

CWP no.17535 of 2018 (O&M) 1

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

CWP no.17535 of 2018 (O&M)

Date of Decision :12.09.2018

Nitin

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE MAHABIR SINGH SINDHU**

Present : Mr.Saurabh Arora, Advocate for petitioner

Mr. Teevar Sharma, Advocate for respondent no.2

MAHESH GROVER, J.(ORAL)

CM no. 13099-CWP of 2018

Allowed as prayed for.

Main case

The petitioner has approached this Court seeking admission to the M.B.B.S. Course.

Petitioner is visually impaired to the extent of 40%. He was denied admission vide Annexure P-9 for the following reason, in the physical handicapped quota:-

“As per Govt.of India DGHS, Nirman Bhawan, New Delhi letter dated 19.6.2018 the candidate of low vision having less than 40% disability i.e (Cat. 0(10%), i(20%) & ii(30%) is eligible for Medical Course but is not eligible for PH quota. Hence, you are not

eligible in PH category for admission to MBBS course.

However, your candidature in General Category or any other Category for which you are eligible can be considered for which you have to fill your choice for 2nd round of counselling as per merit.”

40% cap has been provided by the Medical Council of India in its guidelines. The Hon'ble Supreme Court in a recent pronouncement in writ petition bearing W.P(c) no. 669 of 2018 titled as '**Purswani Ashutosh (Minor) through Dr. Kamlesh Virumal Purswani vs. Union of India and others**' decided on 24.8.2018, while dealing with the similar situation observed as below:-

“Be that as it may, as mentioned hereinabove, it is not necessary for this Court to adjudicate the question of whether Section 32 of the 2016 Act is attracted or not, in view of the admission that the Medical Education Regulations which incorporate the provisions of the 2016 Act in relation to reservation to higher educational institutions, have statutory force and are binding on the MCI. The regulations have not yet been amended by the MCI in the light of the recommendations made by its committee and the decision taken at the Secretariat level. No amendment in the 2016 Act or in the regulations framed by the MCI have been made so far.

For the reasons discussed above, this Court holds that the petitioner cannot be denied admission to

the MBBS course if he qualifies as per his merit in the category of persons with disability. In the event, the petitioner is found to be entitled to admission, he shall be given admission in the current academic year 2018-19.”

Since the petitioner in the present petition is identically placed, we are of the opinion that the petition deserves to be disposed of in view of the afore-extracted observations of the Hon'ble Supreme Court.

Ordered accordingly.

(Mahesh Grover)
Judge

12.09.2018
rekha

(Mahabir Singh Sindhu)
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No