found to have mis-stated the facts at the time of grant of admission but the University later on took a new Policy decision pursuant where to the admissions of those candidates, who had secured less than the qualifying marks at the time of admission, were cancelled. It is in those circumstances that the Court intervened and directed the University to allow the candidates to continue with their courses.

[19] In Dental Council of India vs Harpreet Kaur and others(supra), the issue that arose for consideration before the Hon'ble

Supreme Court pertained to the recognition of a private Dental College to whom provisional affiliation was granted when the affected students were admitted. Subsequently the affiliation having been declined, the career of the students came under clouds. Noticing those facts, the University was directed to hold Ist professional examination for students of the said unaffiliated and unrecognised Dental College.

[20] The view taken by the learned Single Judge of a Delhi High Court in Javed Akhtar' case (supra) is primarily based upon equitable considerations. That was a case where the Court found that the candidate was not guilty of suppression or mis-statement of facts at the time of admission on 04.07.2006 which was cancelled on 08.08.2006, i.e. after more than one month. The reason which prompted the Court to invoke equitable consideration are discernible from para 41 of the order, namely, subsequent increase in the maximum age limit of admission of a student which was not prescribed at the time when admission was granted. That is not the fact situation here.

[21] We are of the view that no occasion arises to invoke the principle of Equity to outplay the settled law in a case where the error has crept in due to inadvertent mistake and it has been rectified at the earliest. In the case in hand the mistake occurred on 19.09.2016 and even according to the petitioner the authorities undid the same on 28.09.2016. It cannot be said that within a spell of one week or so an indefeasible legal right to continue with the said course got accrued in favour of the appellant. This Court cannot be oblivious of the fact that any attempt to regularize or recognize the admission of the appellant would be at the cost of a 'Scheduled Caste

resultant seat, if any, must go to a candidate, whosoever he or she may be, strictly as per merit.

[22] There is thus no merit in this appeal. Dismissed.

(SURYA KANT)
JUDGE

November 21, 2016
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(SUDIP AHLUWALIA)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |