

Sr.No.106

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

**CWP No. 10848 of 2017
Date of decision:19.05.2017**

Dr. Hem Singh and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. R.K.Malik, Sr. Advocate with
Mr. Tej Pal Singh Dhull, Advocate
for the petitioners.

Mr. B.R.Mahajan, Advocate General, Haryana with
Ms. Tanisha Peshawaria, DAG, Haryana.

Rakesh Kumar Jain, J.(Oral)

This petition is preferred by as many as 6 petitioners, who are in-service HCMS doctors, alleged to have served in rural areas in the State of Haryana. They have prayed that action of the respondents for not granting them 30% incentive may be declared as illegal. The petitioners have alleged that the area in which they have served namely, Mandi Khera (Nuh), Bushan(Bhiwani), Bangaon(Fatehabad), Bega(Sonipat) are not illegally included in the notification dated 5.05.2017, issued by the Department of Health, Government of Haryana declaring the remote/difficult areas, for the purpose of grant of weightage in marks obtained in National Elegibility-cum-Entrance test, for the purpose of admission to various Post Graduate Medical/Dental courses, in compliance with Clause 9 of MCI regulations, which are amended vide notification dated 15.02.2012.

Counsel for the petitioners has submitted that the criteria, for

declaring remote/difficult area, is that if it falls beyond 10 kms. of the municipal limits.

In this regard, counsel for the petitioners has relied upon a letter Memo No.13/39-2E-II/2017/1842 dated 6.5.2017 issued by the Director General Health Services to the Director General Medical Education & Research in which he has alleged that he has been informed on 6.05.2017 that names of some Health institutions have been left unknowingly in Notification dated 5.05.2017 though which are located beyond the 10 kms of the municipal limits.

On 18.05.2017 when the case was listed before this Court, State counsel was asked to seek instructions about the letter memo dated 6.05.2017 and the case was kept for today.

Learned Advocate General, Haryana has put in appearance and stated that the letter Annexure P-3 has not been issued by the Competent authority and is not approved by the Secretary, Department of Health. It is also submitted that the counselling has already been held on 7.05.2017 in terms of the order passed by the Supreme Court, in which State of Haryana was specifically asked to hold the counselling on 7.05.2017. It is also submitted that no addition to the notification at this stage is possible because the legality of the said notification is already under challenge before the Supreme Court in SLP No.15171-15173 of 2017 titled as *State of Haryana & another. Etc.Etc. versus Dr. Narender Soni & Ors. Etc. Etc.*

Counsel for the petitioners, in reply has submitted that even the notification dated 5.05.2017 has been issued after collecting the information on telephone. It is also submitted that the names of the area where the

petitioners have served can still be added in the notification because counselling is to take place on 22.05.2017.

I have heard learned counsel for the parties and after perusing the available record with their able assistance, am of the considered opinion that no relief can be given to the petitioners at this stage because the admissions are being conducted on the basis of the notification dated 5.05.2017. Already, the said notification has been used for the purpose of admission at the time of Ist counselling and if any area is added in the notification, it would create anomaly. Secondly, the legality of the notification is already under challenge before the Supreme Court and is sub judice. Therefore, nothing can be added or subtracted from the notification either for the benefit of the petitioners or the respondents. Thirdly, the Court can not rely upon the letter dated 6.05.2017 because Counsel for the petitioners has not shown any authority of Director General Health Services. Hence, in view of the above, I do not find any merit in the present petition and the same is hereby dismissed.

19th May, 2017

Shivani Kaushik

**[Rakesh Kumar Jain]
Judge**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No