

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

CWP No. 22501 of 2016 (O&M)
Date of decision : September 13, 2017

Diksha Chauhan and another

..... Petitioners

v.

Pt. BD Sharma University of Health Science & Ors

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Ved Parkash, Advocate
for the petitioners.

Mr. Amit Rao, Advocate
for respondent No.1.

Mr. Anil Mehta, DAG Haryana

Mr. Manish Dadwal, Advocate
for respondent No.3.

Ajay Tewari, J (Oral)

The petitioners have claimed refund of the fees.

Admitted facts are that the petitioners sought admission to respondent No.3-College in the BDS Course for the academic session 2016-2017. As per them, after seeking admission and paying the fees, they were selected in a different college and consequently withdrew their admission and were entitled to refund of the fees in view of instruction No.17 of Chapter IV of the Prospectus (Annexure P-5).

The stand of the respondent-College, on the other hand, was that firstly the petitioners did not withdraw their admission before the last

date of counselling and secondly even till date seats have not been filled up and vacant seats exist.

In my opinion, the determinant factor in this case would be the second argument of counsel for respondent No.3. If it is shown that seats are lying vacant then whether the petitioners withdrew their admission before the last date of counselling or after the last date of counseling would pale into insignificance. On previous dates, this Court had directed respondent No.3 to file affidavit/s about the prevalent incumbency position in the BDS course started in 2016-2017. In the affidavit dated 16.5.2017 filed on behalf of respondent No.3, it has been mentioned that as on date, 7 seats of general category and 8 seats of reserved category remained vacant. No counter affidavit has been filed. In the circumstances, it has to be held that instruction No.17 on which the petitioners have placed reliance has not come into play and consequently they cannot seek refund of the fees. Resultantly, this writ petition is dismissed.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

(AJAY TEWARI)
JUDGE

September 13, 2017
'kk'

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No