

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.22809 of 2016
Date of Decision: 06.04.2017

Ms. Nidhi Sharma

....Petitioner

Vs.

Panjab University and others

....Respondents

CORAM: HON'BLE MR.JUSTICE R.K. JAIN

Present: Mr.Amar Vivek, Advocate,
for the petitioner.

Mr.Saurabh Gulia, Advocate,
for respondents No.1 & 2.

None for respondent No.3.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner, after clearing her 10+2 examination, applied for admission in the first year of B.A. LL.B. 5 year integrated course in the University Institute of Legal Studies [for short 'the Institute'] for the session 2016-17. The petitioner was at merit No.186 in the joint entrance test. She participated in all the counselling held by the Institute. The petitioner got admission in the Panjab University Regional Centre, Ludhiana where she has been pursuing her studies till date. The case of the petitioner is that in 3rd counseling held on 31.8.2016, the last student admitted was Arpita Bansal (Merit Rank 167). The petitioner was still in the waiting list and was to appear in the next counseling but since no such counseling was held, therefore, the petitioner filed a representation to the Vice Chancellor and on 24.10.2016, 5th counselling took place for two vacant seats in the B.A. LL.B.

waiting list and could have got the admission easily but all of a sudden, rejecting her candidature, the respondent-University granted admission to respondent No.3 in her place on the plea that he has ranked 108th in the merit list. The petitioner has averred in para No.9 of the writ petition that though she had taken admission in the Regional Centre of Panjab University, Ludhiana but she has come to know that two more seats are lying vacant in the Institute for which they are not considering the petitioner despite her representation. She has thus made a prayer in the writ petition for seeking a direction to the respondents-authorities to consider the admission/upgradation of the petitioner strictly in order of her merit.

After notice in the writ petition was issued, respondents/University filed their reply on 6.12.2016 in which it is averred that in case any seat is vacated by any candidate, after getting permission from the DUI/Vice Chancellor, the Institute would give public notice on the website, regarding filling up of the vacant seat and thereafter the vacant seat is filled up strictly according to merit. It is further averred that on 24.10.2016, counselling was held for filling up 2 vacant seats of General Category in B.A. LL.B. [Hons.] in the Institute. Respondent No.3, who was having 108th rank, was admitted being the candidate with the higher merit. Thereafter, the respondents/University filed another reply on 18.1.2017, in which it is averred in para No.2 that the last counselling for the admission to 1st semester of B.A./B.Com. LL.B. [Hons.] for the session 2016-17 was held on 24.10.2016. Two students of B.A. LL.B. [Hons.] and B.Com. LL. B. [Hons.] left the seats on 13.12.2016 and 8.11.2016, respectively. It means that since the petitioner is claiming seat in B.A. LL.B, therefore, there was only one seat vacant to which she at the most can stake her claim. Although,

did not disclose the true facts on 6.12.2016 when the earlier reply was filed about the vacant seats in B.A. LL.B. but from the reply dated 18.1.2017, it is clear that on 6.12.2016, there was no vacant seat in B.A. LL.B. as the said seat became available on 13.12.2016 after the reply was filed.

Be that as it may, the petitioner has filed CM No.3720 of 2017 in order to place certain documents on record about the subsequent developments and events in support of her case. It is submitted in the application that though three more students namely, Seerat Saldi, who was at Sr. No.557, Ms. Mehr Singh, who was at Sr. No.633 and another student Deepansh Dhiman have been given admission in the Institute. He has also referred to the order dated 16.12.2016 passed by this Court in CWP No.12711 of 2016 titled as Seerat Saldi Vs. UOI and others by which the said petitioner has been given provisional admission in the 2nd semester of the 5 years B.A. LL.B. course in the Institute and the writ petition was admitted. He has also submitted that Ms. Mehr Singh was also junior to the petitioner in the rank in the merit but she has also been given admission. The respondents/University has filed reply to the application in which it is averred that the entrance test was held in April 2016. Seerat Saldi got 557 rank in merit list prepared for General Category of B.A. LL.B. [Hons.] and 711 rank in the list of General Category of B.Com. LL.B. [Hons.]. The said student wanted to take admission under Single Girl Child quota in the Institute. In the Handbook of Information 2016, at pages 237-238, it was specifically stated that under the category of one girl child out of the only two girl children, two additional seats per unit per course, subject to maximum limit of four (4), out of the two girl children from the Session 2015-16, are created for admission to a given course in the Punjab

