

2024 PHHC 119166-DB



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

CWP-21051-2024 (O&M)

Reserved on: 06.09.2024

Pronounced on: 11.09.2024

Divjot Sekhon

...Petitioner

Vs.

State of Punjab and others

...Respondents

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

Present: Mr. Suneet Pal Singh Aulakh, Advocate
for the petitioner.

Mr. Salil Sabhlok, Senior Deputy Advocate General Punjab.

Mr. Nitin Kaushal, Advocate
for respondent No.2-University.

Mr. Jagat Vir Dhindsa, Advocate
for respondent No.4.

Mr. Ankur Jain, Advocate
for respondent No.5.

ANIL KSHETARPAL, J.

1. By filing the writ petition under Article 226/227 of the Constitution of India, the petitioner prays for issuance of a writ in the nature of certiorari to quash email/communication dated 16.08.2024, requesting the candidates to submit sports certificates/achievements of any year and merit list

of candidates issued on 23.08.2024 for admission to MBBS Course under Sports quota.

2. The petitioner has been admitted under Sports quota to Gian Sagar Medical College and Hospital, Banur under Government Quota (Sports). She aspires for admission to a better Medical College.

3. The petitioner applied for admission to MBBS Course for the Session 2024, pursuant to prospectus issued by Baba Farid University of Health Sciences, Faridkot, under Sports quota. As per Clause 15 of the Prospectus, there is a reservation of 1% for the State quota seats under the sports person category. In substance, the dispute is as to whether the sports achievements/certificates of the candidates of only during Classes XI and XII are required to be taken into consideration or sports achievements of candidates in other classes including IX and X can also be considered. The petitioner relies upon Clause 7 of list of category of students and respective category codes at page 44, which reads as under:-

List of category and category codes

Sr.No.	Category	Category Code
1-6	xxx	
7.	<i>Sports person (Credit shall be given only for the sports achievements made during class XI and XII. The admission shall be made on the basis of inter-se merit of candidates determined on the basis of gradation (Cat A/B/C)</i>	17
8-14	xxx	

4. *Per contra*, the respondent relies upon Clause 14, at page 37, Clause 15(v), at page 58 and Clause 16(v) at page 61, which reads as under:-

“14. In case of any discrepancy of contradiction between the Government notification/s and the University instructions contained in this Prospectus, the letter and spirit of the notification(s) shall be prevailing, however in academic matters the University shall be the final Authority.”

“15. Reservation in Government Medical/Dental Colleges:

The reservation for the State quota seats in Government Institutes in various categories for admission to the Undergraduate courses in Government Medical/ Derital Institutes shall be as under:

(v) Sports Persons 1%

Credit and admission shall be made on the basis of inter-se merit of the candidates determined on the basis of gradation (Category A/B/C) as per the Sports Policy notified by Department of Sports & Youth Services, Government of Punjab.”

“16(v) Sports Persons 1%

Credit and admission shall be made on the basis of inter-se merit of the candidates determined on the basis of gradation (Category A/B/C) as per the Sports Policy notified by Department of Sports & Youth Services, Government of Punjab.”

5. It is the case of the respondent that there was printing error while printing list of categories and category codes, which was rectified by sending email on 16.08.2024 to all such candidates, including to the petitioner

clarifying that sports achievements/certificates is not only restricted to Class XI and XII, but will include all classes. The documents were required to be submitted by 19.08.2024. It is claimed that the petitioner herself submitted her sports achievement certificates with respect to all classes including XI and XII, which were duly considered by the Director of Sports while preparing merit list. During counselling, the petitioner as per preference has been admitted in Gian Sagar Medical College and Hospital, Banur as she was at merit list No.8. After having got admission in the above said institute, the petitioner has filed the writ petition. Moreover, it was categorically mentioned in Clauses 14, 15 and 16 that the Sports/achievements/certificates shall be evaluated as per sports policy notified by Department of Sports and Youth Services, Government of Punjab.

