

**In the High Court of Punjab and Haryana at Chandigarh.**

**CWP-262 of 2017  
Decided on 24.01.2017**

Akansha and another

--Petitioners

Vs.

Union of India and others

--Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN**

Present: Mr.Namit Gautam, Advocate, for the petitioners

Mr.M.S.Longia, Advocate, for respondent No.3

Mr.Ramesh Hooda, Advocate, for respondent Nos.5 and 6

Mrs.Tanisha Peshawaria, DAG, Haryana

**Rakesh Kumar Jain,J:** (Oral)

This petition is filed for issuance of a writ in the nature of mandamus, directing the respondents for the issuance of Admit Cards/Roll Numbers to the petitioners to appear in the MBBS 2<sup>nd</sup> Prof. Annual Examination 2016 starting w.e.f 21.1.2017.

In short, the petitioners are the students of Goldfield Institute of Medical Science and Research (respondent No.7) which has been ordered to be closed by order of the Medical Council of India and the entire Batch of the petitioners of the academic session 2014-15 was shifted to the

**“Government Quota”**, in compliance of the order passed by the Supreme Court on 25.09.2014.

There are four Medical Colleges affiliated to Pandit B.D. Sharma, University of Health Sciences, Rohtak (for short, 'UHS'). Batch of 2014-15 of respondent No.7 was adjusted in all the four Medical Colleges. The petitioners were afraid that they may not be allowed to appear in the examination of the 2<sup>nd</sup> Professional Annual Examination 2016 which was scheduled to be held from 21.1.2017, therefore, they made a prayer for the issuance of necessary direction to the respondents.

During the pendency of the writ petition, the respondents were asked to file para-wise reply on 20.1.2017 and the University was directed to issue Roll Numbers to the petitioners forthwith so that they may appear in the examination which were scheduled to be held on 21.1.2017 and 23.1.2017.

The UHS has filed the reply. Need to file para-wise reply arose because the petitioners had made specific averments in para 21 of the writ petition stating that **'even the students of 2014-15 Batch i.e. the Batch similar to that of the petitioners will be appearing in their MBBS 2<sup>nd</sup> Professional Annual Examinations as per the date-sheet Annexure P-9'**. The said students were adjusted along-with the petitioners on 30.05.2016 i.e. vide Annexure P-2 and, therefore, there is no difference between the petitioners and the students of Maharaja Agrasen Medical College, Agroha (Hisar). **'Thus, even the parity demands that the petitioners who are similarly situated should be permitted to sit in the forthcoming examinations as per Annexure P-9'**.

The respondents have filed specific reply to this paragraph

which may be read as under:-

“Maharaja Agarsen Medical College, Agroha telephonically as well as through E- mail, the College has not permitted any of the student of 2014-15 batch shifted from the Gold Field Institute for appearing in the MBBS 2<sup>nd</sup> Prof. Annual Examination. The college can never issue Roll Numbers to the students who do not fulfill the required criteria of 75% attendance as per MCI norms. It is mandatory for all the colleges affiliated with the University to follow the MCI norms strictly. Moreover, it is submitted that the petitioners are trying to mislead this Hon'ble Court by stating that Maharaja Agarsen Medical College, Agroha has permitted the students to appear in MBBS 2<sup>nd</sup> Prof. Examination. The petitioners have not produced any documentary proof in their support. From the letter (Annexure -R5/13) received from the Maharaja Agarsen Medical College Agroha clearly shows that they have not issued Roll Numbers to any students of Gold Field Institute for the MBBS 2<sup>nd</sup> Prof. Examination”.

Learned counsel for the respondents has submitted that UHS (respondent No.7) had earlier sent computerised attendance sheet when the meeting was held on 23.12.2016 to discuss attendance of students of respondent No.7 and ultimately final decision was taken in the meeting held on 16.1.2017 to the following effect:-

“In view of all the above the students shifted from Gold Field Institute of Medical Science & Research, Ballabhgarh, Faridabad are not eligible to appear in MBBS 2<sup>nd</sup> Prof. University examination to be held w.e.f. 21.1.2017. All these students may be given an opportunity to complete their attendance and fulfill the requirement of assessment. These students may be allowed to attend classes and appear in the evaluation tests conducted by the various departments and their eligibility may be determined for the supplementary exams proposed to be held in April,2017”.

It is submitted that none of the student of batch of 2014-15 of respondent No.7 adjusted in all the found Medical Colleges affiliated to UHS has been allowed/permitted to appear in the examination starting from

21.1.2017 because of shortage of lecturers because the duration of course is 16 months. The petitioners and similarly situated students of respondent No.7 have not attended the course for 5 and ½ months. In this regard, it is submitted that the petitioners do not fulfill the condition of 75% attendance as required by the Medical Council of India Regulations on Graduate Medical Education, 1997, which read as under:-

“(1) ATTENDANCE; 75% attendance in a subject for appearing in the examination is compulsory inclusive of attendance in non-lecture teaching i.e. seminars, group discussions, tutorials, demonstration, practicals, hospital (Tertiary Secondary, Primary), posting and bed side clinics etc”.

It is submitted by learned counsel for the respondents that allowing the petition vis-a-vis the students who have studied for 16 months would be discriminatory even if there was no fault on the part of the petitioners who had got the admission in respondent No.7 as per their merits.

As a last resort, learned counsel for the petitioners has submitted that as per the documents appended by the respondents with the reply, the petitioners have attended 243 hours lecture which meets the criteria.

On the other hand, learned counsel for the respondents has submitted that it is not the case set up by the petitioners and thus, there was no occasion for the respondents to give reply to it. It is submitted that the petitioners are not discriminated against other similarly situated students as none of the student of respondent No.7, adjusted in all the for Medical Colleges, affiliated to UHS, has been permitted to take the examination starting from 21.1.2017 and 23.1.2017.

After hearing learned counsel for the parties and examining the

available record, I am of the considered opinion that there is no force in the arguments raised by learned counsel for the petitioners because the averments made in para 21 of the writ petition have been categorically denied by the respondents-UHS and there is no evidence brought on record to the contrary.

Basically, the petitioners were permitted to appear in the examination because the respondents had not filed para-wise reply to the writ petition and had filed only short reply without answering the averments made in para 21 of the writ petition.

In view thereof, I do not find any merit in this writ petition and the same is hereby dismissed.

It is pertinent to mention here that the petitioners were permitted to appear in the 2<sup>nd</sup> Prof. Examination under the order of this Court in which it was made clear that it will be subject to the final outcome of the writ petition. Since the writ petition has been dismissed, therefore, result of the petitioners of 2<sup>nd</sup> Prof. Examination taken by the petitioners shall not be declared.

**24.01.2017**  
**rr**

**(Rakesh Kumar Jain)**  
**Judge**

**Whether Speaking/Reasoned:** **Yes/No.**

**Whether Reportable:** **Yes/No**