

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

- 1. LPA No. 765 of 2017 (O&M)**

**Ajay Kumar Thakur and others** **...Appellants**

**versus**

**State of Haryana and others** **...Respondents**
- 2. LPA No. 771 of 2017 (O&M)**

**Ganpati Institute of Hotel Management** **...Appellant**

**versus**

**State of Haryana and others** **...Respondents**
- 3. LPA No. 772 of 2017 (O&M)**

**Naveen Kumar and others** **...Appellants**

**versus**

**The State of Haryana and others** **...Respondents**
- 4. LPA No. 776 of 2017 (O&M)**

**Anish Garg and others** **...Appellants**

**versus**

**State of Haryana and others** **...Respondents**
- 5. LPA No. 779 of 2017 (O & M)**

**Bilal Ahmed Sheergojri and others** **...Appellants**

**versus**

**State of Haryana and others** **...Respondents**

**6. LPA No. 780 of 2017 (O&M)**

**Panipat Institute of Engineering and Technology  
and others**

**...Appellants**

**versus**

**State of Haryana and others**

**...Respondents**

**7. LPA No. 789 of 2017 (O&M)**

**Kamini Dhiman and others**

**...Appellants**

**versus**

**State of Haryana and others**

**...Resopondents**

**8. LPA No. 790 of 2017 (O&M)**

**Vivek Kumar and others**

**...Appellants**

**versus**

**State of Haryana and others**

**...Respondents**

**9. LPA No. 812 of 2017 (O&M)**

**Priyanka Chauhan and others**

**...Appellants**

**versus**

**The State of Haryana and others**

**...Respondents**

**10. LPA No. 890 of 2017 (O&M)**

**Suhail Ahmed Shah and others**

**...Appellants**

**versus**

**State of Haryana and others**

**...Respondents**

**11. LPA No. 1024 of 2017 (O&M)**

**Mohit Sandhu and others**

**...Appellants**

**versus**

**State of Haryana and others**

**...Respondents**

**12. CWP No. 21816 of 2017 (O&M)**

**Asia Pacific Institute of Information Technology**

**...Petitioners**

**versus**

**State of Haryana and others**

**...Respondents**

**13. CWP No. 14278 of 2017 (O&M)**

**Puran Murti Educational Society**

**...Petitioner**

**versus**

**State of Haryana and others**

**...Respondents**

**14. CWP No. 27592 of 2017 (O&M)  
DATE OF DECISION : 30.10.2018**

**Chauhan Aakansksh Rajesh and others**

**...Petitioners**

**versus**

**Kurukshetra University, Kurukshetra**

**... Respondents**

**CORAM : HON'BLE MR. JUSTICE MAHESH GROVER  
HON'BLE MR. JUSTICE ARUN MONGA**

**Present :** Mr. Girish Agnihotri, Senior Advocate with  
Mr. Arvind Seth, Advocate;

Mr. R. K. Malik, Senior Advocate with  
Mr. Sunil Hooda, Advocate;

Mr. Rajiv Atma Ram, Senior Advocate with  
Mr. Ranjit Singh, Advocate;

Ms. Amandeep Kaur, Advocate for  
Mr. Saurabh Arora, Advocate;

Mr. N. S. Gill, Advocate for  
Mr. Munish Gupta, Advocate;

Mr. Harsh Aggarwal, Advocate;

for the appellants/petitioners.

Mr. Samrath Sagar, Addl. AG, Haryana.

Mr. Rajesh K. Sheoran, Advocate and  
Mr. P. K. Chugh, Advocate,  
for HSBTE in LPA Nos.765,776,779,771, 789, 790  
812,890 of 2017 and  
CWP Nos. 21816 and 14278 of 2017.

Mr. Harkesh Manuja, Advocate,  
for respondent No.6.

Mr. Anurag Goyal, Advocate and  
Mr. Amit Rao, Advocate,  
for MDU.

Mr. R. K. Ravesh, Advocate,  
for respondent No.52 in LPA No.765 of 2017.

Mr. Amarjit Singh Virk, Advocate,  
for Kurukshetra University.

**MAHESH GROVER, J. (ORAL)**

By this order, we propose to dispose of the above said  
Letter Patent Appeals bearing Nos.765, 771, 772, 776, 779, 780,  
789, 790, 812, 890 and 1024 of 2017 and also Civil Writ Petitions  
bearing Nos.14278, 21816 and 27592 of 2017, as they involved  
common question of facts and law.

