IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

COCP No. 2738 of 2018 (O&M)
Date of decision : 22.11.2018

Jatinderbeer Kaur ..Petitioner

versus

Satish Chandra and others .. Respondents

Coram: Hon'ble Ms. Justice Nirmaljit Kaur

Present: Mr. D.S. Patwalia, Senior Advocate with
Mr. Gaurav Rana, Advocate, for the petitioner.

Mr. Karan Singh Sandhu, Advocate, for respondents No.3 & 4.

Nirmaljit Kaur, J. (Oral)

On 06.09.2018, when the matter was listed for the first time, the coordinate learned Single Bench of this Court specifically noted that despite judgment dated 23.8.2018 passed by this Court in CWP No.15944 of 2018 titled as "Bani Suri and another v. State of Punjab and others" and other connected involving the petition filed on behalf of the petitioner, whereby the reservation was restricted to the Government institutes was extended to the private institutes, no reservation had been made. Thereafter, when the matter was listed on 20.11.2018, on an information provided under the Right to Information Act, 2005, one seat was found to be available in the MBBS course in Government Medical College & Hospital, Amritsar. Accordingly, learned counsel for respondents No.3 & 4 were directed to seek instructions in this respect.

Today, learned counsel for respondents No.3 & 4, after seeking instructions, does not dispute the fact that said one seat is available but submit that the same cannot be granted to the petitioner on account of two

SHARMILA DEVI
2018.11.26 17:56
I attest to the accuracy and
integrity of this document
phhc

fold reasons. Firstly, the said available seat arose after the cut off date i.e. August 31, 2018. Secondly, in case the said seat has to be offered, the same shall be offered in accordance with merit and there is a candidate who is higher in merit than the petitioner.

The stand taken by learned counsel for respondents No.3 & 4 is totally unreasonable in view of the findings and observations recorded in the order dated 30.08.2018 passed in COCP No.2609 of 2018 in the connected petition of similarly situated candidates, wherein, it was observed that after coming into force the judgment in CWP No.15944 of 2018, the reservation was required to be given in the private institutes, but the same was not done and as a result the candidates were deprived of exercising of their option to take up the seat in any of the private institutes. Accordingly, the respondents in the same case offered to grant seats to the petitioners in the course in pursuance of the said contempt petition in one of the Government institutes.

There is no reason to discriminate the present petitioner. Admittedly, one seat is still lying vacant in the Government Medical College & Hospital, Amritsar. In case the seat had been reserved in pursuance to the order dated 23.08.2018, the petitioner would have been automatically granted the said seat before 31.08.2018. Thus, the lapse, if any, is on the part of the respondent. The petitioner cannot suffer on the said account. This view is also strengthened from the judgment rendered by the Hon'ble Apex Court in **Asha** v. **Pt. B.D. Sharma University of Health Sciences & Ors., 2012(7) SCC 389**, wherein it was specifically held that in case a candidate is denied admission for no fault of him, the cut of date

SHARMILA DEVI
2018.11.26 17:56
I attest to the accuracy and
integrity of this document
phhc

should not be permitted to operate as a bar for such a student.

No doubt the said seat has to be given as per the merit but the candidate higher in merit is stated to have already taken admission in BDS course and has neither raised any objection nor approached this Court till date.

Thus, in the light of the particular facts and circumstances mentioned as above, the seat which is lying vacant with the respondents at Government Medical College & Hospital, Amritsar, under the Government quota, be given to the petitioner. The contempt petition is accordingly disposed of as above.

Needful be done forthwith.

(Nirmaljit Kaur)
Judge

22.11.2018
sharmila

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

SHARMILA DEVI
2018.11.26 17:56
I attest to the accuracy and
integrity of this document
phhc