

COC-2609-2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

COC-2609-2018

Date of Decision: 30th August, 2018

Bani Suri & another

...Petitioners

Versus

Sh. Arvind Sharma & another

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. D.S. Patwalia, Senior Advocate with
Mr. Kannan Malik, Advocate
for the petitioners.

Mr. Anupam Gupta, Senior Advocate with
Mr. Ashish Rawal, Advocate
for respondent No.1.

AUGUSTINE GEORGE MASI, J. (ORAL)

Mr. Anupam Gupta, learned senior counsel, appearing for respondent No.1, states that so far as petitioner No.2-Naman Gupta is concerned, he is being offered a seat under the Government quota in Punjab Institute of Medical Science, Jalandhar.

In the light of the statement made by the learned senior counsel for respondent No.1, learned counsel for the petitioners states that qua petitioner No.2-Naman Gupta, he would withdraw the present contempt petition.

Having considered the submissions made by the learned senior counsel for the parties with reference to the claim of petitioner No.1-Bani Suri, the reasoning as to why a seat has been kept reserved for her in Adesh

COCIP-2609-2018

Medical University, Bathinda, are the instructions issued by the Government of Punjab, dated 12.07.2017, according to which, the collective roster of the seats would operate in the private institutes on the basis of the names, when taken alphabetically of the institutes. This reasoning, in the considered view of this Court and the logic keeping it in such a manner as per the instructions of the Government of Punjab appears to be unreasonable and especially when the concerned student is not given an opportunity to opt for a seat in the institutes where the seats are to be filled as per merit. Thus, in the light of the fact that it is not a disputed position here that petitioner No.1 after having obtained an interim order in her favour on 05.07.2018, whereby, a seat was required to be reserved for her was never given an option to take up the seat in any of the private institutions, in which, in compliance of the order/judgment, the seats were required to be created, would be entitled to a seat in the Government quota.

With the coming into force the judgment passed by this Court on 23.08.2018 in CWP No.15944 of 2018, whereby, it was declared the reservation would be applicable to the Government institutions shall be extended to the private institutions as well. Petitioners in those writ petitions obviously would have to be granted admission on the basis of creation of the said seats. With a creation of the seats, petitioner would be entitled to an institute of her choice, which option she did not get because of the instructions which have been referred to above with regard to the reservation as to how it has to be carried out, which are unreasonable as stated above. Therefore, in the fairness of things and to balance the

equities, this Court is of the considered view that the petitioner would be entitled to a seat which would fall in the Government quota.

Learned senior counsel for respondent No.1 has informed the Court that two seats have fallen vacant, one in Government Medical College, Amritsar and another in Sri Guru Ram Das Institute of Medical Sciences and Research, Amritsar, out of which, petitioner can be granted a seat but since it is under the general category, it would not be so permissible.

In the light of the peculiar facts and circumstances of this case as recorded above, the seat which falls in the general category, to balance the equity, be offered to petitioner No.1 by the University under the Government quota as per the direction of this Court in the writ petition unless there is candidate higher in merit in the general category of Children/Grand Children of Sikh Riot affected/displaced persons (Category 21).

This order shall not be treated as a precedent.

The present contempt petition qua petitioner No.2 stands disposed of as withdrawn and qua petitioner No.1, disposed of with above observations.

Rule issued to the respondents stands discharged, subject to above.

(AUGUSTINE GEORGE MASIH)
JUDGE

30th August, 2018
Harish

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