

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.24140 of 2017

Date of Decision: November 27, 2017

Ramnish Rathor

.....Petitioner

versus

Guru Ravidas Ayurved University, Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDHIR MITTAL.

Present: Mr.Munish Gupta, Advocate, for the petitioner.

Mr.J.S.Bhandohal, Advocate, for respondent No.1.

Mr.Rajesh Bhardwaj, Additional AG, Punjab.

Mr.Sumeel Jain, Advocate, for

Mr.Pankaj Jain, Advocate, for respondent No.4.

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Surya Kant, J. (Oral)

The question which arises for consideration in this case is whether the petitioner is entitled for admission to B.A.M.S. Course against a seat reserved for 'Tsunami Victims'.

[2] The facts may be noticed briefly.

[3] The State of Punjab authorized Guru Ravidas Ayurved University, Punjab, Hoshiarpur (in short 'the University') to conduct Punjab Ayush Entrance Test (PAET-2017) for admission to BAMS/BHMS/BUMS Courses in Government and private colleges of the State of Punjab. The University published its Prospectus in which Punjab Government Notification dated 12.05.2011 issued by the Department of Medical Education and Research has also been incorporated. Sr.No.5 of this notification deals with 'RESERVATION' and according to this clause, 1%

seats are reserved in “Government Colleges” for Tsunami Victims/Cancer/Aids Victims. Note inserted under sub-clause (x) provides that **“the reservation under Tsunami Victims category shall be available only to wards/ children of all Ex-servicemen settlers of Campbell Bay Island in Andaman & Nicobar”**.

[4] The petitioner claims himself to be a Tsunami victim and grand-child of late Joginder Singh who was an ex-serviceman settler of Campbell Bay, Great Nicobar Island, Andaman and Nicobar Island, applied for PAET -2017 in the reserved category of 'Tsunami Victim'. As the petitioner was not granted admission despite his assertion that he is at Sr.No.1 in the merit list amongst the candidates belonging to the category of 'Tsunami Victims', he has approached this Court.

[5] The respondent-University has filed its written statement to which the petitioner has filed rejoinder also.

[6] We have heard learned counsel for the parties and gone through the record.

[7] It is undeniable that 1% seats only in 'Government Colleges' are reserved for 'Tsunami Victims/Cancer/Aids Victims'. It is also an admitted fact that there are total 40 seats in the Government Ayurvedic College at Patiala (there is only one Government Ayurvedic College) and in this manner, 0.4 seats become available every year for the above-stated reserved category. The respondents have thus clarified that after every three years the turn to fill up one seat under the above-stated reserved category comes and in the year 2017, no such seat was available, for one seat was made available in the year 2016 but no candidate under the reserved category of 'Tsunami Victims' came forward to seek admission, hence the said seat was

converted into General category. Such a specific plea has been taken by the University in para-14 of its written statement, which reads as follows:-

“....14. That para No.14 of the petition is wrong, hence denied. It is submitted that the petitioner is claiming the seat under reserved category of Tsunami Victims category in the Government Ayurvedic College, Patiala. There is no seat reserved for Tsunami Victims category in the College for this year. There are total 40 seats in the College, all the seats have been filled up and the admission process is completed. There is 1% reservation in Tsunami Victims category. The seats under this category are not available every year, earlier there was a seat in the year 2016 and it will be available according to reservation i.e., 0.4 seats. In the year 2016, when the seat was reserved for Tsunami victim category, there was no claimant under this category and the seat was converted into general category according to law. The claim of the petitioner cannot be accepted in view of the non availability of seats in the college, which is only the Government College under the University.

[8] In our considered view, the reason assigned by the University for not granting admission to the petitioner is quite logical, just and fair. Keeping in view the percentage of reservation, no seat can be offered in the Government College every year to the candidates belong to 'Tsunami Victims' category. Such a seat can be made available on rotational basis after 3 or 4 years. The subject reservation being not Constitutional in nature, the authorities were right in converting the seat in General Category in the year 2016, when a seat was available on rotational basis but there was no claimant to seek admission against such seat.

[9] It is not the case of the petitioner that any candidate lower in merit has been admitted in open category. In this view of the matter, no

case to grant admission to the petitioner under the above-stated reserved category is made out.

Dismissed.

[SURYA KANT]
JUDGE

November 27, 2017
mohinder

[SUDHIR MITTAL]
JUDGE

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

CM No.16967 of 2017 in
CWP No.24140 of 2017

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Ramnish Rathor versus Guru Ravidas Ayurvedic University, Punjab & Ors.

Present : Mr.Munish Gupta, Advocate,
for the applicant-petitioner.
Mr.J.S.Bhandohal, Advocate,
for respondent No.1.
Mr.Rajesh Bhardwaj, Sr.DAG, Pun jab.
Mr.Sumeel Jain, Advocate, for
Mr.Pankaj Jain, Advocate,
for respondent No.4.

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For the reasons mentioned in the application, the same is
allowed subject to all just exceptions and rejoinder filed by the petitioner is
taken on record.

CM stands disposed of.

(SURYA KANT)
JUDGE

November 27, 2017
mohinder

(SUDHIR MITTAL)
JUDGE