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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CWP-15650-2023 (O&M)
Date of decision: 10.01.2024

Akshun Sharma and others

...Petitioners

Versus

Union of India and others

...Respondents

2. CWP-24375-2023 (O&M)
Date of decision: 10.01.2024

Charu

...Petitioner

Versus

Union of India and others

...Respondents

3. CWP-16160-2023 (O&M)
Date of decision: 10.01.2024

Mansi Gupta and others

...Petitioners

Versus

Union of India and others

...Respondents

CWP-15650-2023 (O&M) and
other connected cases

[2]

2024:PHHC:002814

4.

CWP-17828-2023 (O&M)
Date of decision: 10.01.2024

Manwant Singh and others

...Petitioners

Versus

Union of India and others

...Respondents

5.

CWP-19145-2023 (O&M)
Date of decision: 10.01.2024

Ramneet Kaur and others

...Petitioners

Versus

Union of India and others

...Respondents

6.

CWP-18350-2023 (O&M)
Date of decision: 10.01.2024

Uday Singh and others

...Petitioners

Versus

Union of India and others

...Respondents

7.

CWP-14120-2023 (O&M)
Date of decision: 10.01.2024

Sukhmanpreet Singh Cheema and others

...Petitioners

CWP-15650-2023 (O&M) and
other connected cases

[3]

2024:PHHC:002814

Versus

Union of India and others

...Respondents

8.

CWP-19286-2023 (O&M)
Date of decision: 10.01.2024

Asmi Saini

...Petitioner

Versus

Union of India and others

...Respondents

9.

CWP-19322-2023 (O&M)
Date of decision: 10.01.2024

Shayan and others

...Petitioners

Versus

Union of India and others

...Respondents

10.

CWP-19828-2023 (O&M)
Date of decision: 10.01.2024

Somnath and others

...Petitioners

Versus

Union of India and others

...Respondents

11.

CWP-24025-2023 (O&M)
Date of decision: 10.01.2024

Aameen Aggarwal and others

...Petitioners

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gaurav Chopra, Sr. Advocate with
Mr. Anurag Chopra, Advocate and
Ms. Himani Jamwal, Advocate for the petitioners
(In CWP-15650-2023)

Dr. Anmol Rattan Singh Sidhu, Sr. Advocate with
Mr. Rajesh Narang, Advocate and
Mr. Abhinav Narang, Advocate for the petitioners
(In CWP-14120-2023)

Mr. Peeush Gagneja, Advocate for the petitioners
(In CWP-19828-2023)

Mr. Gurdeepinder Singh Dhillon, Advocate for the petitioners
(In CWP-24025-2023)

Mr. Dhawaljeet Datta, Advocate for the petitioners
(In CWP-18350-2023)

Mr. Surinder Mohan Sharma, Advocate for the petitioners
(In CWP-24375-2023)

Mr. Umesh Pandey, Advocate and
Mr. M.M. Pandey, Advocate for the petitioners
(In CWP-16160-2023)

Mr. Karan Singla, Advocate and
Ms. Malvi Aggarwal, Advocate for the petitioners
(In CWP-19145-2023)

Mr. Puneet Kumar Bansal, Advocate for the petitioners
(In CWP-17828-2023)

Mr. S.K. Choudhary, Advocate for the petitioners
(In CWP-19286-2023)

Mr. Ravi Sharma, Sr. Standing Counsel with
Mr. Rajesh Tushar, Advocate for respondent Nos.1 and 2.

Mr. Vipul Aggarwal, Sr. Panel Counsel
Advocate for the Union of India-respondent No.1
(In CWP-24025-2023).

Mr. K.S. Dadwal, Advocate,
for the respondent-Baba Farid University.

Mr. Anil Chawla, Senior Panel Counsel
respondent No.1-UOI in CWPs-18350, 19828, 19145,
19286 and 19322 of 2023.

Mr. Sunil Chadha, Sr. Advocate with
Mr. Akshay Chadha, Advocate and
Ms. Taanvi Dhull, Advocate and
Mr. Shubham Bhalla, Advocate and
Mr. Sidharth Sandhu, Advocate and
Mr. Varun Puri, Advocate for respondent No.5 in all cases.

Mr. Kunal Muthreja, AAG, Punjab
for respondent Nos.3 and 4.

