

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

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**CWP-15547-2016 (O&M)
Date of Decision : 25.10.2017**

DIKSHA

....PETITIONER

VS

PANDIT BHAGWAT DAYAL SHARMA AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. S.S.Walia, Advocate
for the petitioner.

Mr. Anurag Kathuria, Advocate for
Mr. Anurag Goyal, Advocate
for respondent No.1.

Mr. Manpreet Singh Longia, Advocate
for respondent No.-3-DCI

AJAY TEWARI, J.(Oral)

By this petition the petitioner has prayed for the following relief:

- a). to issue a writ in the nature of mandamus directing the respondent No.1 to declare the result of the petitioner in the subject of B.D.O-3 of 1st year of B.D.S examination held in December 2015 with further direction to respondent No.2 to provisionally admit her in second year of B.D.S (four years) course.
- b). to issue direction to respondent No.2 to return Rs.3 lacs which it has taken from the petitioner illegally.

Brief facts are that the petitioner had taken admission in the first year of B.D.S in respondent-2 University for the session 2012-13. She appeared in the examination in July 2013 but failed in all three papers i.e.

B.D.O-1st, 2nd and 3rd. She appeared for supplementary examination in December 2013 but could pass only B.D.O. 1st paper. In August 2014 she again reappeared in B.D.O-2nd and B.D.O-3rd paper and on this occasion passed only B.D.O-2nd paper. In July 2015 she appeared for the theory exam in B.D.O-3rd paper but could not appear in the practical examination. However the result of the B.D.O-3rd was not declared. The petitioner took admission in second year of B.D.S course and deposit the fee for the same but could not appear in second year B.D.S. Exam as she could not clear 1st year examination as per D.C.I Regulations. During this time, the respondent No.2 allowed the petitioner to appear in 3rd year of B.D.S course without having passed 1st year and 2nd year. In reply, respondent No.3-Dental Council of India has stated that there were only 4 chances available to the petitioner to clear the first year examination. It is further admitted that respondent No.2 wrongly granted admission to the petitioner in B.D.S-IIIrd year and took fees from her. Counsel for the petitioner has argued that similarly situated persons had approached this Court in CWP No. 6452 of 2016 and other connected cases titled as "*Shuaib Muneer vs. State of Haryana and other*" wherein this Court held that those persons had to be given the benefit of the 2015 Regulations and had allowed the petitions. Counsel for respondent No.3 has very fairly accepted this fact.

In the circumstances, it has to be held that the petitioner is also entitled to the benefit of 2015 Regulations in the same terms as in those cases.

As regards the 2nd prayer also counsel for respondents No. 1 and 3 have accepted that respondent No.2 had illegally granted admission to the petitioner in the 3rd year. None has entered appearance on behalf of respondent

No.2 despite service and consequently respondent No.2 had already been proceeded ex parte by order dated 17.1.2017. In view of stand of counsel for respondent No. 1 and 3, the prayer of the petitioner has to be allowed and respondent No.2 is directed to refund the fees given by the petitioner for the 3rd year B.D.S Course within a period of 2 months from the date of receipt of certified copy of this judgment failing which the petitioner would be entitled to the amount with interest @ 8% per annum from the date of deposit of fee till the date of payment.

Petition stands disposed of in above terms.

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

25.10.2017
anuradha

(AJAY TEWARI)
JUDGE

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Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No