

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA-641-2021

Date of decision : 02.08.2021

Haryana Nurses and Nurse Midwives Council

... Appellant

Versus

Jatinder Kaur and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

Present: Mr. Harsh Garg, Advocate
for the appellant.

(Proceedings through Video Conferencing)

AUGUSTINE GEORGE MASIH, J.(ORAL)

Challenge in this appeal is to the order dated 17.05.2021 passed by the learned Single Judge in a miscellaneous application which was preferred by the respondents for pre-ponement of hearing of the main petition. The exams of the respondents were to commence and the roll numbers were not issued to them by the appellant in the light of the fact that the admissions of respondents no.1 to 3 was after the cut-off date fixed in the admission notice.

Learned Single Judge passed the following order:-

“No ground is made out for preponing the hearing of main petition, which is fixed for 18.08.2021.

However, in the meanwhile, in case any examination qua the course in which the applicants/petitioners are studying, is to be condoned, they shall be allowed to appear provisionally in the same, subject to the final outcome of the writ petition.”

Learned counsel for the appellant asserts that in the light of this interim order, it is apparent that the admission of respondents no. 1 to 3 was after the cut-off date is not sustainable as this would create equity in favour of the respondents, which may result in undue benefits to the private respondents no. 1 to 3. He contends that after getting such favourable orders at the interim stage, the respondents tend to avoid the final disposal of the writ petition and at the fag end of the course come up with a plea that now they have cleared the examination and therefore their results be declared.

Counsel for the appellant asserts that the appellant-Haryana Nurses and Nurse Midwives Council, does not want to encourage such practice and to curb the same, the present appeal has been preferred. He, thus, contends that the order dated 17.05.2021 passed by the learned Single Judge deserves to be set aside.

We have heard the submissions made by the learned counsel for the appellant and with his assistance have gone through the relevant pleadings and the order passed by the learned Single Judge.

Once the writ petition has been entertained by this court where the issue with regard to the admission of the petitioners in the writ petition and respondents no. 1 to 3 herein, has been taken note of, it would not be appropriate to deny them the interim relief which has been sought by them. In case the examinations are held and the students, who had taken admission, suffered because of the delay or inaction on the part of the institution where they are studying, as has been alleged by the petitioners in their writ petition, it would amount to an irreparable loss to them as their career would be put to an abrupt halt and in case the writ petition is ultimately accepted and their plea is granted, nothing can compensate for

the loss of their studies and the years they would suffer.

The order, therefore, in the given facts and circumstances of the case, passed by the learned Single Judge dated 17.05.2021 cannot be faulted with, however, it goes without saying that the provisional examination which has been permitted to be taken by the respondents no. 1 to 3 would not confer any right, equity or confer any benefit on them in any manner.

We would request learned Single Judge to please explore the possibility to decide the writ petition at the earliest after the pleadings are complete.

The appeal stands disposed of with the above observations.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

August 02, 2021
Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No