Some of the writ petitions/letter patent appeals have  
been filed by the institutes, while the others are by the students,

whose careers are affected on account of the action of the respondents.

For the purpose of convenience, we draw the facts from CWP No. 21816 of 2017, wherein the institution has questioned the action of respondent-State, in cancelling the admission of the students.

In question are numerous courses to which the students were admitted, such as Diploma in Engineering (LEET), Bachelors in Engineering, Bachelors in Architecture, MBA Courses and Bachelors Diploma in Pharmacy. These are being run by the technical institutions and the students are granted access on the basis of marks obtained by them in the qualifying examinations.

The controversy centres around the cut-off date prescribed for admission i.e 15.08.2016. The process was started in June, 2016 for the session 2016-17. Although the admissions initially were to be concluded by 02.08.2016, the said date was extended to 10.08.2016 and later on upto 31.08.2018 with late fee. A public notice was issued by the respondents (on record as Annexure P-6), where list of students admitted, was solicited for editing/correction/updation of record of students admitted upto 15.08.2016 for the session 2016-17. This information was to be provided by 21.11.2016. The common thread that runs through all these cases, is that the information of students admitted upto 15.08.2016 could not be provided/uploaded on the web-site by the prescribed date i.e 16.08.2016 and some of the institutions

provided it subsequently but prior to 21.11.2016, which was essentially a date given out in the public notice for edition/correction of the list of the students admitted.

The State did not accept this information provided by the institutions leading to a writ petition bearing No.25806 of 2016 which was decided on 11.05.2017.

The learned Single Judge did not agree with the plea of the students and the institutions by holding that not uploading the requisite information by 16.08.2016, would lead to a presumption of admissions being made beyond the cut-off date. This order having been passed on 11.05.2017, is now the subject matter of various Letter Patent Appeals and immediately after passing of the order, various appeals were preferred without appending the impugned judgment, considering that the examinations were scheduled for 16.05.2017. This court then passed the order dated 15.05.2017, permitting the students to take the examinations at their own risk and responsibility, which they have done and the results were kept in sealed covers. The same have been brought before us in the Court.

Learned counsel for the appellants/petitioners have contended before us that all the admissions were made prior to 15.08.2016 i.e cut-off date but the information could not be uploaded in time due to some technical snags or for some reasons peculiar to an individual institution, but the information was indeed supplied in all the cases upto 21.11.2016 which was

the date intended for editing/correction.

It is further contended that merely because the information was not supplied, would not *ipso facto* mean an inference of admissions being made beyond the cut-off date and it is for the State to have physically verified such a lapse to identify those who were admitted beyond cut-off date so as to invite an adverse action.

Apart from that, it is contended that AICTE guidelines which bind the admission process to a particular date, cannot be applied to all the courses which were not covered by the AICTE regulations. It is stated that the MBA course particularly do not invite rigors of the AICTE admission process. Reliance has been placed on the judgment of Supreme Court in the case of **"Association of Management of Private Colleges v. All India Council for Technical Education and others" 2013 (8) SCC 271** wherein it has been held as under :-

"44. So far as point nos. 4 and 5 are concerned, the amended Regulation Nos. 8 (c ) and 8 (iv) of 2000 were introduced by the AICTE in exercise of its power under Section 10 (k) of AICTE Act by adding the MBA and MCA courses within the purview of the provisions of AICTE as it is included in the Regulation as a technical education. It is the case made out by learned counsel for the appellant Mr. Prashant Bhushan that the amended Regulation has not been placed before the Parliament which is mandatory as per the provisions of Section 24 of the AICTE Act, the said contention has not been disputed by the AICTE in

these cases. The provision of Section 24 reads thus :

"24. Rules and regulations to be laid before Parliament:- Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and it before the expiry of the session immediately following the session of the successive sessions, aforesaid, both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation."

