

CWP no. 9055 of 2018 (O&M) 1

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

CWP no. 9055 of 2018 (O&M)

Date of Decision : 14.05.2018

Perthish Sharma

....Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE RAJBIR SEHRAWAT**

Present : Mr.Lokesh Sinhal and
Mr. Sukhandeep Singh, Advocates for the petitioner(s)

Ms. Anu Pal, AAG, Punjab

Mr. A.S.Miglani, Advocate for respondents no. 2 and 3

Mr. Banni Thomas, Advocate for respondent no.4

MAHESH GROVER, J.(ORAL)

CM no. 7150-CWP of 2018

Allowed as prayed for. Replication is taken on record.

Main case

In this writ petition, the petitioner has impugned the action of the University in cancelling his admission to course in Orthodontics in the Sri Guru Ram Dass Institute of Dental Sciences and Research, Amristar and instead giving the said seat to respondent no.4.

Undisputed facts are that respondent no.4 is at Sr. No. 135 while the petitioner is at sr. no. 148. Both the candidates were desirous of pursuing their course in Orthodontics and their claims were duly considered

by the recruitment committee. Respondent no.4 was granted admission in the Dashmesh Institute of Research and Dental Sciences at Faridkot while the petitioner in Sri Guru Ram Dass Institute of Dental Sciences and Research, Amristar. For no apparent reason the admission of the petitioner at Sri Guru Ram Dass Institute of Dental Sciences and Research, Amristar was cancelled and the seat was allotted to respondent no.4.

On 10.4.2018 we had issued notice of motion and on 26.4.2018 we had directed that admission of respondent no.4 shall be subject to the outcome of the writ petition.

Replies of the University and respondent no.4 have been filed and the same are taken on record. The petitioner in turn has also filed counter affidavit refuting the assertions made by the respondents.

Learned counsel for the petitioner refers to the form filled up by respondent no.4, which is on record as Annexure R-2/2 and in the column which is to be filled up before Admission Committee she has opted for Dashmesh Institute of Research and Dental Sciences, Faridkot which was subsequently scored off in favour of Sri Guru Ram Dass Institute of Dental Sciences and Research, Amristar. The quota indicated is of management and the category is 'General'. For the purposes of reference relevant portion of Annexure R-2/2 is extracted herebelow:-

“TO BE FILLED BEFORE ADMISSION COMMITTEE

(a) I hereby accept admission in Orthodontics course at DRDS, Faridkot (scored off) SEIRD, Amritsar (added thereafter) in MANAGEMENT quota under GENERAL Category.

Sd/-
(Signature of the candidate)”

Annexure R-2/2 is duly signed by all the members of the Committee. There is no confusion as far as the petitioner is concerned, in his choice of college or category. It has been argued before us by the respondents that the necessity to cancel the admission of the petitioner in the college in Amritsar to accommodate the said respondent no.4 arose because of an erroneous impression of the said respondent seeking admission against minority quota. It has been argued by the counsel for the University that since respondent no.4 did her BDS from Christian Dental College at Ludhiana there was an impression prevailing in the minds of the Committee members that she was pressing for minority quota. For whatever, it is worth this reasoning fails to cut any ice with us. Learned counsel for the University in order to show its bona fides has brought before us the records of the proceedings wherein in para 8 the Committee has observed as follows:-

“8. One candidate namely, Ms. Jewel Elizabeth Renji at merit no. 135 appeared before the Admission Committee and she wanted to opt MDS Orthodontics (Institutional Preference seat) at SGRD Inst. Of Dental Sciences, Amritsar but being a graduate from the CDC, Ludhiana and applied under Christian Minority Quota, inadvertently she was denied MDS seat at SGRD in IP category. Then she said if there is no seat of orthodontics in SGRD then to allot her a seat in Dasmesh Dental College, Faridkot in the same speciality of Orthodontics. Accordingly, she has been allotted a seat. Thereafter, one Dr. Perthish Sharma appeared before the

admission committee at Sr. no.148 and was allotted the seat of MDS orthodontics at SGRD Dental College, Amritsar under IP category. After hearing the announcement about Dr. Perthish Sharma being allotted a seat in SGRD in Orthodontics in IP category which Ms. Jewel Elizabeth Renji wanted, she again appeared before the committee and clarified that since she is a graduate of BFUHS so she is eligible for IP seat in SGRD as per Notification. She further clarified that she was not claiming a minority seat at SGRD rather she wanted a seat in IP category itself. The matter was discussed among the members of selection committee and explained that it was probably miscommunication between the candidate and the person verifying document that her claim for the seat at SGRD in Orthodontics in IP category was denied. So it was agreed upon that in the haste only her claim was denied for IP seat in SGRD so the seat should be given to her as she was higher in merit. Further, since counseling was still on and only one candidate had opted a seat before Dr. Perthish Sharma and she was still present at the counseling venue so the committee rectified her mistake immediately. Dr. Perthish then forgone the available seats since the seats were not of his choice.”

We could have accepted the aforesaid reasoning of the

believes all this. She has clearly opted for a management seat in the general category and the name of the Dashmesh Institute of Research and Dental Sciences, Faridkot is very clearly mentioned and then struck off later. There was thus no scope for any error as the committee has sought to conjure up. Possibly respondent no.4 being higher in merit could have got a seat if she had opted for it and there would have been no quarrel with the same but if the said respondent never even pressed for her claim in the said college then anything which was transmitted orally before the committee would have to be discarded to uphold the fairness of the process of counselling. Therefore, writ petition is allowed. Respondent no.4 may be allotted a seat of her first choice at Dashmesh Institute of Research and Dental Sciences, Faridkot while the petitioner be granted admission in the college to which he was initially allotted i.e Sri Guru Ram Dass Institute of Dental Sciences and Research, Amritsar.

(Mahesh Grover)
Judge

14.05.2018

rekha

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No

(Rajbir Sehrawat)
Judge