

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

**CWP No.4589 of 2017
Date of Decision: 09.05.2017**

Ms. Kusum Dalal

....Petitioner

Vs.

Deenbandhu Chhotu Ram University of Science & Technology and
another

....Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.S.K. Malik, Advocate,
for the petitioner.

None for respondent No.1.

Mr.Yogesh Saini, Advocate, for
Mr.Manoj Bajaj, Advocate,
for respondent No.2.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed in order to challenge the validity of the order dated 23.2.2017 by which respondent No.2 has been given admission to follow part time Ph.D. (Doctorate in Philosophy) Programme in the Department of Electronics & Communication Engineering of Deenbandhu Chhotu Ram University of Science & Technology [for short 'the University].

Shorn of unnecessary details, the petitioner applied for admission in part time Ph.D. (Doctorate in Philosophy) Programme in the Department of Electronics & Communication Engineering against the admission notice dated 26.12.2016. The petitioner appeared in the entrance examination and secured 39 marks out of 100 marks and was

held ineligible. Admittedly, there are 5 seats of Ph.D 2016-17 for part time admission out of which 1 seat is given to All India Category and 4 seats are given to State Quota with the ratio of 15% and 85 % respectively. 40% of the State Quota seats were reserved for Haryana Open General Category (HOGC) and accordingly 1 seat was reserved for Ex-serviceman/ESM and 1 seat for Dependent of Freedom Fighter/DFF and Freedom Fighter/FF. 20% of the State Quota seats was reserved for Scheduled Caste for which 1 seat was reserved and 11% State quota seats was reserved for BCB for which 1 seat was reserved. Accordingly, out of 4 seats of 85% of State Quota, 1 seat for ESM, 1 for DFF/FF, 1 for SC and 1 seat for BCB were reserved. Respondent No.2 had admittedly secured 42 marks and crossed the bench mark of 40 marks, which was stated to have been prescribed in Clause 5.5 of the Ordinance and Regulations for the Degree of Doctor of Philosophy (Ph.D.), in which it is provided that *“the applicants found eligible after scrutiny will have to take the entrance test and those further shortlisted will be required to appear for interview. The applicants who have qualified UGC/CSIR/DBT or other such national level Examinations/selections for research and have been awarded scholarship/fellowship may be exempted from the test”*. The procedure for shortlisting was prescribed keeping in view the number of candidates and in that 40% was the bench mark to clear the examination and for the purpose of consideration on the basis of their *inter se* merit. Admittedly, the petitioner could not cross the hurdle of 40 marks as she had secured 39 marks whereas respondent No.2 secured 42 marks and was thus considered by the University when it

found that there was no one to claim ESM/DFF/FF seat of the HOGC, which was then offered to the candidate who belongs to HOGC category.

The grievance raised by the petitioner is that on 30.1.2017 by an office order, the Vice Chancellor lowered down the cut off percentage of the entrance test from 40% to 33% for the left over seat after the 1st counselling.

Learned counsel for the petitioner has submitted that two seats, which were reserved for ESM/DFF/FF having not been consumed by the said category shall have to be considered as left over seats instead of converting them as HOGC and given to a student such like respondent No.2. It is further submitted that had it not been done, the petitioner would have been considered because the cut off percentage of the entrance test was lowered down from 40% to 33% and she would have got admission on the basis of her academic qualification which was much more than respondent No.2.

On the other hand, learned counsel for the respondents has submitted that the seats meant for ESM/DFF/FF have been converted to HOGC because the said seats were offered to the students as per their merit and are not the left over seats. According to them the left over seats would be the seats which remain vacant and are not taken despite having been offered to the students.

I have heard both the learned counsel for the parties and after examining the available record, am of the considered opinion that there is no merit in the present petition because the seats have already been consumed by the students belonging to HOGC in which

40% quota was fixed out of the State Quota because of the reason that ESM/DFE/FF candidates are not available and those seats cannot be treated to be left over seats and hence, letter dated 30.1.2017, which is the sole reliance of the petitioner, is of no use to him.

Consequently, I do not find any merit in the present petition and the same is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

09.05.2017

Vivek

Whether speaking/reasoned Yes/No

Whether reportable Yes/No