

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 11311 of 2017

Dhruv Chowfla and others

.....Petitioners

versus

Panjab University and others

.....Respondents

Civil Writ Petition No. 15939 of 2017

Navjot Singh Dhunna

.....Petitioner

versus

Panjab University and others

.....Respondents

Date of Decision: September 08, 2017

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDHIR MITTAL.**

Present: Ms. Sukhmani Patwalia, Advocate for
Mr. Vikas Singh, Advocate (in C.W.P. No. 11311 of 2017)
for the petitioners

Mr. Amar Vivek, Advocate (in C.W.P. No. 15939 of 2017)
for the petitioner

Mr. Subhash Ahuja, Advocate
for the respondent – Panjab University

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Sudhir Mittal, J.

1. By this judgment, we are disposing of CWP Nos. 11311 and 15939 of 2017, as common questions of fact and law are involved therein.

2. The petitioners are students of 3 years LLB course and are currently studying at Swami Sarvanand Giri Regional Center at Hoshiarpur of the Panjab University and the Panjab University Regional Centre at Ludhiana. The Panjab University, invited applications for migration in the 3rd semester of LLB course during the Session 2016-17. A merit list of the applicants was prepared but certain seats were reserved for BC, SC and ESM candidates. This reservation was challenged by way of CWP No. 5017 of 2017 titled as ***Harsh Behal and others v. Panjab University and others***. The same was allowed vide judgment dated 01.05.2017 and the decision of the learned Single Judge was upheld by a Division Bench of this Court in LPA No. 747 of 2017 vide judgment dated 16.05.2017.

3. It, however, appears that private respondents had been migrated before the reservation was struck down by this Court. All of them belong to reserve category and are lower in merit. Thus, the present writ petitions have been filed.

4. Learned counsel for the petitioners have submitted that violation of the rule of merit is not permissible in law. Students higher in merit are bound to be granted migration before those who are lower in order of merit.

5. Learned counsel for the respondent – University has stated that 3rd semester is now over and that there are no seats available in the 5th semester. In continuation of this argument he also states that applicants for migration in the year 2016-17 can not be granted migration in the year 2017-18.

6. Learned counsel for the petitioner in CWP No. 15939 of 2017, has placed on record a lecture shortage list of 4th semester LLB course dated April/May 2017 as well as a Notice inviting applications for migration in the Session 2017-18. From a perusal of the said documents, it is clear that seats are available in the 5th semester and, therefore, the contention in this regard of learned counsel for the respondent – University, is misplaced. The contention that the present writ petitions

petitioners are not entitled for migration in the Session 2017-18, is also totally misplaced. The present situation has arisen only on account of the illegalities committed by the respondent – University and the students can not be made to suffer on account of the same.

7. In view of the fact that migration has to be allowed strictly in accordance with merit, we can not condone the action of the respondent – University in permitting students lower in order of merit to migrate. The writ petitions are, therefore, allowed and the permission granted to the private respondents to migrate is quashed. The respondent – University is directed to fill up the vacant seats in the 5th semester of LLB (3 years) course by first exhausting the merit list prepared pursuant to applications invited for the Session 2016-17. In case there are left over seats, only then, merit list prepared pursuant to the applications invited in the session 2017-18 shall come into play. We hope that this will give quietus to an unnecessary controversy generated by the respondent – University.

[SUDHIR MITTAL]
JUDGE

[SURYA KANT]
JUDGE

September 08, 2017
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No