

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2024:PHHC:096866-DB



Civil Writ Petition No. 13636 of 2019 (O&M)

Date of Decision: 29.07.2024

Satish Kumar and others

.....Petitioners

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL, JUDGE

Present : Ms. Anu Chatrath, Senior Advocate with
Mr. Nishant Maini, Advocate,
Mr. Nikhil Singh, Advocate and
Mr. Ratik Kapur, Advocate, for the petitioners.

Mr. Naveen S.Bhardwaj, Addl. Advocate General, Haryana.

Mr. Surinder Gaur, Advocate, for respondent-Pt.B.D.Sharma
University.

Mr. Ravi Sharma, Standing Counsel for respondent-
Medical Council of India.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. This petition has been filed by the petitioners praying for the following substantial reliefs:-

- “ii) to issue an appropriate writ, order or direction, especially a writ in the nature of certiorari, quashing the notices dated 16.04.2019 (P-13/1 to P-13/IV) vide which the petitioners No.1 to 4 have been asked to show cause as to why the admissions of their wards in MBBS course during Academic Sessions 2018-19 under B.C.A./B.C.B. category i.e. petitioners No.5 to 8 be not cancelled by applying the notification dated 28.08.2018 (P-16) retrospectively though the income certificates issued to petitioners No.1 to 4 by the competent authority were strictly in consonance with admission brochure and if any information/condition in the brochure was not as per Govt. instructions, then the petitioners cannot be held responsible for that, ignoring the fact that the wards of the petitioners No.5 to 8 have been attending classes for the last 9 months and now neither

they can get admission anywhere nor these seats can be offered to anyone as no candidate can be granted admission/joining after 31st August as per schedule given by Medical Council of India/State Government and as per law laid down by Hon'ble Apex Court in Writ Petition (Civil) No. 76 of 2015 titled as Ashish Ranjanb and others vs. UOI (P-20).

- iii) It is further prayed that a writ of mandamus may kindly be issued directing the respondents No.1 to 3 not to give retrospective effect to the notification dated 28.08.2018 (P-16) and not to cancel the income certificates (P-10/III to P-19/IV) issued to petitioners No.1 to 4 by the competent authority and not to cancel the admissions given to petitioners No. 5 to 8 in MBBS under BC-B category in the colleges mentioned against their names in the array of parties.*
- iv) It is further prayed that a writ of certiorari may also be issued quashing all the consequential/subsequent proceedings arising from the notice dated 16.04.2019 (P-13/1 to P-13/IV).*
- v) It is further prayed that a writ of mandamus may kindly be issued directing the respondents not to cancel the income certificates issued by the competent authorities to petitioners No.1 to 4 and accordingly admission granted to petitioners No. 5 to 8 in MBBS course which they are pursuing continuously since 01.09.2018 during the pendency of the present writ petition."*

2. The grievance of the petitioners, who are the students and their parents, is against the notification (Annexure P-16) issued by the State of Haryana on 28.08.2018 creating a sub classification within the class of Economically Backward category.

3. It is not disputed at the Bar by learned counsel for the rival parties that vide order dated 24.08.2021 the Apex Court in ***Pichra Warg Kalyan Mahasabha Haryana (Regd.) and another vs. State of Haryana and another 2021(3) SCT 747***, has quashed the foundational notification dated 17.08.2016 issued by the State of Haryana and as such the consequential notification dated

28.08.2018 (Annexure P-16) issued by the State of Haryana also pales into insignificance. The Apex Court, however, while quashing the aforesaid notification, saved the admissions of the students made in the meanwhile.

4. In the instant petition, the petitioners No.5 to 8 have completed their MBBS course and in all probability are undergoing internship or may have completed the same.

5. The aforesaid position is not disputed by learned counsel for the State of Haryana.

6. In view of the above and following the verdict of the Apex Court laid down in *Pichra Warg Kalyan Mahasabha Haryana (Regd.)* (supra), the impugned notices (Annexures P-13/I to P-3/IV) issued pursuant to the aforesaid notification dated 28.08.2018 (Annexure P-16) are liable to be set aside. Equity demands that in the changed circumstances, the admissions of the petitioners No.5 to 8, who have completed their MBBS course and have either received or will receive the degree ought to be saved.

7. Accordingly, the present petition is disposed of in terms of the law laid down by the Apex Court in *Pichra Warg Kalyan Mahasabha Haryana (Regd.)* (supra) and the impugned notices (Annexures P-13/I to P-3/IV) issued by the respondents pursuant to the aforesaid notification dated 28.08.2018 (Annexure P-16) are set aside and admission of petitioners No.5 to 8 in the MBBS course is saved. However, this order shall not be cited as a precedent.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

29.07.2024
ravinder

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