

102 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.13953 of 2020
Date of decision: 09.09.2020

Dr. Fanish Bansal

...Petitioner

Versus

Post Graduate Institute of Medical Education and
Research (PGIMER), and another

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain
Hon'ble Mr. Justice Ashok Kumar Verma

Present: Mr. Vivek Suri, Advocate
for the petitioner.

Rakesh Kumar Jain, J. (Oral)

Case taken up through Video Conferencing.

The petitioner has prayed for the issuance of a writ in the nature of Certiorari for quashing of the order dated 03.09.2020 (Annexure P-8) passed by respondent No.1.

In brief, the petitioner has passed his MBBS Degree from Sharda University, Greater Noida in the year 2015, registered with the U.P. Medical Council and was assigned Registration No.70927. For sometime, he practiced privately at Dhanaula and then worked as a House Surgeon in the Department of Surgery as well as Ophthalmology in Government Multi Specialty Hospital, Sector-16, Chandigarh from 01.07.2016 to 31.12.2016. Thereafter, he was selected as a Medical Officer (on contract basis) in the Internal Medicine Department at PGIMER Satellite Centre, Sangrur and worked there from 11.03.2017 to 10.03.2020.

According to the petitioner, the PGIMER issued an advertisement for admission to the MD/MS Course in various faculties

including the MD (Hospital Administration). The petitioner had applied for admission to the MD (Hospital Administration) Course on 14.06.2020 and qualified the test in the General Category. Thereafter, respondent No.1 issued a tentative list of the selected candidates for fellowship and post doctoral fellowship and intimated that the counseling shall be held on 01.07.2020. In the tentative list, the petitioner name was shown at waiting list No.2 in the General Category. It is further averred in the petition that on 29.07.2020, respondent No.1 had issued a notice that there shall be Spot Counseling for admission to MD/MS Course (July, 2020 Session) on 31.07.2020 at 11.00 AM. According to the petitioner, he had appeared for first part counseling and requested for conversion of MD (Hospital Administration) seat from Reserve Category to General Category as it was being done in other faculties. The petitioner has also allegedly made a representation but the seat was not converted. Therefore, the petitioner filed CWP No.11582 of 2020 in this Court in order to challenge the action of respondent No.1 in not converting the unfilled seat belonging to the Reserved Category into the General Category and further its allotment to him. The petition was disposed off on 10.08.2020 with a direction to respondent No. 1 to consider the claim of the petitioner as well as permitted him to file an additional representation. The petitioner had allegedly made a representation on 11.08.2020 but the impugned order was passed on 03.09.2020 by respondent No.1 as per which the reserved seat of MD/MS (Hospital Administration) was converted into General Category seat and was decided to be filled up on the basis of common merit rank irrespective of any category. The impugned order dated 03.09.2020 has brought the petitioner to this Court with the prayer that the said order may be quashed, *inter alia*, on the ground that had the unreserved

petitioner, who is stated to have appeared at the time of counseling on 31.07.2020, would have got it.

Since, the petitioner has served an advance copy of the writ petition to the respondents much less respondent No.1, therefore, Mr. Amit Jhanji, Advocate has put in appearance on behalf of respondent No.1 to contest this petition. It is submitted by him that the petitioner has referred to the prospectus pertaining to admission to MD/MS Course (July, 2020 Session) for which the counseling was fixed for 31.07.2020 in which the seat in question was reserved but the prospectus to fill-up the seats for MD (Hospital Administration) was separately issued in which it was provided that "All candidates, irrespective of categories may be considered against UR vacancies, subject to fulfillment of parameters for UR candidates. However, against the vacancies earmarked for specific category SC/ST/OBC, only candidates belonging to that community will be considered". It is further submitted that since the seat for unreserved vacancy was to be filled up while calling upon all the candidates irrespective their category, therefore, after the reserved seat has been converted into General category seat it has been made available for admission on the basis of the common merit irrespective of any category and cannot be given to the petitioner only on the ground that he was allegedly present on 31.07.2020 at the time when the MD/MS Course (July, 2020 Session) counseling was going on. It is also submitted that even if, the petitioner, for the sake of argument, was present at the time of counseling on 31.07.2020, he could not have been considered at all for the purpose of admission against the reserved seat because he belongs to General Category and there was no logic for him to be present at that time.

We have heard counsel for the parties and after perusal of the

petition as the argument raised by the petitioner is totally misconceived as against the arguments raised by the counsel for the respondents i.e. counseling on 31.07.2020 was pertaining to MD/MS Course and at that time, the seat of MD (Hospital Administration) was reserved and the petitioner being a candidate from the General Category had no reason to be present for the purpose of counseling at that time. Moreover, the prospectus for the MD (Hospital Administration), referred to in the impugned order (Annexure P-8) categorically provides that the unreserved vacancy has to be offered to all the candidates and the respondent No.1 has rightly offered it to all the candidates who belongs to the GeneralCategory and decided to fill it up on the basis of common merit.

Thus, in view thereof, there is no merit in this case for interference and the same is hereby dismissed but without any order as to costs.

[RAKESH KUMAR JAIN]
JUDGE

[ASHOK KUMAR VERMA]
JUDGE

09.09.2020

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Whether speaking / reasoned : Yes/No

Whether reportable : Yes/No