

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

CWP-476-2021

Date of decision : 15.03.2021

Sarika Singh

.....Petitioner

Versus

Pt. B.D. Sharma University of Health Sciences, Rohtak and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI, JUDGE

Present: Mr. Namit Kumar, Advocate,
for the petitioner.

Mr. Nilesh Bhardwaj, Advocate,
for respondents No.1 and 2.

Mr. Vivek Saini, Additional Advocate General, Haryana,
for respondent No.3.

Mr. G.C. Shahpuri, Advocate,
for respondent No.4.

RAVI SHANKER JHA, CHIEF JUSTICE (Oral)

This petition has been filed by the petitioner seeking admission in the MBBS Course for the session commencing from 2020-2021.

2. The brief facts leading to the filing of the present petition are that the petitioner participated and appeared in the NEET (UG) 2020 examination for the purposes of obtaining admission in the MBBS Course under BC-A category. She secured 569 marks and was ranked 36635 in the

All India Rank. Admittedly, the petitioner could not obtain admission in the regular rounds of counseling, as she was lower in merit. She also could not obtain admission in the Mop-up round of counseling conducted by the authorities. According to the petitioner, the stray round of counseling was held by the authorities on 31.12.2020, on which date the authorities granted admission to respondent No.4, who had secured 569 marks, i.e. equal to the marks as secured by the petitioner, but respondent No.4 was ranked 36841 in the All India Rank. The petitioner alleges that respondent No.4 was allotted a seat that was initially reserved for ESM/Freedom Fighters category, but was converted to the BC-A category in the stray round of counseling, as the stray round of counseling was conducted for the BC-A category candidates in accordance with the instructions issued by the Government of Haryana. It is submitted that respondent No.4 as well as the petitioner both belong to the BC-A category and obtained equal marks, but as the petitioner was ranked higher than respondent No.4, she was entitled to be granted admission on the said seat in the B.P.S. Government Medical College for Women, Khanpur Kalan (Sonapat) and not respondent No.4.

3. Learned counsel for the petitioner submits that the petitioner reported for stray round of counseling at 6.00 PM on 31.12.2020 on account of confusion being created by the respondent authorities, who had made an announcement on 30.12.2020 to the effect that counseling for the stray round had been post-poned. It is submitted that had this confusion been not created by the authorities, the petitioner would have reported in the morning or in any case by 12.00 noon on 31.12.2020, as required by the authorities and would have obtained admission. It is submitted that the respondent authorities had post-poned the stray round of counseling by making an

announcement on 30.12.2020, therefore, the act of the respondent authorities in granting admission to respondent No.4 on 31.12.2020 is contrary to law.

4. Learned counsel for the petitioner submits that though the petitioner was present at the time of stray round of counseling, but she was denied admission on account of malafide on the part of the Counseling Committee and on account of special favour being shown to respondent No.4. Learned counsel submits that even though the last date of 15.01.2021 for granting admissions is over, as the admission granted to respondent No.4 is illegal, it deserves to be quashed and the petitioner should be allotted the MBBS seat in the B.P.S. Government Medical College for Women, Khanpur Kalan (Sonapat).

5. Learned counsel for the petitioner submits that the petitioner was denied admission by the authorities on 31.12.2020 and she approached this Court by filing this petition on 06.01.2021. It is stated that the last date for admission was extended by the Supreme Court upto 15.01.2021. In such circumstances, the petitioner having approached this Court in time and having been wrongly denied admission by the authorities is entitled to relief.

6. Learned counsel for the petitioner has relied upon decision of the Supreme Court rendered in **S. Krishna Sradha Versus State of Andhra Pradesh and others**, reported in **AIR 2020 (SC) 47**, wherein the Supreme Court has held that relief after the last date of admissions is over can still be granted if a candidate is vigilant and approaches the Court in time and is wrongly denied admission by the authorities for no fault on his/her part but on account of some illegality being committed by the authorities, he/she is entitled to be granted admission in accordance with law in terms of the directions issued by the Supreme Court.

7. Learned counsel appearing on behalf of the respondent University submits that the facts in respect of the petitioner being not granted admission in the Mop-up and stray round of counseling are not denied. He submits that the public notice for Mop-up and stray round of counseling was duly published by the authorities, according to which fresh registration for stray round of counseling was to be done on 29.12.2020 and 30.12.2020. The list of students in the ratio of 10 times of total vacant seats was issued and the stray round of counseling for filling up the left over seats was to be held on 31.12.2020. It is submitted that after the Mop-up round of counseling was over and the registration for stray round of counseling was over, the respondent authorities sent messages to all the students, who had registered for stray round of counseling. It is submitted that the petitioner was also sent such a message on 30.12.2020 at 11.54 PM, as is evident from Annexure P-9, annexed with the petition by the petitioner herself, informing her that she was required to check her e-mail regarding stray round of counseling. Learned counsel for the respondent University has placed on record message that was circulated by the authorities through e-mail (Annexure R-2/3) and whatsapp (Annexure R-2/4). Learned counsel for the respondent University submits that as per the message publically issued, the stray round of counseling was to be held on 31.12.2020 and the candidate was mandatorily required to report by 12.00 noon positively at the Committee Room, Director Office, PGIMS, Rohtak.

