

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-17081-2021

Aaran Kollakkaran Johnson and others

....Petitioners

VS

Baba Farid University of Health Sciences and others

....Respondents

CWP-19692-2021

Yuvraj Goyal

....Petitioner

VS

Baba Farid University of Health Sciences and others

....Respondents

CWP-17082-2021

Shivraj Singh Gill and another

....Petitioners

VS

Baba Farid University of Health Sciences and others

....Respondents

CWP-18524-2021

D. Rahul Xavier and others

....Petitioners

VS

Baba Farid University of Health Sciences and others

....Respondents

CWP-19697-2021

Nishit Mahajan

....Petitioner

VS

Baba Farid University of Health Sciences and others

....Respondents

CWP-20743-2021

Divneet Kaur

....Petitioner

VS

Baba Farid University of Health Sciences and others

....Respondents

CWP-20765-2021

Saloni

....Petitioner

VS

Baba Farid University of Health Sciences and others

....Respondents

CWP-21334-2021

Sangeeta Kumari

....Petitioner

VS

Baba Farid University of Health Sciences and others

....Respondents

CWP-21810-2021

Ripanpreet Singh

....Petitioner

VS

Baba Farid University of Health Sciences and others

....Respondents

Date of Decision: 04.02.2022

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Sanjiv Gupta, Advocate
for the petitioner in CWP Nos.19692, 19697, 20743, 20765, 21334
and 21810 of 2021.

Mr. Rahul Sharma-I, Advocate,
for the petitioner in CWP Nos.17081, 17082 and 18524 of 2021.

Mr. Nitin Kaushal, Advocate,
for respondent No.1.

Mr. Manpreet Singh Longia, Advocate,
for respondent No.3-NMC (in all cases)

SUDHIR MITTAL, J. (Oral)

This judgment shall decide CWP Nos. 19692, 17081, 17082, 18524, 19697, 20743, 20765, 21334 and 21810 of 2021 as common question of facts and law are involved therein. The facts are being extracted from CWP No. 17081 of 2021.

The petitioners are all students of MBBS course being conducted by respondent No. 1 through various colleges. They were admitted to the MBBS 1st professional in April 2019. The said professional is of 13 months duration and the exam for the same should have been held in September-October 2020 but on account of COVID-19 pandemic it was postponed to February 2021. The result thereof was declared on 23.04.2021. The petitioners could not clear all the papers and had to take re-appear examination in some subjects. The 1st supplementary examination for students who had failed to clear the 1st professional was held in June 2021 but the petitioners still failed to qualify. Prior thereto, they were permitted to attend classes of the 2nd professional till the declaration of the supplementary examination result. Since they failed, an order dated 24.08.2021 (Annexure P-5) was issued by respondent No. 2 demoting them to the 1st professional. Thus, the present writ petitions have been filed challenging order dated 24.08.2021 on the ground of discrimination. According to the petitioners, students of 2018-19 batch who had failed to qualify the 1st professional examination were given two supplementary chances and, thus, they should also be given two supplementary chance.

Learned counsel for the petitioners has submitted that the 1st professional examination for the students of the 2018-19 batch was held in July 2019. Date Sheet (Annexure P-7) shows that the 1st supplementary examination for the students of the said batch who failed to qualify the 1st professional examination was held in November-December 2019. Copy of Date Sheet annexed

as Annexure P-8 shows that an examination for students admitted before 2019 was held in June-July, 2020. Students admitted before 2019 are those belonging to 2018-19 batch and, thus, it is evident that those who failed to clear the 1st supplementary were given a 2nd supplementary chance. As further proof of this fact reference has been made to the case of one Kshitij Kumar.

Learned counsel for respondent No. 1 has denied the allegation of discrimination. His stand is that no 2nd supplementary chance was given to the students of 2018-19 batch. The Date Sheet for the examination held in June-July 2020 is being misconstrued. The same pertains to students of 2018-19 batch who were to take the 1st professional examination again. They could not have been examined with the students of the 2019-20 batch as the syllabus had changed meanwhile. Regarding Kshitij Kumar it has been submitted that he has infact been demoted. His batch-mates have been promoted to third professional but he is in 2nd professional and is due to take the forthcoming examination being held in February 2022.

From the above mentioned submissions it is clear that the Date Sheet (Annexure P-8) is not in respect of a 2nd supplementary chance for students of 2018-19 batch. Infact, it is a date sheet for the failures of the 1st professional of the said batch. There is no denial of the fact that the syllabus has changed for the 2019-20 batch and obviously they could not have taken the said examination with the petitioners. The contention regarding Kshitij Kumar having been treated differently can also not be accepted in view of the specific affidavit dated 06.12.2021 submitted by the Registrar of respondent No. 1.

Learned counsel for the petitioners has then submitted that the petitioners are attending the 2nd professional classes under interim directions passed by this Court. The course is complete and examinations are due to commence

2020-21 batch are also scheduled to be held with effect from the same date. If the petitioners pass the 1st professional examination they be permitted to take the 2nd professional supplementary examination so that they do not loose one year.

The request can not be granted as the same would amount to permitting the petitioners to straightaway jump to the stage of supplementary exam without taking the main exam. This would be contrary to the statutory rules and this Court can not give directions which are against the statute.

In view of the above the CWP No. 17081 of 2021 and other connected cases have no merit and are dismissed.

A photocopy of this order be placed on the files of other connected cases.

04.02.2022
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No