6 While contending that the prospectus is required to be strictly followed, the petitioner's counsel submits that sports achievements made during studies in Class XI and XII are required to be taken into consideration and the merit list prepared while taking into account the sports achievements made during studies in the School upto Class XII cannot be taken into consideration. While referring to the prospectus of Session 2024, learned counsel representing the petitioner submits that previously also sports achievements of Class XI and XII were considered. He submits that in absence of the amendment in the prospectus, the merit list prepared by the Director of Sports, Punjab is liable to be quashed.

7. *Per contra*, learned counsel representing the respondents submits that the prospectus was uploaded on 09.08.2024 with the following note:-

“Notification for admission to MBBS/BDS Course session 2024 is still awaited. However, Keeping in view of schedule issued by MCC, New Delhi, Govt. Of India; the applications are invited on urgent basis. The eligibility for admission to MBBS/BDS Courses, session 2024 is subject to issuance of Notification by the Govt. of Punjab, Deptt. of Medical Education & Research, Chandigarh for admission under NEET UG-2024.”

8. He submits that the revised prospectus was published on 10.08.2024, as per the Punjab Government notification issued on the same day. He further submits that as per the policy of the Punjab Government, the sports achievements of candidates were to be considered including Class XI and XII. He submits that on 16.08.2024, all the candidates were intimated while affording them three days time i.e. upto 19.08.2024 to submit their documents. It is further contended that the petitioner is now estopped from challenging the select list after having been admitted on that basis in Gian Sagar Medical College and Hospital, Banur.

9. Having heard learned counsel representing the parties, this Court does not find it appropriate to issue the writ for the following reasons:-

- i. The petitioner does not dispute that on 16.08.2024, she received email directing submission of Sports Achievement Certificates, including Class XI and XII. She complied with the aforesaid direction. At that time,

the petitioner did not come to the Court challenging the aforesaid email. She filed the writ petition only on 27.08.2024, which was listed for the first time on 28.08.2024. Pursuant to the merit list, she was placed at serial No. 8 in the revised sports merit list, in which, she was allocated Gian Sagar Medical College and Hospital, Banur. Hence, the petitioner is late in filing the writ petition.

- ii. It is evident from reading of Clause 14 that in case of any discrepancy or contradiction between Government notification and the University instructions contained in this prospectus, the letter and spirit of notification shall prevail. Moreover, from reading of Clause 15(v) and Clause 16(v), it is evident that the Sports Achievements of candidates were required to be determined on the basis of gradation as per the sports policy notified by Director of Sports and Youth Services, Government of Punjab. Hence, there is no change in the policy after the last date of application. Moreover, the petitioner relies upon Clause 7 of list of categories and category codes. That is only a list of categories and category codes. The substantive provision is under Clause 15(v) and Clause 16(v).

- iii. After examining the facts of the case and various Clauses of the prospectus, it becomes evident that there was a printing error in Clause 7, which was clarified vide communication dated 16.08.2024, sent across all the candidates who had applied under Sports category including the petitioner, while giving three days time to submit their Sports Achievement Certificates. This email was sent on the last day of submission of application because as per prospectus, the candidates seeking admission to MBBS Course in Sports category were required to submit their applications by 16.08.2024. Hence, there was no delay on the part of the respondent-College in intimating the candidates.
- iv. This is not a case of subsequent change in the criteria laid down in the prospectus. In fact, there is a discrepancy in the various Clauses of the original prospectus. If Clause 15 and 16 are read, the sports achievements of candidates are required to be considered as per the prevailing Government policy. It is not the case of the petitioner that the Government Policy do require consideration of Sports Achievement Certificates, only of Class XI and XII. Moreover, Clause 14 specifically provides that in case of discrepancy or

contradiction between Government notification and University instructions contained in the prospectus, the terms of notification shall prevail.

10. For the reasons recorded above, this Bench does not find it appropriate to issue the writ.
11. The writ petition stands dismissed.
12. All the pending miscellaneous applications, if any, are also disposed of.

	(ANIL KSHETARPAL) JUDGE	(SHEEL NAGU) CHIEF JUSTICE
11.09.2024 neeraj	Whether speaking/reasoned :	Yes No
	Whether Reportable :	Yes No