

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

CWP No.16504 of 2019 (O&M)

Date of Decision : 24.07.2019.

Puran Murti College of Pharmacy, Kami Road, Sonapat ...Petitioner

Versus

Pt. B.D. Sharma, University of Health Sciences, Rohtak ...Respondent

Coram : Hon'ble Mr. Justice B.S.Walia

Present: Mr. Tarjit Singh Chhikara, Advocate for the petitioner.

Mr. Parmod Sharma, Advocate for
Mr. Kuldeep Tiwari, Advocate for the respondent.

B.S.WALIA, J. (Oral)

1. Prayer is for the issuance of a writ in the nature of Mandamus for directing the respondents to increase intake of students in B.Pharmacy from 60 to 100 for the academic session 2019-2020, on account of having been accorded permission by the Pharmacy Council of India (hereinafter referred to as 'the PCI') on 18.04.2019 and by the All India Council of Technical Education (hereinafter referred to as 'the AICTE') on 25.04.2019.

2. Brief facts of the case leading to the filing of the writ petition are that the petitioner-college is an educational institute imparting education in B. Pharmacy duly approved by the AICTE as also the PCI. The petitioner submitted a representation Annexure P/4 on 30.01.2019, to the respondent, for continuation of affiliation of B. Pharmacy course as

well as for increase in intake of students to B. Pharmacy course from 60 to 100 seats. Along with the application, continuation fee of ₹95,000/- was also deposited. The petitioner also submitted an application to the PCI as well as the AICTE for increase in intake of students from 60 to 100 for B. Pharmacy course for the academic year 2019-2020. Despite repeated queries, learned counsel for the petitioner has not pointed out nor disclosed the date on which the applications were submitted by the petitioner to the PCI as well as to the AICTE.

3. The only submission made by learned counsel for the petitioner is that the PCI granted the approval for increase in intake of students on 18.04.2019 while the AICTE granted the approval to increase intake of students from 60 to 100 seats for the academic year 2019-2020 on 25.04.2019. It is the stand of the petitioner that application Annexure P/4 dated 30.01.2019 had been submitted to the respondent-University for continuation of affiliation and for allowing increase in intake of students of B. Pharmacy course on 30.01.2019 and in response thereto the petitioner received a communication Annexure P/5 dated 26.03.2019 from the respondent that although continuation fee of ₹95,000/- had been deposited but fee of ₹1,50,000/- for increase in intake had not been deposited by the petitioner. The petitioner was required to clarify as to whether the college was interested in seeking increase in intake of students of B. Pharmacy course from 60 to 100 seats and if so then the fee for increase in intake i.e. ₹1,50,000/- along with application as per university prescribed format was required to be submitted by 31.03.2019 so that further action could be taken in the matter.

4. In response thereto, the petitioner forwarded an email Annexure P/6 on 31.03.2019 at 09:37 p.m. informing that inspection by the PCI had been done but no decision had been taken regarding increase in intake of B. Pharmacy course. Response was solicited that in case the PCI refused increase in intake whether in that eventuality the University would refund the fee paid.

5. Thereafter the petitioner submitted representation Annexure P/7 dated 23.04.2019 informing the respondent that the PCI had confirmed increase in intake of students from 60 to 100 for B. Pharmacy course for the academic session 2019-2020 vide meeting held on 18.04.2019 and that in the aforementioned circumstances, increase in intake in B. Pharmacy course from 60 to 100 be allowed by accepting the fees. In response thereto, the respondent vide Annexure P/8 dated 01.05.2019 informed that the petitioner's request had been considered but not acceded to, being time barred.

6. Learned counsel for the petitioner contended that in the absence of approval by the PCI and the AICTE granting approval for increase in intake of students from 60 to 100 for the academic session 2019-2020 for B. Pharmacy course, fee for increase in intake could not have been demanded by the respondent-University and when the petitioner informed the respondent-University of approval having been granted to the increase in intake by the PCI vide communication Annexure P/7 dated 23.04.2019, then the University ought to have accepted the fee for increase in intake and granted requisite approval to the petitioner.

7. Per contra, learned counsel for the respondent has relied upon the decision of a Hon'ble Coordinate Bench of this Court dated 22.07.2019, passed in CWP No.19784 of 2019, in case titled as 'Gurugram Global College of Pharmacy vs. Pt. B.D. Sharma University'. In said case, the petitioner which was running B. Pharmacy college with student intake of 60, had applied for increase in intake of students for B. Pharmacy course from 60 to 100 for the academic session 2019-2020. The PCI accorded permission towards the increase in intake on 18.04.2019 while the AICTE accorded the permission on 29.04.2019. Challenge in the said case was to the order issued by the respondent-University rejecting the claim for increase in intake for B. Pharmacy course from 60 to 100 for the academic session 2019-2020 on the ground that the petitioner college had not submitted the application along with requisite fee pertaining to increase in intake of students by the last date i.e. 31.0.2019.