colleges provided they are otherwise eligible from all angles. It is further averred that the additional seats will be only for those girl children who are either a single girl child of her parents or one amongst the only two girl children with no male child. It is further averred that Seerat Saldi could not have taken admission in the Institute but because of the direction issued by this Court under which she has been provisionally admitted. In respect of Ms. Mehr Singh, it is averred that she has secured 633 rank in merit list prepared for General Category of B.A. LL.B. [Hons.] and got 538 rank in the list of General Category for B.Com. LL.B. [Hons.]. She was admitted in the 1st semester of B.A. LL.B. [Hons.] at PURC, Bajwara, Hoshiarpur. She submitted an application on 1.02.2017 to Vice Chancellor, Panjab University, Chandigarh, that she has been suffering from acute bronchial asthma because of which at times she has to consult the doctors in emergency at odd hours. Due to this, she may be migrated to the Institute or at least be allowed to attend the classes over here and take examinations also at Chandigarh. Her medical certificates were sent to Chief Medical Officer, Health Centre, Panjab University for verification and after the due verification of her medical certificates, in the meeting of the Syndicate held on 25.2.2017, she has been allowed to attend the classes for one semester. There is no allegation against the 3rd student in the application. However, it is stated by counsel for the respondents that the said student has been attending the classes and has not been migrated to the Institute.

Learned counsel for the petitioner has relied upon a decision of the Supreme Court in the case of *Asha Vs. Pt. B.D. Sharma University of Health Sciences* 2012(7) SCC 389 and a Single Bench judgment of this Court rendered in *CWP No.22808 of 2016* titled as *“Tavleen Kaur Vs.*

Union of India and others” decided on 23.12.2016 to contend that the merit has to be considered for the purpose of giving admission.

On the other hand, learned counsel for respondents No.1 & 2 has submitted that the seat falling vacant cannot be offered in the manner in which it is being claimed by the petitioner as the case set up by the petitioner is that she has been discriminated and treated unequally. It is submitted that Seerat Saldi and Ms. Mehr Singh have special circumstances on the basis of which they have been given admission whereas no such special circumstance is there in the case of the petitioner.

I have heard both the learned counsel for the parties and examined the available record.

The basic case of the petitioner is that she has merit over and above the two candidates, namely, Seerat Saldi and Ms. Mehr Singh, who have been given admission in the Institute, therefore, the petitioner has been discriminated and there is a violation of Article 14 of the Constitution of India. The basic issue involved in this case is thus *“as to whether the student, who is already pursuing her studies in the Regional Centre, Panjab University can ask for admission in the Institute of Panjab University only on the ground that a seat has fallen vacant in the 2nd semester”?*

To my mind, such a procedure cannot be adopted because it would open a flood gate for the students to keep on filing representations and if the representation is not decided by the concerned authority/University then to approach this Court by filing writ petition seeking mandamus without there being any right on their part.

During the course of hearing, learned counsel for the petitioner was specifically asked for the mandamus to show that she has a legal right to pursue and the respondent has a legal obligation to discharge their legal

right. No such legal right has been shown by the petitioner except referring to some provisions mentioned in para 19 of the Handbook about the maintaining of waiting list. I am afraid that the petitioner does not have any right to ask for her admission in the Institute in the garb of migration. In case the petitioner is having any kind of difficulty at the place where she is at present pursuing her studies, she can seek migration, in accordance with Calendar and other Regulations but she cannot ask for re-admission in the Institute only on the ground that a seat has become available in the 2nd Semester.

With these observations, I do not find any merit in the present writ petition specially when the petitioner is not equal to the other two candidates, namely, Seerat Saldi and Ms. Mehr Singh, who have been given admission on the ground that the seat has to be created for single girl child of her parents and the said matter is still pending before this Court and Ms. Mehr Singh has been given admission on the ground that she has been suffering from acute bronchial asthma and produced medical certificate, which was also verified by the University. Thus, the petitioner is not equal to the other candidates with whom she has claimed discrimination and hence, the present petition is found to be without any merit.

Dismissed.

(RAKESH KUMAR JAIN)
JUDGE

06.04.2017

Vivek

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*