

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-995-2016 (O&M)
Date of Decision: October 18, 2016

The Punjab Private Self Financed Dental and Medical Colleges Association

.....Appellant

Versus

State of Punjab and others

.....Respondents

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

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| 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. |

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Present: Mr.M.K.Singla, Advocate
for the appellant.
Ms.Shivangi Sharma, Advocate
for respondent No.2.
Mr.Salil Sablok, Advocate for
Mr.Nitin Kaushal, Advocate
for respondent No.3.

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SURYA KANT, J.

The appellant-Association has laid challenge to certain clauses of the Notification dated 30.12.2015(Annexure P1) issued by the Department of Medical Education & Research, Government of Punjab alongwith Prospectus for admission to Post Graduate Dental Courses for the Session -2016, on the ground that such provisions are contrary to the Dental Council of India Revised MDS Course Regulations 2007. Learned Single Judge vide order under appeal has turned down such challenge.

The issue that fell for consideration of learned Single Judge pertained to the true meaning of the expression '*on the basis of their academic merit*'. Such an expression is embedded in the Regulations relied upon by the

appellant, with reference to the authorisation given to the Management of private institutions to fill up 50% of the total seats from amongst the BDS Graduates 'on the basis of their academic merit'.

The impugned Notification issued by State of Punjab, on the other hand, enabled the Managements to fill up such 50% seats on the basis of merit as determined in the Post Graduate Entrance Test-2016 (PGET-2016).

The conflict between the appellant-Association and the Government Notification is thus whether 50% Management Quota be filled up on the basis of 'academic merit' to be determined as per the marks obtained in BDS degree or such seats could be filled up on the basis of merit in the PGET-2016? Learned Single Judge has answered the question upholding the Government Notification.

Since the appellant-Association placed reliance on 2007 Regulations notified by Dental Council of India (DCI), learned Single Judge has referred to those provisions *in extenso*, especially the following four mediums prescribed for determination of the 'academic merit':-

- “(i) on the basis of the competitive test conducted by the State; or
- (ii) on the basis of the centralized competitive test held at the national level; or
- (iii) on the basis of the individual cumulative performance of all the four years of the BDS examination if such examination has been passed from the same University; or
- (iv) with the combination of the merit determined by the competitive test conducted by the State or on the basis of the cumulative academic performance in all the four years of the BDS examination.”

In this context, learned counsel for the appellant submits that

insertion of word 'or' after every suggested 'mode' clearly establishes that these modes are to be resorted to 'alternatively'.

Having heard learned counsel for the parties, we are of the considered view that no interference in the order under appeal is called for. The DCI Regulations have given four modes to determine the academic merit for admission including 50% Management Quota seats. Out of these four modes, the State Government has chosen the one based on the 'competitive test' conducted by it instead of conventional method of the marks awarded in BDS Courses, which may sometime vary from University to University. The competitive test has given equal level play-field to all the admission-seekers. Such a procedure being totally transparent, merit oriented and uniform, learned Single Judge has rightly approved the same.

Needless to say that there is no provision in the 2007-DCI Regulations, as rightly pointed out by learned counsel for the DCI also, to the contrary or which can be construed to hold that the academic merit of the prospective candidates has to be determined only on the basis of their marks secured in BDS Degrees.

In the light of the above discussion, we do not find any merit in the appeal, which is dismissed.

However, the Institutions shall be at liberty to fill up the seats strictly as per merit in the competitive test provided that cut-off date and other conditions are satisfied.

(SURYA KANT)
JUDGE

October 18, 2016

(SUDIP AHLUWALIA)
JUDGE