

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 20715 of 2017

Date of Decision: October 12, 2017

Digvijay Singh

.....Petitioner

versus

Baba Farid University of Health Science and others

.....Respondents

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

Present: Mr. Ashok Sharma Nabhewala, Advocate
for the petitioner

Ms. Savi, Advocate
for respondent No. 1 – University

Mr. Karan Chaudhary, Advocate
for respondents No. 2 and 4

Mr. Naveen Sharma, Advocate
for respondent No. 3

Sudhir Mittal, J.

The petitioner passed his Senior School Certificate Examination, 2017 from the British School, Sector 44-B, Chandigarh. Thereafter, he applied for NEET (UG-2017) which was qualified by him by securing 548 out of 720 marks. The petitioner was a candidate for All India Quota (for 15% seats) and according to his NEET (UG-2017) result the over all rank of the petitioner in All India Quota was 10223 and his Category Rank (UR category) was 6324.

The petitioner could not get admission in the All India Quota seats.

Counselling for the Punjab State domicile seats was conducted by the respondent–University on 24.07.2017 and 18.08.2017. Thereafter, certain seats

were surrendered by the Director General Health Services, New Delhi of All India Quota and to fill up the same a Public Notice dated 19.08.2017 was issued. Applications were sought on All India basis and even the candidates who had already applied for the said quota were required to apply afresh. Subsequently, on 23.08.2017 a clarificatory notice was issued notifying the general public that the seats surrendered by the Director General Health Services, New Delhi i.e. All India Quota Seats had been reverted to the State quota and, therefore, only those candidates who are bonafide residents of State of Punjab would be eligible. The fee of candidates other than residents of State of Punjab, was refunded.

The petitioner is a resident of Panchkula and has cleared his Senior School Certificate Examination from a school situated in Chandigarh. Despite the same the petitioner applied for the seats of All India Quota surrendered by the Director General Health Services, New Delhi. Counselling was held on 31.08.2017 and the petitioner was granted admission to the MBBS course in the Management Quota of Christian Medical College, Ludhiana. This was cancelled on 01.09.2017. Thereafter, a Notice dated 02.09.2017 (Annexure P-8) was issued for Walk-in-Physical Counselling for left over MBBS/BDS seats and again candidates from all States of India including Punjab were notified. It is the case of the petitioner that the Walk-in-Physical Counselling was held on 04.09.2017 and the petitioner was number one in the merit list prepared at the time of counselling, yet, candidates lower in order of merit than him were granted admission against the vacant seats in general category.

The respondents have put in appearance consequent to the notice issued. Written statements have been filed on behalf of respondents No. 1 (University), 2 and 4. The stand taken by the respondent–University is that the petitioner is not a bonafide resident of State of Punjab and, therefore, is not

eligible for admission in the State of Punjab. Its case is that 10+1 and 10+2 examination has been passed by the petitioner from a school of U.T. Chandigarh and, therefore, he is not covered by the conditions of Admission Notification dated 02.06.2017 (Annexure P-3). Further, it is submitted that the Admission Notice dated 02.09.2017 (Annexure P-8) was rightly confined to candidates from Punjab because All India Quota Seats which had been surrendered had been reverted to the State Quota as is apparent from Notice dated 23.08.2017 (Annexure P-6) and, therefore, the respondent-University was justified in first considering candidates who belonged to the State of Punjab.

We have heard learned counsel for the parties and have perused the record.

Clause 11 of Admission Notification dated 02.06.2017 (Annexure P-3) regarding “bonafide resident of Punjab” is reproduced below:-

“The candidate should be a bonafide resident of Punjab. The resident status of Punjab state shall be taken in terms of Punjab Government Department of Personnel and Administrative reforms (PP-II Branch) letter No. 1/3/95-3 PP II/9619, dated 6th June, 1996, ID No. 1/2/96-3PP-2/8976 dated 7th July, 1998 and ID No. 1/3/95-3PP/II/81 dated 1st January 1999 and any further instructions issued by the Department of Personnel, if any, and the same shall be adhered to. Candidate must have passed 10+1 and 10+2 examination from Punjab. Candidate who passed his/her 10+1 and 10+2 examination or other equivalent examination from a recognized School/Institution situated in Chandigarh (Union Territory), who is bonafide resident of Punjab shall also be eligible.

