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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-37710-2018 (O&M)
Date of decision : 24.09.2019

Mohd. Hussain

... Petitioner

Versus

Maharishi Dayanand University and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Mazlish Khan, Advocate
for the petitioner.

Mr. Amit Rao, Advocate for
Mr. Anurag Goyal, Advocate
for respondent Nos.1 to 3.

None for respondent No.4.

AMIT RAWAL, J. (ORAL)

CM-13864-2019

This is an application for preponement of the date of hearing.

Since the main case is already listed for hearing, no cause of
action survives in present application, accordingly, the present application is
disposed of as having been rendered infructuous.

MAIN CASE

Petitioner has knocked the door of this Court with a prayer for
quashing the admission of private respondent No.4.

The respondents/University issued prospectus inviting online
application form, for, admission in the Ph.D. Program for the session 2018-
19 in the different departments of University. In the Department of

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Pharmaceutical Science, total seats were 10 out of which 01 seat for AIOC, 05 seats for General Category, 02 seats for SC Category, 01 seat for BCA Category and 1 seat for BC-B Category. Petitioner, belonging to BCB Category and being holder of Master Degree of 2017, submitted application form within the stipulated period. Petitioner appeared in the written examination held on 17.11.2018 and as per result (Annexure P-5), secured 55.56 marks under BCB Category and his name was found at Sr. No.3. The respondents/University fixed the counselling w.e.f. 26.11.2018 to 28.11.2018 and he appeared on 26.11.2018, but could not succeed to obtain admission being at Sr. No.3. However, a candidate namely Neetu, at Sr. No.1, secured admission under BCB Category, but her admission, on 27.11.2018, was cancelled on account of not holder of creamy layer certificate. Petitioner ascertained the knowledge and found that the respondents/University did not intimate to the second candidate, who was not interested in the admission and converted the seat into general category and accorded the admission to Bindu. It has been a practice in the other Departments of University to notify, on the web-site, about the seats, which were not filled, during first, second and third counselling, but no such procedure was followed.

Mr. Mazlish Khan, learned counsel appearing on behalf of the petitioner, relies upon such type of notice (Annexure P-6). Candidate, at Sr. No.2, was not interested in taking the admission. It was obligatory upon the respondents/University to reserve the seat under BCB Category and offer to the petitioner, being next candidate in line, instead of converting the same into general category. Petitioner submitted the written request dated

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30.11.2018 and 06.12.2018, but the same did not yield any result.

Per contra, Mr. Amit Rao, Advocate for Mr. Anurag Goyal, learned counsel appearing on behalf of the respondent Nos.1 to 3/University, did not deny the holding of counselling on 26.11.2018 as well as admission of Neetu, much less, ineligibility on account of non-holding of creamy layer certificate. He submits that University, after withdrawal of admission, started the process of second counselling on 27.11.2018, but no new candidate under BCB Category reported till 5.p.m. and third counselling started on 28.11.2018 and even on that day, no candidate under aforementioned category reported. Reliance has been laid to the Minutes of the Admission Committee (Annexure R-1).

It was next contended that it was the responsibility of every candidate to report at 10 a.m. Once the petitioner did not come, he or she could not be offered the aforesaid admission under the BCB Category, thus, justified the conversion of seat under General Category. There is no mandate/provision to publish information of vacant seats or send any intimation to the second rank candidate (or any other candidate). Annexure P-8, written by one Vikas Yadav, reflecting his interest in not taking the admission., cannot be a ground for setting aside the admission of private respondent No.4, thus, urges this Court for dismissal of present writ petition.

There is no representation on behalf of respondent No.4, despite service. Accordingly, I proceed to decide the present writ petition on merits.

I have heard learned counsel for parties and appraised the paper

book.

The facts, as noticed above, are not in dispute i.e. selection of private respondent No.4/Bindu, cancelling the admission of Neetu under BCB Category on account of non-holding of creamy layer certificate.

Now the question, which is required to be delved upon, is whether it was obligatory upon the University to notify the aforementioned seat under BCB Category to a candidate, at Sr. No.3, as vide Annexure P-8, candidate, at Sr. No.2, did not show his interest in seeking the admission. Contents of letter (Annexure P-8), are extracted hereinbelow:-

"I Vikas Yadav s/o Sube Singh. I will not taking admission in Ph.D."

I am of the view that the action of respondents/University in converting the seat of BCB Category under General Category is not justified. Petitioner could not remotely even think, that once he was at Sr. No.3, would be offered admission as candidature of Neetu, at Sr. No.1 had already got cancelled. Non-holding of creamy layer certificate was not in the knowledge of petitioner and acquired its knowledge much later and in the absence of any option exercised by the candidate, at Sr. No.2, petitioner who obtained 55.56 marks, was next in line to be offered.

Keeping in view the aforementioned facts, I deem it appropriate to dispose of the present writ petition with a direction to the respondents/University to consider the candidature of petitioner, after affording the opportunity of hearing to private respondent No.4, who has been given admission under General Category. This will not preclude the University to protect the interest of respondent No.4, in case, any seat under

General Category is available, but the fact of the matter is that petitioner is entitled for admission under BCB Category.

24.09.2019
Yogesh Sharma

(**AMIT RAWAL**)
JUDGE

Whether speaking/reasoned	Yes/ No
Whether Reportable	Yes/ No