

CWP-19960-2020 (O&M) 1

201

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-19960-2020 (O&M)
Date of Decision: 18.09.2024

Bhawna Garg and others

...Petitioners

Vs.

Union Territory, Chandigarh and others

...Respondents

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

Present Mr. Karmanbir Singh Kharbanda, Advocate
for the petitioners.

Mr. Sumeet Jain, Addl. Standing Counsel, U.T., Chandigarh.

Mr. Sandeep K. Sharma, Advocate and
Ms. Priya, Advocate for
Mr. G. P. Singh, Advocate
for respondent No.3.

Mr. Puneet Gupta, Advocate and
Mr. Ravindra Singh, Advocate
for respondent No.4.

Mr. Ravi Sharma, Advocate
for respondent No.6.

Mr. Anil Chawla, Senior Panel Counsel,
for respondent Nos. 7 and 8.

Mr. Angel Sharma, Advocate
for respondent No.9.

Sheel Nagu, CJ.(Oral)

1. This petition has been filed by three petitioners seeking admission to
the MBBS course seeking the following reliefs:-

- i) *Summon the entire record of the case.*
- ii) *Issue of writ, order or direction especially in nature of certiorari
for quashing the action of the respondent college, whereby the admission*


CWP-19960-2020 (O&M) 2

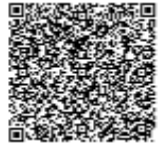
to open 85% quota of MBBS Course in Government Medical College, Sector 32 Chandigarh has been denied to the petitioners as per their merit and eligibility in a completely illegal and arbitrary manner and without there being any justifiable cause and the students, who are lower in merit has been granted admission.

iii) For issuance of writ, order or direction especially in nature of certiorari for quashing the action of the respondent college, whereby no adequate notice was given to the petitioners by publishing a list of eligible candidates as per merit on 13.11.2020 as required under the prospectus and further inspite of their own mistake they have not accepted the original documents that are in possession of the petitioners including the digitally verified mark sheet of 10+2 and have denied admission to the petitioners, especially when there is no provision for denial of admission on this basis in the prospectus.

iv. With further prayer for issuance of writ in nature of mandamus directing the respondents to admit the petitioners in respondent college as per their merit in the NEET and if necessary, by displacing the private respondents No. 3 to 5 to adjust the petitioners as they are higher in merit than these respondents.

v. With further prayer for issuance of any other writ, order or direction which this Hon'ble Court may deem fit in the present facts and circumstances of the case."

2. The grievance of the petitioners as projected by learned counsel is that 13.11.2020 was fixed as the date for display of list of provisionally eligible candidates according to their categories and also for a list of deficient documents/discrepancies. On the date fixed, the respondent No.2-College, instead of publishing both the lists, published a list of 170 candidates who suffered some deficiency or discrepancy in the submitted documents vide Annexure P-10. The petitioners contend that since the name of the petitioners did not appear in the said list of 170 candidates they were rest assured that they fell under the category/list of provisionally eligible candidates. The grievance of the petitioners is that their original documents were with the KMC University, Manipal and therefore they had to physically procure the same from the KMC University, Manipal and the

**CWP-19960-2020 (O&M) 3**

petitioners presumed that they were eligible, when their names did not appear in the 'deficiency list' published on 13.11.2020. Subsequently on 17.11.2020 the list of 'provisionally eligible candidates' who were eligible to participate in the counselling of the University was published, in which the names of the petitioners were mentioned at S.No.100, 103 and 108 respectively. Since the counselling was scheduled on the next day i.e. 18.11.2020, petitioners did not have sufficient opportunity to go to the Manipal University to procure the documents and make them available on the first counselling on 18.11.2020. With this grievance of denial of opportunity of not getting sufficient opportunity to produce the documents, the petitioners, who are three in number have filed this petition.

3. This Court, while taking cognizance of the matter vide interim order passed on 24.11.2020 directed thus:-

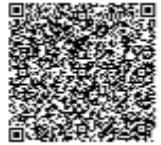
'XX

XX

XX

Accordingly, by considering the merit of the petitioners and also the fact that the candidates lower in merit have been allowed to attend counselling but case of the petitioners has not been considered, respondent No.2 is directed to grant provisional admission to the petitioners, which shall be subject to outcome of this writ petition. In case second counselling is there, the petitioners be allowed to appear in the second counselling."

4. Since the aforesaid interim order was not complied with, a contempt petition was filed which led to passing of the another interim order dated



CWP-19960-2020 (O&M) 4

21.12.2020 directing thus:-

“It is a conceded position that Government Medical College and Hospital, Sector-32, Chandigarh-respondent No.2 did not display the list of provisionally eligible candidates according to their categories on their website on 13.11.2020 as per clause (iv) of the tentative Admission Schedule notified in the centralised Admission Prospectus for admission to MBBS Course 2020 (P-8), which, read in conjunction with the list issued in the previous year 2019-20 (available at page 216) does disclose the prejudice which may have caused to the petitioners.

Before we proceed to hear the arguments, Government Medical College and Hospital, Sector-32, Chandigarh-respondent No.2 is directed to grant provisional admission to the petitioners, in compliance of the directions passed by this Court on 24.11.2020 against the available vacant seats as of now keeping in view the higher merit.

List on 19.01.2021.

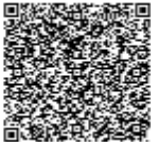
The misc. applications listed today be taken up along with the main case.”

5. As such, on the basis of the interim order passed on 21.12.2020, the petitioners were admitted and have since completed a little less than four years out of 4 ½ year course by attending the classes, and further that the aforesaid fact of petitioners attending classes is not denied by the learned counsel for College.

6. This Court after hearing learned counsel for the rival parties is of the considered view that sufficient opportunity to physically produce the relevant documents at the first counselling was denied by the respondent-College, thereby rendering the petitioners without admission.

7. Though, many issues have been raised in the present case by the private respondents but this Court would not like to go into those objections

simply because the petitioners have now completed nearly 4 years of their 4 ½



CWP-19960-2020 (O&M) 5

years course and since there was no substantial defect in their eligibility and also the fact that a number of candidates have secured admissions who were lower in merit of examination of the petitioners, this Court deems it appropriate to regularize their admission.

8. Accordingly, the writ petition is disposed of. The provisional admissions made by this Court vide order dated 21.12.2020 are regularized.

9. This order has been passed in the peculiar facts and circumstances of the case and it shall not be cited as a precedent.

10. All pending application(s), if any, shall also stand disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

September 18, 2024
archana

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