

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-20845-2024 (O&M)

Date of decision : 02.09.2024

Ronak Singh Garewal

.....Petitioner

Versus

Union of India and others

.....Respondents

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

Present: Mr. M.S. Khaira, Senior Advocate, with
Ms. Hanima Grewal, Advocate,
for the petitioner.

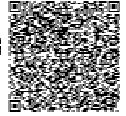
Mr. Anil Chawla, Senior Panel Counsel UOI,
for respondent No.1.

SHEEL NAGU, CHIEF JUSTICE (Oral)

1. The petitioner is an aspirant for admission to Bachelor of Dental Surgery (BDS) course under NRI quota.
2. As per Clause B-4 of Centralised Admission Prospectus for academic session 2024-25 (Annexure P-3), minimum eligibility criteria for Foreign National/NRI students is as follows :-

“B-4) : Eligibility Criteria for Foreign National/NRI Students

Only NEET (UG) – 2024 qualified (not less than 50th percentile) candidates can apply for admission against NRI Category seats for admission year 2024.



A foreign national may seek admission in BDS being offered by the University through the International Students Office under any of the following categories –

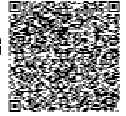
xxx xxx xxx”

3. From the above, it is obvious that the candidate concerned ought to have secured at least 50th percentile in NEET (UG) – 2024 examination.

4. Undisputedly, the petitioner’s percentile in NEET (UG) – 2024 examination is 49.2645385. Accordingly, it is evident that petitioner does not possess minimum eligibility criteria for being admitted to BDS course under the NRI quota.

5. Learned senior counsel for the petitioner has relied upon a decision of Apex Court in **Harshit Agarwal and others Vs. Union of India and others, (2021) 2 SCC 710**, specifically on paragraphs 14 and 16, which are re-produced below for ready reference and convenience :-

“14. The first respondent reduced the minimum marks for admission into first year BDS course for the year 2019-2020 in consultation with the second respondent. In spite of the recommendation made by the second respondent to reduce the minimum marks for the year 2020-2021, the first respondent deemed it fit not to lower the minimum marks for the current year. While arriving at a decision on 30.12.2020 not to lower the minimum marks it does not appear that the first respondent has consulted the second respondent in accordance with the proviso to clause (ii) of Regulation II (5). There is no dispute that the minimum marks have been reduced by the first respondent for the super speciality courses for the last year and AYUSH courses for the current year. If reducing minimum marks amounts to lowering the standards, the first respondent would not do so for super speciality courses. We are in

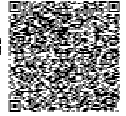


agreement with Mr. Maninder Singh, learned Senior Counsel for the petitioners that lowering the minimum marks and reducing percentile for admission to the first year BDS course would not amount to lowering the standards of education.

15. xxx xxx xxx

16. *For the aforementioned reasons, we set aside the decision of the first respondent dated 30.12.2020 to not reduce the minimum marks for admission to BDS course as it suffers from the vices of illegality and irrationality. We direct that the vacant seats in first year BDS course for the year 2020-2021 shall be filled up from the candidates who have participated in the NEET (UG) courses for the year 2020-2021 after lowering the percentile mark by 10 percentile. The candidates belonging to the general category who have secured 40 percentile shall be eligible to be considered for admission in the first year BDS course for the year 2020-2021. Likewise, students belonging to the SC/ST/OBC categories shall be qualified if they have secured 30 percentile. Insofar as general candidates with benchmark disabilities specified under the Rights of Persons with Disabilities Act, 2016, they would be eligible if they have secured 35 percentile. The admissions shall be made strictly in accordance with merit and the admission process shall be completed by 18.02.2021. Any other student who has qualified in NEET (UG) - 2020 even without lowering the minimum marks and is willing to participate in the admission process shall also be considered for admission to BDS course.”*

6. A bare perusal of the facts and circumstances prevailing in **Harshit Agarwal's case** (supra), in particular, the first paragraph of the said judgment, reveals that there was a recommendation made by the Executive



Committee of Dental Council of India for lowering of the qualifying cut-off percentile for admission to BDS course for the academic year 2020-2021.

7. On the basis of the said factual scenario, the Apex Court rendered the aforesaid judgment.

8. Thus, factual situation in the case of **Harshit Agarwal** (supra) contrasts with the present case, where there is no such recommendation from any Committee of the Dental Council of India.

9. It is settled that an eligibility criteria, unless and until challenged, cannot be diluted.

10. An application (CM-14145-CWP-2024) for amendment of the writ petition for challenging the legality and validity of the said minimum eligibility criteria has been filed, solely on the ground that seats of NRI quota would be wasted.

11. In this regard, a bare perusal of clause B-5 of Centralised Admission Prospectus for academic session 2024-25 (Annexure P-3) reveals that in case seats reserved for NRI students are not filled up, then said seats shall be transferred to unreserved category of All India Pool. The relevant clause is re-produced below for ready reference and convenience :

“B-5) Inter-Changeability and Transfer of Seats during Second Counseling.

1. *In the SC/ST reserved category the seats shall be regarded as ‘interchangeable’. That is to say, if a sufficient number of eligible candidates are not available to fill up the seats reserved for Scheduled Tribes, seats may be filled up from among the eligible candidates belonging to the Scheduled Castes, and vice-versa.*



2. *Seat remaining unfilled from SC (PwD) category on account of non-availability of eligible candidate shall be filled from eligible SC Category candidates.*
3. *In case sufficient number of eligible candidates, belonging to reserved categories (SC/ST/BC/Person with Disability (PwD General Category), Hoshiarpur District, preferably Jaj (Judge) community/International/NRI Students/Central Pool) are not available, the vacant seats shall be transferred to General Category of All India Pool.”*

12. In view of above, the very basis for challenging the validity of the provision of minimum eligibility criteria is non-existent and the seats even if left vacant would not go waste.
13. This Court, therefore, declines to interfere in the matter and the petition stands dismissed accordingly.
14. All the Civil Miscellaneous applications also stand dismissed.

(SHEEL NAGU)
CHIEF JUSTICE

(ANIL KSHETARPAL)
JUDGE

September 02, 2024
ndj

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