

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

Sr. No.254

**CWP-10980-2022 (O&M)
Date of Decision: 22.08.2022**

Shri Guru Teg Bahadur College of Education and others Petitioners

VERSUS

State of Punjab and another Respondents

2.

CWP-12667-2022 (O&M)

Association of Self Financed Colleges of Education Punjab (Regd.)

..... Petitioner

VERSUS

State of Punjab and another Respondents

3.

CWP-11878-2022 (O&M)

Association of Self Financing Colleges of Physical Education, Punjab

..... Petitioner

VERSUS

State of Punjab and another Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Sameer Sachdeva, Advocate, for the petitioners in
CWP Nos.10980 and 12667 of 2022.

Mr. R.D. Anand, Advocate, for the petitioner
in CWP-11878-2022.

Ms. Akshita Chauhan, DAG, Punjab

SUDHIR MITTAL, J. (Oral)

This order will dispose of aforementioned writ petitions as identical questions of law arise therein, even though, the courses in respect of which the writ petitions have been filed, are different and the dates of counseling are also different. Policy of the State of Punjab regarding the courses is one and the same.

For the purpose of this decision, facts are being extracted from CWP-10980-2022.

State of Punjab has notified Policy dated 23.04.2012 for setting up institutes providing Diploma in Elementary Education. According to the said policy, 40% of the seats are management quota seats, to be filled up through a transparent admission process. For the remaining 60% seats, admission is to be made through counseling to be held by the State Council of Education Research & Training (hereinafter referred to as the SCERT). In case, all the seats are not filled up through counseling conducted by the SCERT, the remaining seats are to be shifted to the management quota for being filled up in accordance with the transparent procedure adopted for filling up the management quota seats.

A dispute had arisen in the year 2013 regarding filling up of the left over 60% seats leading to filing of CWP-16312-2013. The same was decided vide order dated 25.10.2013 on the basis of a statement made by the Director, SCERT that left over seats would be transferred to the management quota. This statement was made on the basis of aforementioned Policy dated 23.04.2012.

In the instant case, notification for admission to the academic session 2021 to 2023 was issued on 19.07.2021. Counseling for filling up 60% of the seats was held by SCERT from 22.11.2021 to 26.11.2021, but only one student was admitted. Second counseling was held from 27.01.2022 to 29.01.2022 but no student came forward to seek admission. Same was the result of the third and last counseling held on 25.02.2022. Meanwhile, on 11.02.2022, the institutions were permitted by the State to fill up the 40% management quota seats. According to them, a large number of students applied. After filling up management quota seats, there were left over candidates who were kept in the waiting list. Request was accordingly made to the State to transfer the un-filled 60% quota seats to the management quota, but nothing was done and thus, the present writ petition was filed.

Written statement on behalf of the State has been filed. The averment in the writ petition that a large number of students, exceeding the 40% management quota had applied for filling up the 40% management quota seats has not been specifically denied. Even, the State Policy has not been denied. The only defence taken is that transfer of un-filled seats of the 60% quota to the management quota at this stage would not be possible as the course has commenced on 10.03.2022 and the students admitted later would not have the benefit of attending 200 working days.

Learned counsel for the parties have argued in accordance with their respective pleadings.

Undisputed facts emerging from the pleadings of the parties are that permission to fill up 40% management quota seats was granted to the

in the creation of a waiting list. The counseling conducted by the SCERT resulted in admission of one student only. The State was requested sometime in March-April, 2022 to transfer the un-filled 60% quota seats, but no action was taken upon the representation for reasons best known to the State. Thus, delay is attributable to the State alone. There is a policy of the State to transfer un-filled 60% quota seats to the management of the private institutions for filling them up at their own level and it cannot be given a go bye at the whims and fancies of persons holding office for the time being.

Learned counsel for the petitioner undertakes that all students admitted henceforth would be made to complete 200 working days.

The writ petition is accordingly, allowed. The State is directed to transfer the un-filled 60% quota seats to the management quota to enable the private institutions to fill them up at their own level strictly in accordance with merit. Record of admission shall be maintained so that it is available for scrutiny at a later date in case question is raised regarding fairness of the process.

A photocopy of this order be placed on the file(s) of the other connected case(s).

(SUDHIR MITTAL)
JUDGE

22.08.2022
Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No