

**CWP no.24833 of 2017 (O&M)
and connected case**

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

1.CWP no.24833 of 2017 (O&M)

Joban Sultan and others

....Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

2.CWP no.25946 of 2017 (O&M)

Saurabh Yadav

....Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

Date of Decision :10.09.2018

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

Present : Mr.Tribhuvan Singla, Advocate for
the petitioner(s) in CWP no. 24833 of 2017

Mr. Akshay Jain, Advocate for petitioner
in CWP no. 25946 of 2017

Mr. Suveer Sheokand, Addl. AG, Punjab

Mr. J.S.Bhandohal, Advocate for respondent no.2

MAHESH GROVER, J.(ORAL)

By this order we will dispose of two civil writ petitions bearing
CWP nos. 24833 and 25946 of 2017 as they have offered commonality of
facts and interpretation of the eligibility clause.

Petitioners (in CWP no. 24833 of 2017) are desirous of pursuing BHMS course and petitioner (in CWP no. 25946 of 2017) is desirous of pursuing BAMS course. The eligibility conditions are extracted herebelow:-

“**B.** Candidate must have passed in the subjects of Physics, Chemistry, Biology and English individually and must have obtained a minimum of 50% marks (40% for SC/BC and **45% for Physical Handicapped***) for BAMS and 40% marks (33% for SC/BC) for BHMS taken together in PCB and also in Physics, Chemistry and Biology (PCB) in 10+2 examination.”

Petitioners in both the cases have applied for left over seats and there is no dispute that the same can be filled up from desirous candidates from all over the country.

The respondents have interpreted the aforesaid eligibility clause to mean that a candidate should have secured 50% marks individually in each of the subjects i.e physics, chemistry, biology and English whereas eligibility condition reads to the contrary as it states that a candidate should have passed physics, chemistry, biology and English individually and must have obtained 50% marks in the case of BHMS and 40% in case of BAMS. The language of the eligibility condition does not suggest that 50% marks are to be obtained in each of the subjects.

Learned counsel for respondent no.2 however states that intention was to prescribe a condition as per their interpretation i.e of having 50% marks in each subject.

After hearing learned counsel for the parties, we are of the opinion that the language of the eligibility condition as extracted above is not ambiguous. It clearly states that a person should have passed in all the subjects of physics, chemistry, biology and English but ought to have obtained 50% marks for pursuing BHMS course or 40% marks for pursuing BAMS course. If the respondents feel that to improve the standards of education, 50% marks in each subject is essential then they ought to rectify the eligibility condition itself but as long as it exists as extracted above, we cannot interpret it in any other manner except the one as we have done now. By virtue of the interim orders we have granted permission to the petitioners to participate in the counselling provisionally subject to the final outcome of the writ petitions, pursuant to which they have been pursuing their course for a period of one year. Finding that there is no other impediment in the way of the petitioners for being admitted to the said courses, the interim orders are therefore made absolute and respondents are directed to permit the petitioners to be admitted on regular basis.

Petitions stand disposed of.

Learned counsel for the petitioner (in CWP no. 25946 of 2017) prays for allotment of Govt. quota seat.

We are of the opinion that such a prayer cannot be answered in his favour for the simple reason that it has been brought to our notice by the learned counsel for the respondent no.2 that on the date when the instant petition was filed all the seats in the Govt. quota stood filled up. Consequently, petitioner was granted admission against the management quota seat. In view of the statement made by the learned counsel for

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respondent no.2, prayer of the petitioner to be accommodated against Govt.
quota seat is hereby declined.

(Mahesh Grover)
Judge

10.09.2018
rekha

(Mahabir Singh Sindhu)
Judge

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