Mr. Abhilaksh Grover, Advocate for applicant
(In CM-18536-CWP-2023 in CWP-14120-2023)

VIKAS BAHL, J. (ORAL)

1. This order will dispose of 11 writ petitions i.e., CWP Nos.15650, 24375, 16160, 17828, 19145, 18350, 14120, 19286, 19322, 19828 and 24025 of 2023 as common questions of law and facts arise in all the writ petitions.

2. On 17.08.2023, with the consent of learned counsel for the parties, CWP-15650-2023 was taken up as the lead case. The order dated 17.08.2023 passed by this Court is reproduced hereinbelow:-

*“Present: Mr. Gaurav Chopra, Senior Advocate with
Mr. Anurag Chopra, Advocate
(In CWP-15650-2023),
Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Rajesh Narang, Advocate and
Mr. Abhinav Narang, Advocate
(In CWP-14120-2023),
Mr. M.M. Pandey, Advocate (In CWP-16160-2023)
for the petitioners.
Mr. Arun Gosain, Senior Panel Counsel with
Ms. Swati Arora, Advocate
for respondent No.1-UI (In all cases)
Mr. Ravi Sharma, Advocate for respondent No.2
(In all cases).
Mr. Rohit Bansal, Sr. DAG, Punjab,
for respondent Nos.3 and 4 (In all cases)
Mr. Gurminder Singh, Senior Advocate with
Mr. Jatinder Singh Gill, Advocate and
Mr. Shubham Bhalla, Advocate and
Mr. Siddharth Sandhu, Advocate and
Mr. Varun Puri, Advocate for respondent No.5
(In all cases)
Mr. K.S. Dadwal, Advocate for respondent No.6
(In all cases)*

*Learned counsel for respondent No.1-UI has submitted
that since, they are not contesting party thus, they do not wish
to file reply.*

*Learned counsel for respondent No.2 has filed reply in
CWP-14120-2023 today in the Court which is taken on record
and submits that he would adopt the said reply in the other
two writ petitions also.*

Learned counsel for respondent No.6 has submitted that the representation sent by the parents of the petitioner(s) had been received by respondent No.6 and has been further sent to respondent No.2 and respondent No.6 would adopt the reply filed by respondent No.2.

Learned State Counsel who is appearing on behalf of respondent Nos.3 and 4 prays for an adjournment to file reply.

Adjourned to 05.09.2023.

To be taken up at 01:45 pm.

Last opportunity is granted to the State to file reply on or before the next date of hearing with an advance copy to the office of learned Senior Counsel for the petitioner(s).

With the consent of all learned counsel for the parties, CWP-15650-2023 would be taken up as the lead case.

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

3. Prayer in the present set of writ petitions is for the issuance of a writ in the nature of mandamus directing the respondents to take corrective measures regarding the shifting of the petitioners being the students of academic sessions 2021-22 and 2022-23 undergoing MBBS Course with respondent No.5-College to any other recognized, affiliated and approved Medical College within the State of Punjab or to any other Medical College having affiliation with respondent No.6-University. Other prayers have also been made in the writ petitions. The prayer for shifting the petitioners in the present set of writ petitions is made on the plea that respondent No.5-College has failed to provide basic infrastructure facilities in terms of building, clinical material, teaching faculty to impart the necessary education for the Medical Professional Course being undertaken by the

petitioners and respondent No.2-National Medical Commission (NMC) has also declined to renew the recognition conferred upon respondent No.5-College.

4. On 02.11.2023, this Court was pleased to pass the following order:-

“1. Learned Senior Counsel appearing for the petitioner(s) in CWP-15650-2023 has pointed out that respondent No.2-National Medical Commission (NMC) in its reply, more so, in para 54 stated that the students cannot be transferred as a matter of practice, but can be transferred only under exceptional circumstances. It is submitted that all the circumstances which as per the case of the petitioners, make out a case for transfer, have been mentioned in the petition and the documents in support of the same have also been annexed and yet, respondent No.2-National Medical Commission has not come up with a specific stand as to whether the petitioners, who belong to batches 2021-2022 and 2022-2023, in the circumstances, as depicted, can continue to study in respondent No.5- College or not and as to whether respondent No.2 would make a recommendation in favour of the petitioners or not.

