

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 250 of 2022 (O&M)
Date of decision:- 10.01.2022

Ashish KajalPetitioner

Versus

State of Union Territory, Chandigarh and others
...Respondents

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

Present:- Mr. Munish Mittal, Advocate, for the petitioner.

Mr. Anil Mehta, Sr. Standing Counsel with
Mr. Sumeet Jain, Addl. Standing Counsel for U.T. Chandigarh.

(The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual Court).

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RAVI SHANKER JHA, CHIEF JUSTICE (oral)

This petition has been filed by the petitioner being aggrieved by clause 1 of the notification dated 31.10.2018 (Annexure P-8) prescribing eligibility for domicile candidates for the purpose of obtaining admission in M.B.B.S. course in Union Territory, Chandigarh.

Learned counsel for the petitioner submits that the offending clause has provided eligibility of having passed 10th, 11th and 12th class by a candidate from any institution in Union Territory, Chandigarh as a requirement for being considered as domicile of Union Territory, Chandigarh. Learned counsel for the petitioner further submits that said clause is violative of Article 14 of the Constitution of India inasmuch as it deprives the petitioner from being considered under the said category as the petitioner has passed 11th and 12th classes from Union Territory, Chandigarh.

At the outset, it is pointed out that the issue involved in the present petition was duly considered by a Division Bench of this Court in case ***Bodhadeep Pal and others vs. U.T. of Chandigarh and another, 2020 AIR (Punjab) 9***, wherein the said clause was struck down. It is pointed out that a Special Leave Petition against the said judgment was filed before the Supreme Court which was registered as ***Civil Appeal No. 5660 of 2019 Aditya Jain and others vs. Bodh Deep Pal and others*** and the Supreme Court vide its decision dated 18.07.2019 partly set aside the order passed by this Court and while affirming the criteria directed that it would apply from the session 2020 onwards and not from the session 2019 in the following terms:-

“8.The Union Territory of Chandigarh Administration’s policy decision was notified on 31.10.2018, in compliance of the order passed by the High Court, it has introduced the requirement of 10th, 11th and 12th. However, 12th is being insisted for the year 2019, 11th and 12th for the year 2020 and 10th, 11th and 12th for the year 2021. The Union Territory has decided to implement the policy in staggered manner so that nobody is taken by surprise and the students know their fate right from 2019 what would ultimately happen in 2021.

9. The impugned judgment of the High Court has come on 4th July, 2019, on the date when the first counseling was to be held after declaration of the result of NEET. The students had already applied long back, in view of the policy decision of the Union Territory, now it is fait accompli for those who have not completed 10th, 11th or 12th from Union Territory now they have been rendered ineligible in terms of the orders passed by the High Court they might not have applied elsewhere. We feel that it would not be fair to implement the judgment of the High Court from 04.07.2019 itself for the year 2019. In our opinion, in case it was

desirable to introduce the three years requirement of 10th, 11th and 12th, it ought to have been done before the application forms were to be filled so that the incumbents know whether they were eligible to apply or not. Once they have applied, appeared in the examination and given their choice for a particular State/Union Territory, they cannot be left in lurch. Thus, in our opinion, it would not be fair to implement the judgment of the High Court w.e.f. 2019. It would be appropriate to implement the stipulation in a staggered manner, as observed in the policy.”

It is also pointed out that the requirement as contained in the said clause was introduced on account of the decision of this Court rendered in ***Ashu Hooda vs. Union Territory, Chandigarh and others, 2018(4) SCT, 201.***

In the circumstances, as the said clause requiring passing of 10th, 11th and 12th from Union Territory, Chandigarh, for claiming the benefit of a bonafide resident for taking admission in MBBS course has already been affirmed by the Supreme Court in the aforesaid decision. The issue raised by the petitioner is no longer *res-integra* and stands concluded against the petitioner.

In the circumstances, the petition filed by the petitioner being meritless stands dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

10.01.2022
ravinder

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