

Sr. No.313

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

**CWP No. 4147 of 2000(O&M)
Date of decision:16.01.2017**

Karambir Singh Dhot

.....Petitioner

versus

The Guru Nanak Dev University, Amritsar and another

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. Arjun Partap Atma Ram, Advocate
for the petitioner.

Mr. Amrit Paul, Advocate
for respondent No. 1.

Rakesh Kumar Jain, J.(Oral)

The petitioner is pursuing his prayer for refund of the excess amount paid as NRI candidate after adjusting the fee payable as a general category candidate. In brief, the petitioner, after qualifying 10+2 examination in the year 1998 appeared in the Joint Entrance Test(JET) for admission to various courses including B.Sc.(Hons.) in Chemistry and Bachelor in Pharmacy. The petitioner secured 48th position in the JET while respondent No. 2 was at 55th position. The petitioner applied for the admission as a general category candidate in the faculty of Sciences i.e. B.Sc.(Hons.) in Chemistry as his first preference and B.Sc. Pharma (Pharmacy) as second preference. He got the admission in B.SC (Hon. School) in Chemistry as per his first preference and deposited the fee on

23.07.1999. He wanted to switch over to the pharmacy course and therefore, made a written request on 23.08.1999 to the Head of the Department categorically mentioning that he may be granted one seat in B.Sc. Pharma (Pharmacy) course in the NRI quota. The said application was considered and he was asked to deposit the fee payable for the NRI seat alongwith the late fee. Apropos, the petitioner deposited the fee in B.Sc. Pharma (Pharmacy) course in the NRI category but later on he made a representation dated 23.09.1999 for refund of the fee, deposited by him while getting admission in B.Sc. Pharma(Pharmacy) course under the NRI candidate, by treating him in general category as he was higher in merit than respondent No. 2 who was given admission in the general category. Representation was not decided. Therefore, the present petition was filed which was admitted on 25.04.2000. During the pendency of this petition both the petitioner and respondent No. 2 have completed their course, therefore, the only issue at present is regarding refund of excess fee. During the course of hearing, this Court had passed the following order on 26.11.2004 which read thus:-

“The respondent university shall give details of (i) the date of admission granted to the petitioner in B.Pharma(Pharmacy) in NRI quota; (ii) the date when a vacancy arose in the General Category in B.Pharma; (iii) the date when second respondent who was reported to be wait listed candidate and later accommodated in the vacancy created by a student who had been already granted admission and who have vacated the seat.”

In response to this order, affidavit of Sharanjit Singh Dhillon, Registrar, Guru Nanak Dev University, Amritsar dated 9.12.2014 was filed

alongwith certain documents.

Counsel for the respondent has submitted that the petitioner himself opted for B.Sc (Hons.) in Chemistry as first preference in general category at the time of his admission. One seat in the B.Sc. Pharma became available as it was vacated by Pradhuman Verma s/o Anil Verma which was opted by respondent No. 2 and allowed by the university. It is further submitted that respondent No. 2 made three preferences in which the first preference was faculty of applied sciences i.e. B.Pharma, second preference was faculty of sciences i.e. B.SC(Hons.) in chemistry and the third preference was of the faculty of life sciences(Hons. School) in Physics, B.Sc (Hons.) in Botany and B.Sc(Hons.) in zoology. She had also applied under general category and was offered B.Sc(Hons.) micro. Respondent No. 2 deposited the fee for B.Sc (Hons.) micro on 26.07.1999 but after the seat was vacated by Pradhuman Verma, she was shifted to B.Pharma because of her first preference and on 21.09.1999 she deposited the fee for the said course.

Counsel for the petitioner, however, submits that when the petitioner had applied for NRI seat, there was no seat available in the general category, because application was made by the petitioner on 25.08.1999 and Pradhuman Verma vacated the seat on 23.08.1999. It is further submitted that had the seat been available in the general category at the time when the petitioner had applied, he would have definitely applied in general category instead of NRI category for which he had to pay huge amount towards fee. It is also submitted that once the seat was available after it was vacated by Pradhuman Verma in the general category, the petitioner who had been admitted in the NRI category could have been

upgraded in the general category and the excess fee received by the University should have been returned to the petitioner. In support of his contention he has relied upon an order passed by this Court in the case of *Gaurav Vasudeva vs. Kurukshetra University and others* in CWP No. 18886 of 1995 decided on 3.7.1996.

On the other hand, counsel for the respondent has submitted that the argument raised by counsel for the petitioner could have some substance had the petitioner applied for faculty of applied sciences i.e. B.Pharm as his first preference because in that circumstance the seat vacated by Pradhuman Verma in the general category B.Pharm would have been offered to the petitioner by way of upgradation instead of having been offered to respondent No. 2 who had applied for B.Pharm as his first preference but was given admission in the faculty of life sciences which was third preference because no seat was available in the faculty of science at that time.

I have heard learned counsel for both the parties and after examining the available record, am of the considered opinion that in the given facts and circumstances, the petitioner is not entitled to refund of his fee which has allegedly been paid in excess to the university. The petitioner could not have been upgraded from NRI quota to the general category quota because the preference given by the petitioner for the B.Pharm was the second preference whereas the preference given by respondent No. 2 was her first preference and the first preference has to be considered by the university for the purpose of admission instead of second preference of another candidate. In so far as the decision rendered in the case of *Gaurav Vasudeva(supra)* is concerned, the same is altogether on different facts.

In view of the aforesaid facts and circumstances, I do not find any merit in the present case and hence, the present petition is hereby dismissed.

16th January, 2017

Shivani Kaushik

[Rakesh Kumar Jain]

Judge

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>