

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

L. P. A. No. 345 of 2017 (O&M)
in C. W.P. No. 4147 of 2000

Date of decision : 17.05.2018

Karambir Singh Dhot Appellant

VS.

The Guru Nanak Dev University
and another Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BINDAL.

HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. Kanwaljit Singh, Senior Advocate
with Mr. Abhishek Bajaj, Advocate
for the appellant.

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DEEPAK SIBAL, J. :

The present intra court appeal filed under Clause X of the Letters Patent is directed against judgment dated 16.01.2017 passed by the learned Single Judge of this Court, through which writ petition filed by the appellant was dismissed.

The factual matrix of the matter, in brief, as borne out from the record and after hearing learned counsel for the appellant, is that in the year 1998, the appellant appeared in the Joint Entrance Test which was conducted for admission to various courses including B.Sc. (Hons.) in Chemistry and B.Sc. Pharmacy. The appellant, who belonged to the General Category, had given his first preference for being admitted in the B.Sc. (Hons.) in Chemistry whereas his second preference was B.Sc. Pharmacy. On the declaration of the result of the entrance test, the

appellant secured 48th position and as per his merit-cum-preference, was admitted to the course of B.Sc. (Hons.) in Chemistry. Thereafter, on 23.08.1999, the appellant made an application that he be shifted from B.Sc. (Hons.) in Chemistry to B.Sc. Pharmacy under the NRI quota. The application was favourably considered and accordingly he was admitted to B.Sc. Pharmacy under the NRI quota. Thereafter, the appellant deposited the fee and started attending classes of B.Sc. Pharmacy. However, later the appellant filed an application seeking refund of his fee paid under the NRI category as according to him, there was a candidate in the General Category with lesser merit who was undergoing the course of B.Sc. Pharmacy. When his representation remained undecided, he approached this Court through a petition, which was dismissed by the learned Single Judge vide order impugned in the present appeal.

Mr. Kanwaljit Singh, learned senior counsel appearing for the appellant submitted that once there was a candidate in the General Category undergoing the course of B.Sc. Pharmacy, who had lesser merit than the appellant, the respondent University could not have charged fee from the appellant as applicable to NRI students.

We have heard learned senior counsel for the appellant and considered the submissions made by him but do not find merit in the same.

It is the admitted position that the appellant had opted for B.Sc. (Hons.) in Chemistry as his first preference and B.Sc. Pharmacy as his second preference. Initially he was offered the course of B.Sc.(Hons.) in Chemistry, which he joined. It is further not disputed that on the basis of an

application made by the appellant himself, he was shifted to the course of B.Sc. Pharmacy under the NRI quota on a seat, which he occupied till he completed the course over a decade ago. It is further not disputed that due to the above fact, the NRI seat, against which the appellant was admitted, could not be offered by the University to any other NRI candidate.

The learned Single Judge, while dismissing the appellant's petition, held him not entitled to refund of the fee paid by him under the NRI category after recording a specific finding that the appellant could not be admitted in the course of B.Sc. Pharmacy under the General Category because that was the course of his second preference and that he had already been admitted to the course of his first preference whereas at that time, respondent no. 2 had been admitted to B.Sc. Pharmacy which was as per her first preference. Therefore, she had a preferential right over the appellant. We have not been persuaded by the learned senior counsel to take a different view especially when the appellant has passed the course about 15 years ago.

In view of the above, we find that there is no merit in the present appeal and the same is accordingly dismissed.

(RAJESH BINDAL)
JUDGE

(DEEPAK SIBAL)
JUDGE

May 17, 2018

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

Monika
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I attest to the accuracy and
integrity of this document