

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

Sr. No.208

**CWP No.23183 of 2019
Date of decision : 16.9.2019**

Alina Malik

..... Petitioner

VERSUS

Panjab University and another

..... Respondents

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

Present: Mr. Vikas Bahl, Sr. Advocate with
Mr. Dhruv Walia, Advocate and
Mr. Ramandeep Singh, Advocate, for the petitioner.

None for respondent No.1.

Mr. Deepak Gupta, Advocate, for respondent No.2.

SUDHIR MITTAL, J.

The petitioner is an aspirant for the Bachelor of Architecture course being conducted in the Chandigarh College of Architecture (respondent No.2). She seeks a direction to the said college to grant her admission against a vacant seat existing therein.

2. Having completed her Senior Secondary Education in the year 2019 through the ICSE Board, the petitioner took the JEE (Main) 2019 examination with the aim of seeking admission to the Bachelor of Architecture course. She qualified the same and applied for admission

with respondent No.2, but despite four rounds of counseling, she remained unsuccessful. There are a total of 40 seats in respondent No.2 and on completion of counseling, two seats are allegedly still vacant. The last date for admission as per the brochure issued by the Joint Admission Committee was 14.8.2019. Accordingly, the petitioner wants a direction to be issued to admit her against one of the vacant seats. Reliance is placed upon order dated 22.10.2018 passed in CWP No.26079 of 2018 titled as 'Sana Sawhney Vs. Chandigarh College of Architecture and others' as well as order dated 14.11.2018 passed in CWP No.27656 of 2018 titled as 'Siddharth Mahajan Vs. Union of India and others.' Reference has also been made to a Division Bench judgment of the Bombay High Court dated 8.9.2004 passed in Writ Petition No.5942 of 2004 titled as 'Shri Prince Shivaji Maratha Boarding Houses's College of Architecture, Kolhapur and others Vs. State of Maharashtra and others'.

3. Short reply has been filed on behalf of respondent No.2, in which it is averred that no admission can be granted at this stage, since last date for making admissions was 14.8.2019 according to the brochure issued by the Joint Admission Committee. The college is bound by the admission schedule fixed by the Joint Admission Committee and therefore, the request of the petitioner was rejected vide order dated 29.8.2019.

4. Learned senior counsel for the petitioner submits that respondent No.2 has erred in assuming that the last date for making admissions cannot be extended beyond 15.8.2019. Respondent No.2 is a college of architecture governed by the Architects Act, 1972. It is not

bound by the strict schedule applicable to engineering colleges. Keeping this principle in mind, a Division Bench of this Court in Sana Sawhney's case (supra) as well as in Siddharth Mahajan's case (supra) has issued directions to respondent No.2 to grant admission against a vacant seat on 22.10.2018 as well as on 14.11.2018. The petitioner is also entitled to grant of a similar direction.

5. Admittedly, after completion of counseling, two seats remained unfilled in respondent No.2. The information brochure issued by the Joint Admission Committee for the year 2019 is on record as Annexure P-2 and according to the schedule laid down in the said brochure, the date for the SPOT round of seat allotment was 13.8.2019 and the last date for physical reporting, document verification and fee payment was 14.8.2019. Thus, the question arises whether we should issue directions for admission of the petitioner against a vacant seat without fresh advertisement of the said seat and without resorting to the waiting list ?

6. In our considered opinion, no directions can be issued to an educational institution to grant admission against an unfilled seat without advertising the said seat and without resorting to the waiting list. Such a course would indirectly encourage corruption in admissions as an unscrupulous educational institution could approach students who are low in order of merit and entice them against unfilled seat by charging fee higher than that prescribed under the rules. Admission schedules have been fixed to curb uncertainty in the admission process and to make the same transparent. If we permit an educational institution to violate the

admission schedule, we would be encouraging litigation and we are loathe to adopt such a course. Although, being a Constitutional Court, we are not bound by the admission schedule laid down, we do not see any compelling circumstances to issue directions in violation thereof. This is especially so when the candidate seeking directions from the Court is non-meritorious. In exercise of our extraordinary jurisdiction, we cannot permit dilution of academic standards.

7. Equally, it is true that human resource being a scarce commodity shouldn't ordinarily be permitted to go waste. However, utilization of the said human resource has to be in accordance with the law and not in violation thereof. If seats remain unfilled even after completion of all rounds of counseling respondent No.2 would be well advised to approach the appropriate authorities to evolve a mechanism for throwing upon the unfilled seats to the general public so that a transparent mechanism can be adopted for utilization of the human resource, which would otherwise be wasted.

8. We express our respectful disagreement with the orders referred to by the learned senior counsel for the petitioner in the cases of Sana Sawhney (supra) and Siddharth Mahajan (supra). In our opinion, the said orders do not lay down any principle of law so as to constitute a binding precedent. The judgment in the case of Shri Prince Shivaji Maratha Boarding House's College of Architecture (supra), is not applicable to the present case. The question answered in the said judgment was whether All India Council of Technical Education Act, 1987, overrides the provisions of the Architects Act, 1972. It was held

that standards of education for institutions providing education in architecture are governed by the Architects Act, 1972.

9. Accordingly, we do not find any merit in the writ petition and the same is dismissed.

(DAYA CHAUDHARY)
JUDGE

(SUDHIR MITTAL)
JUDGE

16.9.2019
Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No