

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

CWP No.16441 of 2015 (O&M)

Date of decision : 11.07.2017

The Mahabir Education Welfare Society and others Petitioners

versus

The Pt. B.D.Sharma University of Health Sciences,
Rohtak

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Sube Sharma, Advocate for the petitioners.

Mr. Amit Rao, Advocate for the respondent.

AJAY TEWARI, J.(ORAL)

By this petition the petitioners have prayed that the respondent-
The Pt. B.D.Sharma University of Health Science, Rohtak (*herein after
referred to as 'the University'*) be directed to regularize the admissions
made for the session 2014-2015. As per the impugned order it has been
mentioned that though affiliation for the Session 2014-2015 was permitted
yet the admissions made for the Session 2014-2015 could not be
regularized.

The reason given was that certain deficiencies were removed
after the admission process. The background against which this letter has
been written is not the dispute. Petitioner No.1-the College is a society
which runs a nursing college on the Bulana-Hisar Road, Ambala City since
2004-2005. When the process for affiliation for the session 2014-2015 had

to be initiated, the respondent-University appointed an Inspection Committee. It seems that there was some unpleasantness which was created by the Chairman of the petitioner No.1-Society with the Chairman of the Inspecting Committee regarding fixing of dates. The upshot of that was that the inspection was delayed. In the meantime, the petitioner No.1-College had made admissions provisionally (in anticipation of approval) which came to an end on 15.11.2014. On 14.11.2014, the college was inspected by the University and on 17.11.2014, the petitioner institute was communicated list of deficiencies for the first time. The said deficiencies were obviously removed after the admissions were over. The stand taken by the respondent-University is that as per Rules the deficiencies had to be removed before the admissions ended and since, in the present case the deficiencies were admittedly removed after the admissions, the admissions made by the petitioner No.1-College can not be regularized. Another reason for not regularizing the admissions was that no observer of the respondent-University was present when the admissions were made.

Learned senior counsel for the petitioners has accepted that actually this whole problem may in a sense have been brought upon the petitioner by the actions of the Chairman but he had submitted an unconditional written apology. He states that because of the unpleasantness which was created there was an institutional bias against the petitioners and that is why there was delay in processing the case of the petitioners by the respondent-University and even when the petitioner No.1-College requested the respondent-University to send an observer the same was not acceded to.

Learned counsel for the respondent-University has accepted the facts which have been pointed out by the learned counsel for the petitioners but has denied the allegations that the whole issue was blown up and delayed by the respondent-University.

Technically the respondent-University may be correct in rejecting the application on the two grounds, viz. the removal of deficiencies after the admissions and the absence of observer during the admission process. However, by the impugned order whatever prejudice may be caused to the petitioners, the fact remains that immense prejudice would be caused to the students who have now continued their studies under the interim order of this Court. In the circumstances, this Court can not be oblivious to the interest of those students. On the other hand, if the petition is allowed unconditionally that would also amount to rejecting the reasons which have weighed with the respondent-University and which in themselves can not be taken to be illegal.

In somewhat similar circumstances in case bearing ***LPA No.1729 of 2015 and LPA No.1166 of 2015*** both titled as ***Aarti and others Vs. Pt. B.D. Sharma University of Health Science, Rohtak and others, 2016 (2) Law Herald 1053*** respectively, where an order of a learned Single Judge that non-removal of deficiencies by the last date of admission would result in the admission being illegal was challenged, the Division Bench noticed as follows :-

“25. *Be that as it may, it is quite unfortunate for the students to suffer merely for the lapse on the part of respondent*

No. 5-Institute. Therefore, equity would be that in case the appellants have passed their examinations, their results should be declared. However, at the same time respondent No. 5-Institute shall pay a sum of Rs.5,00,000/-(Rs. Five lac only) to the Pt. B.D. Sharma University, which shall deposit the same in its Students' Welfare Fund and use the money for the welfare of the students. The admissions of the appellants shall stand regularized.”

Learned senior counsel for the petitioners points out that in that case the deficiencies had not been removed even after the last date and that is why a fine of Rs.5.00 lacs was imposed.

Keeping in view the entire conspectus of facts and also the observation of the Division Bench wherein their lordships have given primacy to the interest of the students, I deem it appropriate to allow this petition and direct the respondent-University to regularize admissions made in the year 2014 subject to the petitioner No.1-College depositing an amount of Rs.3.00 lacs to the respondent-University which shall deposit the same in its Students Welfare Fund and use the money for the welfare of the students. Let the necessary deposit be made within a period of two months.

Petition stands allowed in the above terms.

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

(AJAY TEWARI)
JUDGE

11.07.2017

pooja sharma-I

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No