

LPA no. 747 of 2017 (O&M) 1

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

**LPA no. 747 of 2017 (O&M)
Date of Decision : 16.05.2017**

Panjab University and another

....Appellant(s)

Versus

Harsh Behal and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

Present : Mr.Subhash Ahuja, Advocate for the appellants

MAHESH GROVER, J.(ORAL)

This appeal is directed against the judgment of the learned Single Judge dated 1.5.2017. Four students (hereinafter referred to as the 'writ petitioners') who were studying law in the Regional Centre at Mukhtsar and Hoshiarpur of the Panjab University were desirous of migrating to the Panjab University at Chandigarh to complete their LL.B degree course. University invited applications for admission by way of migration for the 3rd/4th semester for the sessions 2016-17. An interview by the Board of Control of Department of Laws followed and a provisional merit list was prepared in which writ petitioner no.1 was placed at Sr.no.100, writ petitioner no.2 at Sr. no.105, writ petitioner no.3 at Sr. no. 106 and writ petitioner no.4 at Sr. no. 117. The private respondents to the

writ petition were lower in merit but the University categorized the merit

list by providing reservation and creating four categories i.e General, Scheduled Caste, Scheduled Tribe and Defence prescribing a different cut off for each. All the writ petitioners could not make the grade in the general category as the cut off was upto Sr. no.80 but the private respondents gained admission on account of benefit of reservation. It is this action which was challenged by the writ petitioners after their representations went unheeded.

Learned Single Judge opined that there is no provision for reservation in the migration policy/scheme.

Learned counsel for the appellants while impugning the judgment contends that the finding of the learned Single Judge that there are no rules and regulations is incorrect and in this regard he drew our attention to Annexure R-3 appended to writ petition where certain guidelines have been provided which is a part of the Calendar for Migration of Students from a Law College to the Department of Laws of the Panjab University. Our attention was drawn to the following clauses:-

- “1. Migration cannot be claimed as a matter of right.
2. Migration to I, II, IV & VI semester is not permitted.
3. Migration to LL.B III and V Semesters shall be permitted on the recommendation of the Board of Control of the Department/Director/Principal of the Institution subject to the following conditions:

(a) xxxx

(b) xxxx

(c) xxxx

(d) xxxx

(e) xxxx

(f) For students of Panjab University/Institutions (affiliated/constituent), migration will be done according to inter-se merit.

4. xxxx

5. No application for migration shall be entertained after 16th of August. Incomplete applications in any form or without the result from the migrating University shall stand rejected.”

Alongside the aforesaid, learned counsel for the appellants also drew our attention to the provisions of Panjab University Calendar, in particular, clause 29.1 which appears under the heading of Chapter “Admission and Migration of Students and Tuition Fees.

Clause 29.1 is extracted herebelow:-

“**29.1** In making admissions all University Teaching Departments and the Affiliated Colleges will reserve seats in each class as under:-

(A) Affiliated Colleges of Punjab State shall follow reservation policy of the Punjab Government.

(B) Affiliated Colleges of Chandigarh (U.T) shall follow the reservation policy of Union Territory Administration.

(C) All University Teaching Departments shall follow the reservation policy of the Central Government i.e

(a) 15% for members of Scheduled Castes;

(b) 7.5% for members of Scheduled Tribes;

(c) 5% for members of Backward Classes

as defined by the Government from time to time.”

Learned counsel for the appellants wants us to conclude from reading of clause 29.1 that it applies to migration.

We are afraid we cannot place any such interpretation as bare reading of 29.1 indicates its relevance only to admissions and thus the criteria of reservation applied is easy to comprehend. But in so far as migration is concerned there is absolutely no provision for reservation that has been brought to our notice. During the course of hearing of the writ petition, the Registrar of University was summoned and he candidly conceded to the same and also stated that there is no such practice and reservation had been resorted to for the first time.

If that be so, then we are afraid then we cannot find any fault with the reasoning of the learned Single Judge where the criteria of reservation applied to migration has been deprecated and negated. We would re-affirm the findings in the absence of any provision to the contrary.

Learned counsel for the appellants then contends that direction has been issued by the Court to admit the students to the 4th semester which is impermissible in view of the afore-extracted clauses of migration policy which permits migration to 3rd and 5th semester. We are afraid we cannot accept this plea for the reason that writ petitioners had applied well in time for the 3rd semester and it is dilly dallying by the University which has resulted in such a piquant situation. Present problem is the creation of the University itself which did not decide the matter of the writ petitioners for an inordinate period despite several representations to remedy the situation.

No other point has been urged. Therefore, finding no merit in the instant appeal, the same is hereby dismissed.

(Mahesh Grover)
Judge

16.05.2017
rekha
Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

(Shekher Dhawan)
Judge