8. The Hon'ble Coordinate Bench took into account the plea that approval for increase in intake of students from 60 to 100 for B. Pharmacy course was accorded by the PCI and AICTE on 18.04.2019 and 29.04.2019 respectively, therefore, there was no occasion to have submitted an application to the respondent-University prior to the aforesaid date, accordingly, the action of the respondent-University in declining the petitioner claim for increase in intake of students on the ground of being time bared was patently unjust and unfair. The Hon'ble Coordinate Bench by referring to the decision of Hon'ble the Supreme Court in **Parshavnath Charitable Trust and others vs. All India Council for Technical Education & Others 2013 (2) SCT 163**, referred to the schedule for

admission, as per which, admission to academic courses were to start by 1st August of the relevant year while the seats remaining vacant were again to be duly notified and advertised and filled up positively by 15th August of the said year after which there was to be no admission for any reason on any ground and that the aforementioned admission dates were to be treated as sacrosanct and to be strictly adhered to by all concerned and none of the authority would have the power or jurisdiction to vary the dates as given in the schedule. Schedule for admission is reproduced as under:-

Event	Schedule
Conduct of Entrance Examination (AIEEE/State CET/ Mgt. Quota exams etc.)	In the month of May
Declaration of Result of Qualifying Examination (12 th Exam or similar) and Entrance Examination	On or before 5 th June
1 st round of counselling/admission for allotment of seats	To be completed on or before 30 th June
2 nd round of counselling for allotment of seats	To be completed on or before 10 th July
Last round of counselling for allotment of seats	To be completed on or before 20 th July
Last date for admitting candidates in seats other than allotted above 30 th July	However, any number of rounds for counselling could be conducted depending on local requirements, but all the rounds shall be completed before 30 th July
Commence of academic session	1 st August
Last date upto which students can be admitted against vacancies arising due to any reason (no student should be admitted in any institution after the last date under any quota).	15 th August
Last date of granting or refusing approval by AICTE	10 th April
Last date of granting or refusing approval by University/State Government	15 th May

9. The Hon'ble Coordinate Bench took into account that as per the schedule, the first round of counselling was to be completed on or before 30th June, second round of counselling for allotment of seats was to be completed on or before 10th July while the last round of counselling for allotment of seats was to be completed on or before 20th July and that acceptance of the prayer would clearly be a deviation from the admission schedule laid down by the Hon'ble Apex Court which was not permissible. The Hon'ble Coordinate Bench also rejected the submission of the petitioner that the AICTE itself had deviated from the schedule laid down in Parshavnath's case (supra) as the last date for granting or refusing approval by the AICTE was 10th April and the last date for granting/refusing approval by the University/State Government was 15th May of any academic year and since approval had come from the AICTE as regards the increase in intake from 60 to 100 seats for B. Pharmacy course after the last date on 29.04.2019, therefore, time ought to have been granted to the petitioner-college. The aforementioned plea of the petitioner therein was also rejected on the ground that approval from the AICTE after the last date stipulated as per schedule i.e. 10th April of any academic year would not vest any right with the petitioner to seek perpetuation of such delay in further proceedings.

10. I have considered the submissions of learned counsel for the parties.

11. Admittedly, in the instant case, the facts are identical as in the case of Gurugram Global College of Pharmacy's case (supra). In the instant case also permission for increase in intake of students was granted by the

PCI on 18.04.2019 and by the AICTE on 25.04.2019. Apart from the above, the petitioner submitted an application Annexure P/4 to the respondent for continuation of affiliation as well as increase in intake of B. Pharmacy course for the academic session 2019-2020 but without depositing the fee for the increase in intake of students, although the fee for continuation of affiliation i.e. ₹95,000/- was deposited by the petitioner along with the application Annexure P/4 on 30.01.2019. In response thereto, the petitioner received communication Annexure P/5 from the respondent-University informing that in case the petitioner-college was interested in increase in intake for B. Pharmacy course from 60 to 100 seats then fee on account of increase in intake i.e. ₹1,50,000/- along with university prescribed format be submitted on or before 31.03.2019. However, the petitioner failed to take any action in terms of the communication Annexure P/5 and instead forwarded an email dated 31.03.2019 at 09:37 p.m., seeking clarification that in case the PCI refused increase in intake, whether the university would refund the fee. Thus, it is not a case that the petitioner had not applied to the University in time or was not aware that a fee of ₹1,50,000/- was to be paid along with the application to be submitted in prescribed format. Neither the application was submitted in the prescribed format nor was the requisite fee paid despite intimation by the respondent-University vide Annexure P/5 dated 26.03.2019. The schedule laid down by Hon'ble the Supreme Court in Parshavnath's case (supra) is categorical and admits of no variation. The same is to be adhered to by all concerned and none of the authorities have the power or jurisdiction to vary the dates stipulated therein.

12. In the light of the position as noted above, the writ petition is bereft of merit and is accordingly dismissed.

(B.S.WALIA)
JUDGE

24.07.2019
rajesh.k.khurana

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