

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

361

**CWP-13802-2013
Decided on : 26.9.2017**

MAINA EDUCATION SOCIETY

....PETITIONER

VS

INDIAN NURSING COUNSEL AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

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

Mr. Munish Jolly, Advocate
for respondent No.1.

Mr. Amrit Paul, Advocate
for respondent No. 2.

Mr. Ramesh Hooda, Advocate
for respondents No. 3 and 4.

Ms. Amrita Nagpal, Advocate
for Mr. Lokesh Sinhal, Advocate
for respondent No. 5.

AJAY TEWARI, J.(Oral)

By this petition the petitioner-college has challenged the orders Annexure P-5 and P-13 whereby respondent No.1 has cancelled its affiliation. The ground taken was that this was done without issuing any notice or giving any type of hearing. In the reply, the fact that no notice was issued or that no hearing was provided has not been denied. Mr. Jaitej Mittal, Advocate who has entered appearance on behalf of the petitioner states that once this fact has not

been denied the order has to be set aside on this short ground alone.

Counsel for the respondent No.1 has however sought to justify the impugned order by stating that this is a case where the petitioner-college had given false attendance to one student. Counsel for the petitioner points out that even this finding is incorrect. As per him, one Ms. Monika Rathi had taken admission in the college and was allowed to take the examination after completing the rigorous requirements but the respondent No.1 wrongly held that since she had given birth to a child on 8.10.2009, she could not have attended the classes. As per the counsel for petitioner, this finding is purely conjectural since it is well known that a woman can lead a normal life almost up to the date of delivery if she is otherwise not facing any complication and in the present case if notice had been given to the petitioner-college this fact could have been shown to the respondent No.1.

Learned counsel for the respondent No.1 has very fairly accepted that medically it is not impossible for a pregnant woman to lead a normal life almost till the date of delivery and it cannot be taken to be an impossibility.

It is against the backdrop of this fact that this Court has to decide the case. It is trite to say that the order of disaffiliation has caused prejudice to the petitioner and such an order could not have been passed without issuing notice and an opportunity of hearing. Moreover, even on the merits it can be said that this is not medically impossible for a pregnant woman to lead a normal life till the date of delivery. She may suffer from some limited disability but it cannot be said that she would be medically unfit.

In this view of the matter, the petition is allowed and the impugned orders dated 24.5.2013 and dated 24.6.2013 are set aside, giving

liberty to the respondent No.1 to proceed afresh in accordance with law.

Since the main case has been decided, the pending civil
miscellaneous application, if any, also stands disposed of.

26.9.2017
anuradha

(AJAY TEWARI)
JUDGE

_Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No