



In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 7952 of 2024 (O&M)

Reserved On: 09.12.2024
Pronounced On: 19.12.2024

Lingaya Vidyapeeth

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Sheel Nagu, Chief Justice.
Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. M.L.Sarin, Senior Advocate
with Ms. Hemani Sarin, Advocate
for the petitioner(s).

Mr. Naveen S. Bhardwaj, Additional Advocate General,
Haryana, for respondents No.1 to 3.

Mr. Omesh Garg and Ms. Palak Sharma, Advocates
for Mr. Gopal Sharma, Advocate, for respondent No.4.

Mr. S.K.Sharma and Mr. Rajat Sharma, Advocates
for respondent No.5.

Anil Kshetarpal, J.

1. The petitioner is a deemed to be University under Section 3 of the University Grants Commission Act, 1956 (hereinafter referred to as "the 1956 Act"). Through this writ petition, the petitioner prays for issuance of writ in the nature of mandamus quashing the order passed by the Secretary, Technical Education, Haryana, on 18.02.2020, notice issued on 21.08.2010 and order passed by the Haryana State Technical Education Society (HSTES) on 06.02.2024.

Precisely, the petitioner claims that the HSTES cannot force the

petitioner to admit students in B.Pharmacy and B.Pharmacy (LEET) Courses through Common Entrance Test (CET). The contention raised petitioner's senior counsel is based upon the judgment passed by the Supreme Court in *"The Pharmacy Council of India v. Dr. S.K.Toshniwal Educational Trusts, Vidarbha Institute of Pharmacy and Others Etc."* (Transfer Petitions (Civil) Nos. 87-101 of 2014 decided on 05.03.2020).

3. The Central Government has enacted the Pharmacy Act, 1948 (hereinafter referred to as "the 1948 Act") to regulate the profession of pharmacy which does not provide for conducting any centralized exam i.e. CET, as is conducted for medical profession i.e. NEET. That area is primarily governed by the Haryana Private Technical Education Institute (Regulation of Admission and Fee) Act, 2012 (hereinafter referred to as "the 2012 Act"). Under the aforesaid Act, the Haryana State Education Society has been constituted. The Society is an authorized body to make admissions in B.Pharmacy and B.Pharmacy (LEET) courses in all the government, self financing universities, deemed to be universities and also self financing institutions affiliated with Pandit Bhagwat Dyal University of Health Sciences, Rohtak, w.e.f. the academic session 2020-21. The petitioner claims that the State has no jurisdiction to hold CET and force the petitioner institute to admit students through the entrance test held by the Society.

4. On a careful reading of the Supreme Court's judgment in *The Pharmacy Council of India (supra)*, it becomes evident that the issue involved in the aforesaid cases was with respect to the applicability of the 1948 Act or the All India Council for Technical Education Act, 1987, in

minimum standards of education required for qualification as a Pharmacist, registration as a Pharmacist, regulation of future professional conduct etc. The Supreme Court, after examining the provisions of both the Central Acts, concluded that in the field of pharmacy education and more particularly so far as recognition of degrees and diplomas of pharmacy education is concerned, the 1948 Act shall prevail and the norms and regulations set by the Pharmacy Council of India (PCI) and other specified authorities under the said Act would be followed by the concerned institutions for imparting education as degrees and diplomas in pharmacy including the norms and regulations with respect to increase and/or decrease in the intake capacity of the students; and decisions of PCI shall only be followed by the institutions for imparting degrees and diplomas in pharmacy. It is evident that the aforesaid judgment is not applicable because the issue of admission through CET to be held by a government or its nominated institutions was not the subject matter of adjudication before the Supreme Court. The attention of this Court has not been drawn to any specific provision of the 1948 Act which deals with the admission through CET. Hence, there is no conflict. The Supreme Court has in ***Modern Dental College and Research Centre v. State of Madhya Pradesh (2016) 7 SCC 353*** held as under:-

"168. Having regard to the prevailing conditions relating to admissions in private professional educational institutions in the State of Madhya Pradesh, the legislature in its wisdom has taken the view that merit based admissions can be ensured only through a common entrance test followed by centralised

counselling either by the State or by an agency authorised by the State. In order to ensure rights of the applicants aspiring for medical courses under Articles 14, 15 and 16 of the Constitution of India, legislature by the impugned legislation introduced the system of common entrance test (CET) to secure merit based admission on a transparent basis. If private unaided educational institutions are given unfettered right to devise their own admission procedure and fee structure, it would lead to situation where it would impinge upon the "right to equality" of the students who aspire to take admissions in such educational institutions. Common entrance test by State or its agency will ensure equal opportunity to all meritorious and suitable candidates and meritorious candidates can be identified for being allotted to different institutions depending on the courses of study, the number of seats and other relevant factors. This would ensure twin objects:

- (i) fairness and transparency, and*
- (ii) merit apart from preventing maladministration.*

Thus, having regard to the larger interest and welfare of the student community to promote merit and achieve excellence and curb malpractices, it would be permissible for the State to regulate admissions by providing a centralised and singlewindow procedure. Holding such CET followed by centralised counselling or singlewindow system regulating admissions does not cause any dent on the fundamental rights

of the institutions in running the institution. While private educational institutions have a "right of occupation" in running the educational institutions, equally they have the responsibility of selecting meritorious and suitable candidates, in order to bring out professionals with excellence. Rights of private educational institutions have to yield to the larger interest of the community.

169. By holding common entrance test and identifying meritorious candidates, the State is merely providing the merit list of the candidates prepared on the basis of a fair common entrance test. If the screening test is conducted on merit basis, no loss will be caused to the private educational institutions. There is neither restriction on the entry of the students in the sanctioned intake of the institutions nor on their right to collect fees from the students. The freedom of private educational institutions to establish and run institution, impart education, recruit staff, take disciplinary action, admit students, participate in fixation of fees is in no way being abridged by the impugned legislation; it remains intact."

5. Moreover, the object of CET or entrance examination is to bring transparency in admission of the students in order to promote merit based admissions. Unless such statutory provision infringes or the particular field is dealt with by another statutory provision, the Court is not expected to interfere in effort of the government to make admissions based on merits,

fairness and transparency. It is never in the interest of the Society to allow back door admissions in an illegal manner by giving unfettered freedom to the private professional educational institutions to admit the students.

6. Similarly, the submission of petitioner’s senior counsel based upon Regulation No. 26 of the University Grants Commission (Institutions Deemed to be Universities) Regulation, 2020, lacks substance because it only provides that the institution deemed to be university shall be unitary in nature and will not affiliate any other institution. However, it does not provide that the State Government shall have no power to hold CET in order to ensure merit based admissions.

7. Keeping in view the aforesaid discussion, finding no merit, the present writ petition is dismissed.

8. The miscellaneous application(s) pending, if any, shall stand disposed of.

(Anil Kshetarpal)
Judge

(Sheel Nagu)
Chief Justice

December 19th, 2024
“DK”

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