8. It is submitted that in spite of the aforesaid notice and in spite of clear intimation to all the students to report latest by 12.00 noon on 31.12.2020 before the Counseling Committee, the petitioner admittedly and undisputedly appeared before the Counseling Committee at 6.00 PM on

31.12.2020 after her father gave her intimation at 4.30 PM on that day. Learned counsel for the respondent University submits that as the petitioner did not report for counseling by 12.00 noon on 31.12.2020, the seat was allotted to respondent No.4 who had appeared in time and in such circumstances, no fault can be found with the admission granted by the authorities to respondent No.4. It is submitted that the allegations of malafide and favouritism made by the petitioner in the petition lack foundation as there is nothing on record to indicate that there was any kind of favouritism shown by the Counseling Committee in favour of respondent No.4. Learned counsel for the respondent University specifically and categorically denied the averment made by the petitioner that the stray round of counseling, as notified by the authorities, was post-poned by making a public announcement on 30.12.2020. It is submitted that the fact that the stray round of counseling had not been post-poned is evident from the public notice issued by the respondent authorities vide Annexure R-2/3 and Annexure R-2/4 as well as the message (Annexure P-9) sent to the petitioner on 30.12.2020.

9. We have heard learned counsel for the parties.

10. Before we advert to the issue raised, it is necessary to take note of the fact that the last date for admission to MBBS Course for the session commencing from 2020-2021 was extended by the Supreme Court to 15.01.2021, pursuant to which the respondent authorities had issued a fresh schedule for holding Mop-up and stray round of counseling, which were ultimately conducted on 12.01.2021 and 15.01.2021, respectively. However, on a specific query being made by this Court, learned counsel for the petitioner submits that the petitioner could not obtain admission even in the

subsequent Mop-up and stray round of counseling and that the petitioner has no grievance in respect of the same and has not challenged the admissions subsequently made by the authorities.

11. As far as the submission and contention of learned counsel for the petitioner regarding wrongful denial of admission to the petitioner in the stray round of counseling is concerned, it is to be examined as to whether the authorities proceeded to conduct the stray round of counseling de hors the provision of the rules or the procedure prescribed. Admittedly, the schedule for counseling was notified by the authorities vide public notice, annexed with the petition as Annexure P-1, which specified and clarified that stray round of counseling would be held on 31.12.2020. This fact is further established from the message (Annexure P-9) that was sent to the petitioner on 30.12.2020 at 11.54 PM as well as the public notice issued by the respondent authorities vide Annexures R-2/3 and R-2/4 informing that the students who wish to participate in the stray round of counseling were required to present themselves before the Counseling Committee latest by 12.00 noon on 31.12.2020.

12. Admittedly and undisputedly, the petitioner reported for stray round of counseling on 31.12.2020 at 6.00 PM, by which time respondent No.4 had already been allotted and granted admission in the MBBS Course as she had admittedly reported for counseling prior to the time fixed by the authorities.

13. It is also evident from a perusal of Annexures P-9, R-2/3 and R-2/4 that the respondent authorities did not post-pone the stray round of counseling, as alleged by the petitioner, as the public notice for conducting the stray round of counseling was itself issued on 30.12.2020, on which date

it is alleged by the petitioner that the stray round of counseling was postponed by the authorities by making a public announcement during the Mop-up round. The respondent University has specifically denied the same and there is nothing on record to indicate that the respondent authorities conducted the stray round of counseling after post-poning the same.

14. In such circumstances, it is evident that respondent No.4 was granted admission by the respondent authorities as she approached the Counseling Committee prior to 12.00 noon on 31.12.2020, whereas the claim of the petitioner for admission could not have been considered as she did not report for counseling by 12.00 noon, rather admittedly and undisputedly did so only at 6.00 PM on 31.12.2020. In the circumstances, it is also evident that no illegality, violation of rules or arbitrariness has been committed by the respondent authorities in allotting the seat concerned to respondent No.4 and, therefore, the claim made by the petitioner for granting admission after the last date for admissions is over is untenable and deserves rejection.

15. The support and benefit sought by the petitioner on the strength of the Supreme Court decision in *S. Krishna Sradha's case* (supra) is misplaced inasmuch as the Supreme Court in the aforesaid decision has categorically held that the relief after the cut of date for admissions can be granted only to those students who have been vigilant in pursuing their case by approaching the Court in time and have been denied admission on account of no fault attributable to them but on account of there being an apparent breach of rules and regulations or the process of granting admission resulting in violating their right of equality and equal treatment to the competing candidates. Apparently, the present case does not fall within the

aforesaid category carved out by the Supreme Court and in such circumstances, we find no merit in the petition.

16. Accordingly, the petition, being meritless, is dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

March 15, 2021
ndj

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