

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-22506-2018

Date of decision: - 05.09.2018.

Parmod

...Petitioner

Versus

Union of India and others

...Respondents

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

Present:- Mr. Jagjeet Beniwal, Advocate, for the petitioner.

MAHESH GROVER, J. (ORAL)

Notice of motion.

Mr. Samarth Sagar, Addl. A.G., Haryana, accepts notice on behalf of respondent-State, Mr. Manpreet Singh Longia, Advocate, accepts notice on behalf of respondent No.2-Medical Council of India and Mr. Teevar Sharma, Advocate, accepts notice on behalf of respondent-University.

Petitioner prays for admission to the MBBS course on the ground that he deserves consideration in the physically handicapped quota.

In connected case bearing CWP-22451-2018 we issued notice of motion for today considering that 05.09.2018 is a last date for admission fixed by the University for concluding the process.

Despite the above, no instructions are forthcoming. Mere presence of the University through its counsel does not help at all. Evidently, if we read the petition, it is apparent that the petitioner had been denied consideration in the physically handicapped category on account of the limit prescribed by the MCI in guidelines qua the disabilities that are to be acknowledged for gaining access to such a special quota for the physically challenged.

The Hon'ble Supreme Court while dealing with the matter in a recent judgment in case titled 'Purswani Ashutosh (minor) through Dr.Kamlesh Virumal Purswani Vs. Union of India and others', Writ Petition (C) No.669 of 2018, decided on 24.08.2018, has observed as under: -

“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.

The Writ Petition is disposed of accordingly.”

We have gone through the assertions made by the petitioner in the petition and the only impediment cited are the MCI guidelines, which have not been approved by the Parliament so far.

The above observations of Hon'ble the Supreme Court settle the issue and so the petitioner would be entitled to admission as per the observations made by the Hon'ble Supreme Court, but it has been brought to our notice that all the seats intended for physically challenged persons have now been filled up alongwith all the residual seats by converting them into other categories and there would be none available to accommodate the petitioner. As the admission process is over today, we think it appropriate to give a quietus to the matter particularly when those granted the admission are not before us as respondents and any mandate flowing from our order is likely to unsettle them.

However, in case the petitioner opts for BDS course, the admission for which is stated to be still underway, he shall be considered in view of the Supreme Court observations stated above in the physically handicapped category.

In view of the above, the present stands disposed of.

(MAHESH GROVER)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

September 05, 2018
naresh.k

Whether reportable?	No
Whether reasoned/speaking?	Yes