The position of law is well settled by this court that if the Statute prescribes a particular procedure to do an act in a particular way, that act must be done in that manner, otherwise it is not at all done. In the case of Babu Verghese v. Bar Council of Kerala, 1993 (3) SCC 422, after referring to this Court's earlier decisions and Privy Council and Chancellor's Court, it was held as under :-

"31. It is the basic principle of law long settled that if the manner of doing a particular act is prescribed under any statute, the act must be done in that manner or not at all. The origin of this rule is traceable to the decision in Taylor v. Taylor, which was followed by Lord Roche in Nazir Ahmad v. King Emperor who stated as under :

32. This rule has since been approved by this Court in Rao Shiv Bahadur Singh v. State of V.P and again in Deep Chand v. State of Rajasthan. These

cases were considered by a three-Judge Bench of this Court in State of U.P v. Singhara Singh and the rule laid down in Nazir Ahmad case was again upheld. The rule has since been applied to the exercise of jurisdiction by Courts and has also been recognized as a salutary principle of administrative law.

In view of the above said decision, not placing the amended Regulations on the floor of the Houses of Parliament as required under Section 24 of the AICTE Act vitiates the amended Regulations in law and hence the submissions made on behalf of the appellants in this regard deserve to be accepted. Accordingly, point Nos.4 and 5 are answered in favour of the appellants."

In view of the above said decision the petitioners/appellants have also placed reliance upon the judgment of this Court in **CWP No. 27276 of 2015 decided on 12.10.2017** titled as, "**Carrier Computer Education Society, Lohanru v. Union of India**", wherein this Court noticing the plea offered by the institutions of technical snag coming in the way of uploading the information, accepted it as justified and regularised the admissions of students.

The respondents, on the other hand, justify their action and contended that since the information was not uploaded in time, it necessarily would invite an inference of violation of the schedule. Resultantly they have cancelled the admissions and they are justified in doing so.

After hearing learned counsel for the parties, we are of the opinion that the respondents have been unjust in their

approach considering that career of so many students was involved which could not have been left to be perceptions or inference sans conclusive verification. At least in one of the case, we noticed that the institutions submitted substantial records in support of their plea of the admissions being made before the cut-off date, such as following :

- i) Copy of letter No. Regn./R-VI/16/3403-3703 dated 10<sup>th</sup> August, 2016 of KUK for extension of last date of admission.
- ii) Copy of counseling forms, application forms, fee receipts and affidavit.
- Iii) Bank statement (deposit statement of cash/cheque/DD/NEFT/ATM deposit).
- iv) Cash book details (29.3.2016 to 7.8.2016).
- v) Data sheet for verification/cross verification, Roll No. admission data, fee deposit date of cash/cheque/DD/NEFT/ATM deposit.
- vi) Copy of e-mails sent to HSTES.
- Vii) Copy of letter sent to HSTES along with admitted student datasheet (on or before 4<sup>th</sup> August, 2016).

Now if we see reasoning and the manner in which the aforesaid records were discarded by the respondents, it displays almost a pre-determined mind. All this record has been wished

away simply on the ground that it was in the domain of the institution.

As stated above, such a serious matter that centres around the career of students could not have been left to imaginations or perceptions and it was incumbent upon the authorities to verify such fact and to record it as an absolute fact and be more specific. The reason for our observation is not far to seek because it is quite possible that institution after making the admissions by the stipulated date may have defaulted in uploading the information. Would it be just, to penalise the students, for the lapse of the institution or looking at it from another situation, there may be few students who might have been admitted beyond the cut-off date. Would it imply that all the students would be painted with the same brush, to result in cancellation of all the admissions merely because those admitted within the stipulated time, their information was also uploaded along with those admitted beyond the said date. We, therefore, cannot accept this as a just approach and the verification report being totally vague, cannot be relied upon.

Since the action of the respondents is not based on any specifics and merely revolves in the realm of perceptions, we are of the opinion that the said action is unsustainable. We also derive support from the decision rendered by this Court in **CWP No. 27276 of 2015 decided on 12.10.2017.**

Consequently, we allow all the writ petitions. The Letter Patent Appeals are also allowed and the orders impugned therein, are set-aside. The action of the respondents in cancelling the admissions of the students is set-aside. The results which were kept in sealed cover, be opened and conveyed to them.

In view of the above, all the pending miscellaneous applications are also disposed of.

**(MAHESH GROVER)  
JUDGE**

**(ARUN MONGA)  
JUDGE**

**OCTOBER 30, 2018**  
shalini

Whether speaking/reasoned :   yes/no  
Whether reportable :           yes/no