2. Learned Senior counsel for respondent No.5-College has submitted that they have already annexed the documents and made averments to show that the circumstances are not such that the petitioners/students of the batches 2021-2022 and 2022-2023 cannot continue in respondent No.5-college.

3. Learned counsel appearing for respondent No.2 has prayed for a short adjournment to file a specific affidavit on the following aspects:-

(i) Whether in view of the circumstances of the case, the students, who belong to the batches 2021-2022 and

2022-2023, can continue in the respondent No.5-College;

(ii) In case respondent No.2-NMC is of the opinion that the petitioners cannot continue, then, what is the further course of action which respondent No.2 wishes to propose in the matter.

4. It is made clear that this Court has not opined on the merits of the controversy and further proceedings in the matter would be considered after the affidavit is filed by respondent No.2-National Medical College.

5. Adjourned to 23.11.2023.

6. To be taken up at 1:45 P.M.

7. Respondent No.2 would positively file an affidavit before the next date of hearing in the Registry, with an advance copy of the same to the office of the learned senior counsel for the petitioners and also to the office of the learned senior counsel for respondent No.5-College.

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

5. In pursuance of the said order, affidavit dated 05.01.2024 has been filed on behalf of respondent No.2-National Medical Commission.

Paragraphs 50 to 52 of the said affidavit are reproduced hereinbelow:-

“50. In order to consider the case of the respondent medical college a committee comprising of the following members:

1.Dr. B.N. Gangadhar, President, Medical Assessment and Ratings Board; Officiating Chairman, National Medical Commission.

2.Dr.Aruna V. Vanikar, President Undergraduate Graduate Medical Education

3.Dr.Karunakar Reddy, Member National Medical Commission: Vice Chancellor, Kaloji Nara-van Kaloji

Narayana Rao University of Health Sciences, Telangana.

4. Dr.J. L Meena, Member, Medical Assessment and Ratings Board.

5. Dr. Yogender Mallilq Member Ethics & Medical Registration Board

6. Shri Pankaj Agrawal, Director, National Medical Commission of MARB

The Director Medical Education (DME), Punjab and Vice- chancellor, Baba Farid University of Health Sciences was also invited to the meeting. The principal/dean of the respondent medical college was also invited to present the case on behalf of the college.

51. The above-mentioned Committee held its meeting on 08.12.2023, wherein, it in detail, considered case of the respondent medical college, alongwith all the relevant records and representation. It is of utmost relevance to consider that during the meeting, the DME, Punjab and Vice-Chancellor, Baba Farid University of Health Sciences, while referring to the recent inspection report, concurred that the college is lacking infrastructure and facilities. During the said meeting due hearing was given to the respondent medical college and submission made by the college were duly considered. The Committee considered the fact even in past all the batches of the respondent medical college have been transferred to other medical colleges of the State and even as the facts stand as on date, there is serious deficiencies in the respondent college. The committee further considered that the college has no clinical material to impart medical education to students. In view of the above, the Committee, after due deliberation and discussion, decided to transfer the students admitted in respondent medical college to other medical college of the State, as per procedure. The Committee further decided to

explore the option of penalise the college for its misdeeds and repeated failure to with the NMC Regulations and norms. Minutes of the meeting held on 18.12.2023, is annexed herewith and marked as ANNEXURE R2/16.

52. In view of the above it is mot humbly submitted that the answering respondent as well as DMER, Punjab and the respondent university have unanimously decided to transfer the students admitted in respondent medical college to other medical colleges of the State, by following the due procedure in this regard.

In view of the facts stated and submissions made hereinabove, it is accordingly prayed.”

6. A perusal of the said paragraphs would show that to consider the case of respondent No.5-College, a Committee was constituted and in the Committee meeting held on 08.12.2023, the case of respondent No.5-College was considered along with all the relevant record and representations and it has further been stated that opportunity of hearing was given to the representatives of respondent No.5-Medical College and after considering all the aspects including the aspect that all the batches of the said Medical College have been transferred to other Medical Colleges of the State and the fact that there are serious deficiencies in respondent No.5-College including there being no clinical material to impart medical education to the students and in view of the same, it had been decided to transfer the students admitted in respondent No.5-Medical College to other Medical Colleges of the State as per procedure. It has further been specifically averred in the said affidavit that the answering respondents as well as Director Medical Education and Research, Punjab and respondent

