

Sr.No.106

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

CWP No.24732 of 2022 (O&M)

Date of decision: 26.10.2022

Dr. Japleen Bhatia

...Petitioner

Versus

U.T. Chandigarh and others

...Respondents

**CORAM : HON'BLE MS. JUSTICE JAISHREE THAKUR
HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. Sameer Sachdeva, Advocate
for the petitioner.

Mr. Anil Mehta, Senior Standing Counsel and
Mr. Sumeet Jain, Additional Senior Standing Counsel,
U.T. Chandigarh for respondents No.1 and 2.

Mr. Arun Gosain, Senior Govt. Counsel, UOI for
respondent No.3.

ARUN MONGA, J.

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing the respondents to allow the petitioner to duly participate in the MD/MS Admission 2022 in IP/UT Pool GMCH State 2nd Counselling List against General Seat on the basis of her own merit and rank obtained in NEET-PG 2022 All India Competitive Test. It is pleaded that instead of appreciating the extreme medical exigency suffered by the petitioner due to an emergent eye surgery, a patent anomaly and deviation in GMCH Prospectus is being committed vis-à-vis Superior National Body Prospectus and other States Prospectus. In violation thereof, all eligible candidates are being denied registration after

1st Counselling to participate in subsequent Counselling sessions. Petitioner, despite being meritorious is being permanently ignored to accommodate less meritorious candidates. On one hand her pending representation is not even being decided and on the other, her entire academic session of year 2022-2023 is being wasted in the whole process.

2. Matter was heard yesterday when the Bench was sitting in different combination i.e. Arun Monga and Aman Chaudhary JJ. and the following order was passed:

“This is third foray of the petitioner before this Court seeking admission in the post graduate course in Government Medical College & Hospital, Sector 32, Chandigarh. She is stated to be ranked 20 in the merit list of declared result of NEET-PG 2022 All India Competitive Test. First petition, without being argued, was dismissed as withdrawn with liberty to re-file with better particulars. Subsequent second petition came up for hearing, but after arguing at some length, the same too was withdrawn vide an order dated 17.10.2022 (Annexure P-13). Albeit, with liberty to pursue the representation dated 27.09.2022 with the competent authority which was stated to be pending at the relevant time. Statement of learned counsel appearing for the respondents was also recorded to the effect that the pending representation will be decided in accordance with law.

Learned counsel, on a Court query, submits that while on the one hand no decision has been taken on the pending representation, on the other hand, the second round of counseling is slated for tomorrow at 9:00 a.m. and shall close tomorrow itself, leaving the petitioner remediless.

Post it tomorrow i.e. on 26.10.2022. Registry to intimate the listing of the case to Mr. Anil Mehta, Ld. Senior Standing Counsel, U.T Chandigarh and Mr. Arun Gosain, Ld. Senior Government Counsel, Union of India, who were present in the second round, to apprise this Court as to what decision has been taken on the pending representation.

Learned counsel for the petitioner may also serve a copy of the writ petition to both the learned counsels in course of the day.

To be taken up as first case in the cause list on 26.10.2022.”

3. *Apropos*, on resumed hearing today at the very outset, a copy of speaking order dated 22.10.2022 has been tendered in course of the

hearing by Mr. Anil Mehta, Ld. Senior Standing Counsel for the U.T. Chandigarh, which is taken on record and marked as Annexure 'A'. In fact, before adverting further, it would be apposite to reproduce the said order which is as below:-

“Whereas, Dr. Japleen Bhatia, MBBS Batch 2014 requested for allowing her for submission of application for admission to MD/MS 2022 vide application sent on dated 27-09-2022.

AND WHEREAS, the last date for online submission of application for State Quota admission to MD/MS course 2022 (as per admission schedule) was 19-09-2022.

AND WHEREAS, the applicant filed a case in the honorable High Court of Punjab & Haryana, Chandigarh vide CWP No.23777 of 2022. The honourable court has decided that CWP No 23777 of 2022 titled as Dr. Japleen Bhatia Vs. U.T. Chandigarh on dated 17.10.2022 the concluded para of the judgment is ... 'Learned counsel for the respondent entering appearance on behalf of the respondents, on advance copy, submit that the respondents authorities would consider and take a decision of the representation (ibid) of the petitioner in accordance with law. Dismissed as withdrawn.'

NOW THEREFORE, the authorities of Government Medical College and Hospital, Sector 32, Chandigarh has considered the representation of Dr. Japleen Kaur and decided that she may submit the online application form for admission in MD/MS course 2022 as per admission schedule during the period from 27th October, 2022 to 01st November, 2022 i.e. when fresh applications for left over seats will be invited.”

4. Perusal of speaking order *ibid* would reflect that grievance of the petitioner *qua* non-consideration of her representation stands satisfied. In fact, she has been now permitted to submit online application form for admission in MD/MS Course 2022 as per the admission schedule for the period from 27th October, 2022 to 01st November, 2022 when fresh applications for left over seats will be invited. In case, the petitioner is still aggrieved *qua* aforesaid order she is at liberty to challenge the same in accordance with law, if so advised.

5. Learned counsel for the petitioner though strenuously argues that *mala fide* is writ large on the part of the respondents, inasmuch as, there appears to be concerted effort to accommodate some other candidate by denying the petitioner to participate in the 2nd round of Counselling. He would further argue that the speaking order, in any case, was passed on 22.10.2022 and what precluded the respondents to send the same either to the petitioner or her counsel, on whose letter head the representation was submitted by her, on which the email id was very much mentioned. He further submits that a copy of the speaking order has been brought to the Court for the first time with the oblique purpose of not letting the petitioner avail her remedy *qua* the same beforehand and in the interregnum, the 2nd round of Counselling would get over.

6. We are unable to persuade ourselves with the submission of learned counsel for the petitioner *qua mala fide*, especially, in the absence of any averments/pleading *qua* the same in the petition.

7. Be that as it may, no further grounds are made out to interfere in the present proceedings. This petition is disposed of with liberty, as aforesaid.

(JAISHREE THAKUR)
JUDGE

OCTOBER 26, 2022
ashish

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No