The following categories shall be exempted from this

condition:-

(i) Children/wards/dependents (whose parents are not alive) of all those regular Punjab Government employees, members of All India Services borne on Punjab cadre, Serving Judges and the employees of the Hon'ble Punjab and Haryana High Court, employees of Boards/Corporations/Statutory Bodies established by an Act of the State of Punjab who have been holding post outside Punjab on or before 1st January of the year of passing 10+2 examination and their children/wards/dependents were compelled to do Class XI and/or XII outside Punjab.

(ii) Children/wards/dependents (whose parents are not alive) of all those regular Central Government employees, employees of Boards/Corporations/ Statutory Bodies of the Central Government who have remained posted inside Punjab for at least two years out of the three years preceding year of passing 10+2 examination but were posted outside Punjab for some time during these three years due to which their children/wards/dependents were compelled to do class XI and/or XII or equivalent qualifying examination outside Punjab. However, those who remained posted in Punjab continuously for these three years shall not be entitled to be exempted as they are equally placed with other Punjab Government employees posted in Punjab.

(iii) Children/wards/dependents (whose parents are not alive) of all those Punjab Government pensioners who have retired

on or before 1st January of the year of passing 10+2 examination and have settled outside Punjab on or before 1st January of the year of passing 10+2 examination and their children/wards/dependants were compelled to do class XII outside Punjab.

(iv) Children/wards/dependents (whose parents are not alive) of those military/para-military forces personnel who were born in the territory of Punjab as per their service record at the time of entry into service.

(v) Children/wards/dependents (whose parents are not alive) of those Ex-employees of military/Para military forces who were born in the territory of Punjab as per their service record at the time of entry into the service and have retired on or after 1st January of the year preceding two years of the year of passing 10+2 examination.

(vi) Candidates belonging to minority community who are competing for the minority quota in the minority institutions.

(vii) Candidates seeking admission under NRI category.

(viii) Wards of defence personnel posted in Punjab.

From perusal of the above, it is clear that only a candidate who is bonafide resident of Punjab in accordance with the relevant Notifications governing the subject and who has passed 10+1 and 10+2 examination or equivalent examination from a school situated in U.T. Chandigarh is eligible to apply against the Punjab quota seats. Further, a perusal of Notice dated 23.08.2017(Annexure P-6) and dated 02.09.2017 (Annexure P-8), respectively

shows that the surrendered All India Quota Seats had been converted to Punjab Quota Seats and in the Walk-in-Physical Counselling held on 04.09.2017 the candidates who were bonafide residents of Punjab were entitled to preference, even though candidates from all over the country could apply for the left over seats. Admittedly, the petitioner is not covered by Clause 11 of the Admission Notification dated 02.06.2017 (Annexure P-3) and is, therefore, not a bonafide resident of Punjab. Admission against a Management Quota Seat in Christian Medical College, Ludhiana was erroneously granted to the petitioner in the counselling held on 31.08.2017 because the said counselling was confined to students who were bonafide residents of Punjab. For the same reason, the petitioner was liable to be ignored in the Walk-in-Physical Counselling held on 04.09.2017, since the candidates were being considered against left over seats which had already been converted to the State Quota. Thus, candidates like the petitioner who were not residents of the State of Punjab could only be considered if any seats were left after considering the claim of candidates who were bonafide residents of Punjab.

In view of the above, the action of the respondent-University can not be faulted. The writ petition is accordingly dismissed, however, without any order as to costs.

[SUDHIR MITTAL]
JUDGE

[SURYA KANT]
JUDGE

October 12, 2017
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No