IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

2024:PHHC:095589-DB

Civil Writ Petition No. 23361 of 2018 (O&M)
Date of Decision: 29.07.2024

Subhash Chand 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 : Mr. S.K.Garg, Senior Advocate with
Mr. Mukesh Rao, Advocate, for the petitioners.

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

Mr. Surinder Gaur, Advocate, for respondent No.4.

Mr. P.R.Yadav, Advocate for respondent No.5.

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SHEEL NAGU, CHIEF JUSTICE (Oral)

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

"iv) An appropriate writ, order of direction under Articles 226/227 of the Constitution of India may kindly be issued in the nature of writ of declaration to the effect that Notification dated 28.08.2018 (Annexure P-12), is prospective in nature and not retrospective as mentioned in the impugned notice (Annexure P-9) and consequently issuance of writ of certiorari quashing the Notice dated 03.09.2013 (Annexure P-9) vide which it has been directed to clarify the position of the petitioners otherwise the admissions of your wards shall be cancelled and the matter shall be reported to the department for taking disciplinary actions against the petitioners, which is illegal, unjust, unfair, arbitrary, unreasonable and violative of Articles 14 and 16 of the Constitution.

And/or

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To issue writ of mandamus directing the respondents not to cancel the admission of the wards of the petitioner, during the pendency of the present civil writ petition."

2. The grievance of the petitioners, who are the students and their parents, is against the notification (Annexure P-12) 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-12) 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.4 to 6 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 (Annexure P-9) issued pursuant to the aforesaid notification dated 28.08.2018 (Annexure P-12) are liable to be set aside. Equity demands that in the changed circumstances, the admissions of the petitioners No.4 to 6, who have completed their MBBS course and have either received or will receive the degree ought to be saved.

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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 (Annexure P-9) issued by the respondents pursuant to the aforesaid notification dated 28.08.2018 (Annexure P-12) are set aside and admission of petitioners No.4 to 6 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

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

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