



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

201

CWP-17986-2018

Date of Decision: 24.07.2024

Sonali Gupta

....Petitioner

Versus

State of Punjab and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Vijay Kumar Jindal, Senior Advocate with
Mr. Akshay Jindal, Advocate;
Mr. Pankaj Gautam Advocate and
Mr. Balraj Rathee, Advocate
for the petitioner.

Mr. Salil Sabhlok, Sr. Deputy Advocate General, Punjab.

Mr. Gautam Pathania, Advocate
for respondent No.2 – Baba Farid University of Health Sciences.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. Present petition has been filed raising the grievance that due to fortuitous circumstances of the petitioner having completed her 10+2 from Chandimandir (Haryana), while her father was posted in West Bengal, and, therefore, was declared as ineligible to apply under the Ex-servicemen quota without getting the advantage of the exemption in terms of clause 12 (v) of

the notification dated 06.02.2018, which are rules for admission to MBBS/BDS courses in Medical and Dental Institutes in the State of Punjab for the academic Session 2018 onwards, issued by the Government of Punjab, Department of Medical Education and Research.

2. By way of interim order dated 24.07.2018, the petitioner was admitted provisionally to the MBBS course at Government Medical College, Majitha Road, Amritsar (respondent No.4).

3. It is informed by learned senior counsel for the petitioner that petitioner has completed the five years MBBS course and one year of internship, which is evident from the Provisional Medical Registration Certificate dated 24.04.2023.

4. The said Provisional Medical Registration Certificate is taken on record as Mark 'X'.

5. The learned counsel for the contesting respondent No.4 – University does not dispute the fact of the petitioner having completed the course including internship and also the fact that respondent No.4 – University has not cancelled her admission.

6. The learned senior counsel for the petitioner on the other hand relies upon the Division Bench judgment of the Bombay High Court **AIR 2024 Bombay 211** titled as ***Miss. Lubna Shoukat Mujawar vs. State of Maharashtra and others***, in particular paragraph Nos.19 and 20, which are reproduced here for ready reference:

“19. However, under the interim orders of this Court which were in operation from February 2014 onwards, the

petitioner has completed the course of MBBS and therefore, it would not be proper at this stage to withdraw the qualification obtained by the Petitioner moreso when the Petitioner has qualified as a Doctor. In our country, where the ratio of the Doctors to the population is very low, any action to withdraw the qualification obtained by the Petitioner would be a national loss since the citizens of this country would be deprived of one Doctor. However, as observed by us above, the means of obtaining the admission was unfair and has deprived another eligible candidate. We are conscious of high competition in admission to medical course and we are also conscious about high expenses to be incurred to enrol for the said course under the Open Category. However, that would not justify that the student should obtain the unfair means nor would it justify the action of the parents to be a part of the unfair means for getting the admission under the OBC Category. If the medical profession is based on a foundation of false information then certainly it would be a blot on the noble profession. In our view, for that matter the foundation of any student should not be built on the basis of the false information and suppression of the fact. Therefore, in our view, to balance the convenience, we propose to pass the following order :-

ORDER

- (i) Respondent No.3 was justified in cancelling Non-Creamy Layer Certificate of the Petitioner dated 8th October 2013 on the basis of which the admission was obtained in Respondent No.4-College. The Enquiry report is upheld.*
- (ii) However, on account of passage of time, the qualification obtained by the Petitioner should not be withdrawn by Respondent No.4 and Respondent*

No.5, and the said respondents are directed to confer the degree to the Petitioner.

- (iii) *The admission of the Petitioner in Respondent No.4- College right from year 2012 till completion of the MBBS course would be considered in the "Open Category" and the Petitioner shall pay difference in the fees which an Open Category Candidate was required to pay for the entire course. The said difference in fees shall be deposited by the Petitioner with Respondent No.4- College within a period of 12 weeks from the date of uploading the order.*
- (iv) *The Petitioner is also directed to pay cost of Rs.50,000/- to Respondent No.4-Hospital within a period of 12 weeks from the date of uploading the order.*

20. The writ petition is disposed of in above terms. No order as to costs."

7. The aspect as to whether the petitioner was entitled for admission in ex-servicemen quota or not, in the considered opinion of this Court, need not be gone into, especially in view of the fact that the petitioner has now completed the course and has been issued a Provisional Medical Registration Certificate (Mark 'X').

8. Without entering into the legality and validity of clause 12 (v) of the notification dated 06.02.2018, this Court, on account of efflux of time, and subsequent development of petitioner having completed the course, dispose of this petition with direction that petitioner shall be issued Regular Certificate as well as Degree by respondent No.4 – University.

9. The aforesaid order having been passed without going into the merits, shall not be treated as a precedent.
10. Disposed of accordingly.

(SHEEL NAGU)
CHIEF JUSTICE

July 24, 2024
Varinder

(VIKAS SURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No