

Sr. No. 219

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

CWP NO. 26086 of 2016

Date of decision:16.05.2017

Rehbar Foundation

.....Petitioner

versus

Union of India and others

.....Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Aminder Singh, Advocate
for the petitioner.

Mr. Puneet Gupta, Advocate
for UOI/respondents No. 1 and 2.

Mr. Amit Chaudhary, Addl.A.G.Punjab.

Mr. T.S.Chauhan, Advocate and
Mr. Satnam Chauhan, Advocate
for respondent No. 3.

Rakesh Kumar Jain, J.(Oral)

The petitioner institution submitted an application with the UOI/respondent No.1 for the grant of necessary approvals for starting a UNANI Medical College for UG-BUMS(Bachelor of Unani Medicine and Surgery) course with intake of 50 students in the name of Rehbar Ayurvedic and Unani-Tibbi Medical College, Hospital and Research Center at Bhawanigarh, District Sangrur. The said application dated 30.04.2015 is stated to have been received by respondent No. 1 alongwith necessary documents and draft.

Counsel for the petitioner has submitted that the petitioner had applied for 50 seats to be filled up for the UG-BUMS(Bachelor of Unani Medicine and Surgery) course. There is no dispute in so far as 40 seats are concerned as those seats have already been filled up. According to the

petitioner, the writ petition in that regard does not survive but an application has been filed by the petitioner for seeking permission to fill the remaining 10 seats. It is alleged that the petitioner was not allowed to fill up those 10 seats in view of clause 3 of a notification dated 24.05.2013 issued by Central Council of Indian Medicine in which it is provided that “**Admission through lateral entry:** *Ten seat per year out of the total number of intake capacity permitted for Kamil-E-Tib-Wa-Jarahat(Bachelor of Unani Medicine and Surgery-B.U.M.S) will be reserved for admission to main course through lateral entry(Pre-Tib course)*”. It is submitted that another notification was issued by the Central Council of Indian Medicine on 7.11.2016 exercising the powers, conferred under Section 36(1)(i)(j)(k) of the Indian Medicine Central Council Act, 1970 in which it is provided that “**Admission through Pre-Tib Course:-***Admission may be made on a maximum of ten seats per year out of the total number of intake capacity permitted for Kamile Tib o Jarahat(Bachelor of Unani Medicine and Surgery-B.U.M.S.) to main course through Pre-Tib course. Rest of the seats may be filled up by following the eligibility criteria mentioned at clause 2 (a).”*

Counsel for the petitioner has submitted that there was a condition in the earlier notification dated 24.05.2013 for reserving 10 seats for admission to main course through lateral entry(Pre-Tib course) which has been diluted in the notification dated subsequent 7.11.2016 in which it is provided that the admission may be made on a maximum of 10 seats through Pre-Tib course. It is argued that the word used in the notification dated 7.11.2016, “may be”, is keeping a cap of maximum 10 seats per year

for the admission in the B.U.M.S course through Pre-Tib, for the petitioner to admit the students in case there is no candidate seeking admission through Pre-Tib course. It is submitted that since Pre-Tib course is being taught only in three colleges, therefore, there are not much students seeking admission to B.U.M.S to main course through Pre-Tib course, therefore, 10 seats earlier reserved may go waste. It is thus, prayed that the petitioner institute may be allowed at this stage, to fill up the 10 seats, which were reserved for admission to main course through lateral entry(Pre-Tib course) in terms of notification dated 24.05.2013.

In reply, counsel appearing on behalf of the University has referred to clause 4 of the notification dated 24.05.2013 in which duration of the course is provided which read as under:-

***“Duration of Course:(a) Pre-Tib Course: The duration of course shall be one year, and
(b) Degree(Bachelor of Unani Medicine and Surgery-B.U.M.S) Course: The duration of course shall be five years and six months comprising:
i. First Professional session -- Twelve months
ii. Second Professional session – Twelve months
iii. Third Professional session -- Twelve months
iv. Final Professional session -- Eighteen months
v. Compulsory Rotatory Internship—Twelve months”***

According to the respondent University, the duration of the First Professional session of B.U.M.S is of 12 months. There is no dispute that the last cut off date for the purpose of admission was 30.11.2016 by which the petitioner had admitted 40 students out of 50 and 10 seats were reserved for the students who had done Pre-Tib course. The examinations

are to take place for the session 2016-17 in the month of November/December 2017 and much of the course has been over, therefore, it is not in the interest of the students to allow the petitioner to admit students at this stage because it is a medical institution in which students have to study not only the theory but also have to attend the practical classes.

I am of the considered opinion that in such facts and circumstances of the case, the entire period of 12 months have to be given to the students for the purpose of attending classes and they cannot be burdened by extra classes for the purpose of allowing the petitioner to fill up the remaining 10 seats even, if it is stated at the instance of the petitioner that the students are ready and willing to take admission at this juncture. Consequently, I do not find any reason to allow the petitioner to fill up the 10 seats which are remained vacant on account of notification dated 24.05.2013. The petitioner may, however, fill up the seats which were earlier meant for Pre-Tib course in terms of notification dated 7.11.2016 in the next session in accordance with law.

With these observations, the present petition is hereby disposed of.

16th May, 2017

Shivani Kaushik

**[Rakesh Kumar Jain]
Judge**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No