

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

CWP No.12594 of 2016 (O&M)

Date of Decision: 29.10.2019

Mohina Aggarwal

....Petitioner

Versus

State of Punjab and others

....Respondents

***CORAM :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL***

Present:- Mr. Manish K. Singla, Advocate
for the petitioner.

Ms. Bhavna Gupta, D.A.G., Punjab.

Mr. Nitin Kaushal, Advocate
for respondents No.3 and 4.

Mr. Dinesh Kumar, Advocate
for respondent No.5.

DAYA CHAUDHARY, J.

Petitioner-Mohina Aggarwal has filed the present petition for quashing of impugned letter dated 01.06.2016 (Annexure P-5) issued by respondent No.4 i.e Registrar, Baba Farid University of Health Sciences Faridkot, District Faridkot, whereby, her admission has been cancelled on the ground that she has not passed BDS course from Baba Farid University, Faridkot. It is also mentioned that the petitioner has passed BDS course from Bhojia Dental College and Hospital, Baddi, Himachal Pradesh, which is outside from the State of Punjab.

Briefly, the facts of the case, as made out in the petition, are that after passing BDS course, the petitioner applied for admission to Post

Graduate Degree and Diploma Course in pursuance of notification issued by the State of Punjab in this regard. The last date for online registration was 27.01.2016. The petitioner applied for said course and qualified the entrance examination conducted on 13.02.2016. After conducting 1st and 2nd round counselling, 2nd extended round of centralized counselling was held on 31.05.2016. The petitioner was selected on the basis of result of 2nd extended round of counselling and she deposited the requisite fee. She started to attend the classes with effect from 01.06.2016.

Vide letter dated 01.06.2016 (Annexure P-5) issued by respondent No.4 i.e Registrar, Baba Farid University of Health Sciences Faridkot, District Faridkot to the Principal of respondent No.5-College, the selection of the petitioner has been cancelled. The impugned letter dated 01.06.2016 (Annexure P-5) has been challenged by raising various grounds.

Learned counsel for the petitioner submits that the provisional admission of the petitioner has been cancelled without issuing any Show Cause Notice and without affording any opportunity of hearing. Learned counsel also submits that the act and conduct of the respondents is not only illegal, unjust, arbitrary but against the principles of natural justice. Learned counsel further submits that the petitioner has appeared in the entrance examination and was fulfilling the eligibility condition. All necessary documents were attached with the application but still the impugned letter has been issued. The admission of the petitioner has been cancelled on a later stage and she was not in a position to take admission in any College/Institute as last date was over. It is also the argument of learned counsel for the petitioner that once the petitioner has been granted admission, the same cannot be cancelled subsequently. The petitioner is

already registered with Punjab Dental Council. Learned counsel also submits that 33 seats are still lying vacant with the respondent College.

Learned counsel for the petitioner has relied upon the judgment passed in **CWP No.12282 of 2015** titled as **Ranchana Garg vs State of Punjab and others** decided on **15.09.2017** as well as in **LPA No.1698 of 2015** titled as **The Punjab Private Self Financed Dental and Medical Colleges Association vs State of Punjab and others** decided on **07.04.2016** in support of his arguments.

Learned counsel for respondents No.1 and 2 has opposed the submissions made by learned counsel for the petitioner. He has also brought to the notice of this Court that vide notification dated 30.12.2015, the State authorized Baba Farid University of Health Sciences, Faridkot to conduct PGET-2016 test and to conduct centralized counseling. He also submits that the petitioner has done her under-graduate course from Himachal Pradesh University and she was not eligible to get admission in MDS course in the present University. She could have availed the opportunity to get admission in Himachal Pradesh University only. Learned counsel further submits that in case, the petitioner is allowed to go with the provisional admission then the candidates, who are higher in merit to her, would be deprived of their rights.

Learned counsel for respondents No.3 and 4 as well as respondent No.5 have also reiterated the arguments raised by learned counsel for respondents No.1 and 2. However, they have not disputed the fact that the case of the petitioner is covered by judgment passed in **The Punjab Private Self Financed Dental and Medical Colleges Association's case** (supra).

Heard the arguments of learned counsel for the parties and we have also perused the impugned letter dated 01.06.2016 (Annexure P-5) as well as other documents available on the file.

The facts of the case are not disputed. The provisional admission of the petitioner has been cancelled on the ground that she has passed BDS Course from Himachal Pradesh University and not from Baba Farid University of Health Sciences Faridkot. The college from where the petitioner has passed her BDS Course is outside from the State of Punjab. It is also not disputed that any opportunity of hearing or Show Cause Notice was issued to the petitioner. The positive case of the petitioner is that she was granted admission and requisite fee was also deposited by her. She attended the classes from 01.06.2016.

Similar issue was there in **LPA No.1698 of 2015**, wherein, this Court has considered all these facts. In said LPA, the students who passed their BDS examinations from other recognized/reputed universities of the country were entitled for admission to the MDS Course. Said LPA was filed by the Punjab Private Self Financed Dental and Medical Colleges Association to challenge the judgment passed by the Single Judge in **CWP No.12341 of 2015** titled as “**The Punjab Private Self Financed Dental and Medical Colleges Association versus State of Punjab and others**”.

Accordingly, the controversy involved in the present case is squarely covered by decision in said LPA.

By relying upon the judgment of said LPA, **CWP No.12282 of 2015** was filed by one similarly situated candidate, namely, Ranchana Garg, which was allowed on 15.09.2017. While allowing **CWP No.12282 of 2015**, petitioner was allowed to continue to the course in terms

of order passed in her favour and at that time, she had undergone more than 2½ years of the course.

In the present case also, the petitioner is attending the course since 01.06.2016. She has undertaken the study for a period of more than three years and cancellation of admission at this stage not only would be unjustified but detrimental to the career of the petitioner as she has neither concealed any fact from the respondents nor misrepresented in any manner. While issuing notice of motion in the case on 16.06.2016, the impugned order was stayed and the same remained stayed during pendency of the petition.

Accordingly, by considering the ratio of judgment of LPA Bench; the facts as mentioned above; the undertaken period of study, which is more than three years and also the interim order passed in favour of the petitioner, the present petition is allowed and impugned order of cancellation of admission dated 01.06.2016 (Annexure P-5) is hereby set aside.

(DAYA CHAUDHARY)
JUDGE

(SUDHIR MITTAL)
JUDGE

29.10.2019
gurpreet

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No