No.6-Baba Farid University of Health Sciences had unanimously decided to transfer the students admitted in respondent No.5-College to other medical colleges of the State by following the due procedure. The detailed minutes of meeting dated 18.12.2023 have been annexed as Annexure R-2/16 along with CM-304-CWP-2024 and the relevant portion of the same is reproduced hereinbelow:-

“Summary:

Dr B. N Gangadhar summarised the proceedings:

- *Multiple failures have happened on behalf of the college. The college has failed in all inspections ie by DME, University, NMC and digital.*
- *There seems to be no clinical material for the students education.*
- *We will inform the Hon'ble Court that the two batches currently studying the college will have to be transferred to other colleges. The DME and University agree to the said decision.*
- *The provision of Penalty will be examined.*
- *Whether the commission is in custody of a bank guarantee will be examined and the procedure will be followed.*

The meeting ended with a vote of thanks to the chair.

Sd/- Director, NMC Sd/- Member EMRB Sd/- Member MARB

Sd/-(Approved on email)

Member, NMC

Sd/- Shanihar President, UGMEB

18-12-2023

Sd/- President, MARB

18/12”

7. Learned counsel appearing on behalf of respondent No.1-UIO and respondent No.2-National Medical Commission (NMC), has submitted

that a formal order conveying the decision taken by the Committee in meeting dated 18.12.2023 unanimously approving the transfer of the students from respondent No.5-College to other medical colleges in the State of Punjab would be communicated to respondent No.5-College within a period of two weeks from today.

8. Learned State Counsel appearing on behalf of State of Punjab-respondent Nos.3 and 4 has submitted that a proposal for allocation of colleges in the State of Punjab to the petitioners/students who have to be transferred would be made within a period of four weeks from the date respondent Nos.1 and 2 communicate the abovesaid order to respondent No.5-College. Learned State Counsel has further submitted that the said proposal is to be submitted to respondent No.2.

9. Learned counsel for respondent No.2 has submitted that the proposal received from the State would be forwarded to the Central Government within a period of four weeks from the date of receiving the said proposal from the State of Punjab.

10. Learned counsel for respondent No.1 has in response to the above submitted that the approval by the Central Government for transfer of students would be given within a period of four weeks from the date the proposal of the State Government is forwarded by respondent No.2 to the Central Government.

11. Learned State Counsel has further submitted that once the Central Government approves the transfer then, within a period of two weeks of the same, the students would be allocated to various medical

colleges in the State of Punjab, in accordance with law.

12. It is submitted by learned State Counsel, learned counsel appearing on behalf of the Central Government as well as learned counsel appearing on behalf of National Medical Commission that in view of the abovesaid stand, the present writ petitions have been rendered infructuous.

13. Learned Senior Counsel as well as other learned counsel appearing on behalf of the petitioners have submitted that the said stand of learned State Counsel, learned counsel appearing on behalf of the Central Government as well as learned counsel appearing on behalf of National Medical Commission satisfies the claim of the petitioners and the respondents would be bound by the statement made before this Court and pray that the present writ petitions be disposed of in terms of the said stand.

14. Learned Senior counsel for respondent No.5-Medical College has submitted that the stand of the official respondents in the affidavit as well as in minutes of meeting dated 18.12.2023 is not in accordance with law and no formal order has been communicated to respondent No.5 as yet and has further submitted that once respondent No.2 communicates the formal order to respondent No.5, liberty be granted to respondent No.5 to challenge the said order and the present order should not come in the way of respondent No.5 in challenging the same.

15. Keeping in view the abovesaid facts and circumstances and the abovesaid recorded stand of the official respondents, all the present writ petitions are disposed of as having been rendered infructuous. The official respondents would be bound by the statements made before this Court. It

would be open to respondent No.5 to challenge the decision taken in the minutes of meeting dated 18.12.2023 and also reflected in the affidavit dated 05.01.2024 and the formal decision to be communicated by respondent No.2, in accordance with law and in case any such challenge is made, the same would be considered independently and the present order would not come in the way of respondent No.5 in challenging the same or for the Court in considering the pleas raised by respondent No.5.

16. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

10.01.2024
Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No