

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-21865-2024 (O&M)
Reserved on: 04.09.2024
Date of decision: 10.09.2024

ARANAV BHARGAV

..Petitioner

Versus

THE BABA FARID UNIVERSITY OF HEALTH SCIENCES,
FARIDKOT THROUGH ITS REGISTRAR

..Respondent

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

Present: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Brijesh Khosla, Advocate, for the petitioner.

Mr. Nitin Kaushal, Advocate for respondent-University.

ANIL KSHETARPAL, J.

1. By invoking extra ordinary writ jurisdiction under Article 226/227 of Constitution of India, the petitioner prays for the following substantive reliefs:-

“(ii) Issue a Writ in the nature of Certiorari, summoning and quashing the decision/action of Baba Farid University of Health Sciences in treating the petitioner exclusively as an NRI candidate.

(iii) Issue a Writ in the nature of Mandamus directing the Respondents to consider the petitioner and include him in the admission process of M.B.B.S. Sessions 2024 a OCI card holder (period to 2021) in terms of the Judgment of the Hon’ble Supreme Court against seat for Indian Citizen Quotas;”

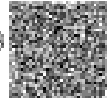
2. He aims to gain admission in MBBS course in open category offered by various medical colleges located in the State of Punjab under State’s 85% quota. After having been born on 24.02.2006 in California (US), he did his schooling from Sacred Heart Convent School, Ludhiana.

While appearing as Overseas Citizen of India (in short ‘OCI’) in NEET

(UG) 2024, he secured All India Rank of 2,86,066 with 448 marks. On



09.08.2024, Baba Farid University of Health Sciences (hereinafter referred to as 'BFUHS') uploaded an online prospectus for admission inviting applications for filling seats falling in 85% State quota with respect to various medical colleges located in the State of Punjab. As per admission schedule, the last date for submitting online admission application form through University website was 15.08.2024, whereas, last date for sports category candidates to submit print/hard copy of online submitted application form personally in the University was upto 16.08.2024. Similarly, 19.08.2024 was the last date for submitting physical application form for Non-Resident India (NRI) quota students, which was subsequently extended to 21.08.2024, on account of a Corrigendum issued by the State of Punjab. The petitioner submitted an application for NRI quota seat. As per clause 14 of Step-1 Submission of Online Admission Application Form of the prospectus, it is permissible to simultaneously apply for admission in more than one category through a common application, however, he never applied for open category/general category seat. While filing the writ petition, on 31.08.2024, he claimed as an Indian citizen for admission in open category. The petitioner's case is that prior to 21.08.2024, he physically tried to submit hard copy of another application which was never accepted by the University. In substance, he claims a right of consideration against open seats on the ground that he was issued OCI card before 04.03.2021 as per the judgments passed by the Supreme Court in **Anushka Rengunthwar Vs. Union of India, 2023 SCC (online) SC 102** and **Pallavi Vs. Union of India and others, 2023 All SCR 2156**, wherein it was held that OCI card holders were to be treated and granted status at par with Indian nationals till 04.03.2021. Hence, he has been wrongly deprived of the opportunity of claiming admission in open/general category.



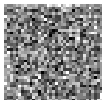
passed by the Supreme Court in **Dr. Radhika Thappeta Vs. Union of India and others, Writ Petition No.1397 of 2020, decided on 30.09.2021**, submits that the petitioner deserve direction to the respondent-University to allow him to submit application for admission in the general category. He further submits that as per prospectus issued by National Medical Council, OCI cardholders are entitled to rights and privileges which have been conferred on them earlier to notification dated 04.03.2021, whereas, the prospectus issued by the University provide that OCI cardholder candidates shall be considered only for 15% NRI quota seats, which is contrary to the law laid down by the Supreme Court.

4. Per contra, the respondent-University while opposing the prayer has filed a detailed reply.

5. After evaluating the arguments of learned counsel for the rival parties, this Bench does not find it appropriate to issue the writ as prayed for by the petitioner for the following reasons:-

i. The petitioner does not claim that he ever made an attempt before 15.08.2024 to submit application under the general category, which was the last date. In such cases, the time is of utmost importance and sometime, even a single day delay is fatal. In this case, although he has not produced the copy of hard copy of the application as NRI candidate but he claims it to be filed between 19th to 21st August, 2024, whereas, the last date for submission of application for open category was 15th August, 2024, which was never extended.

ii. While filing the reply, the respondent-University has stated that such condition has been incorporated as per the instructions of the Punjab Government, however, the



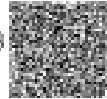
State of Punjab has not been impleaded as party. During the hearing, the petitioner's learned Senior counsel was apprised of this objection of not impleading the State as a party, however, he submitted that further delay would render the writ petition infructuous.

iii. The petitioner has not challenged Clause 17(vi) of the prospectus, which restricts consideration of OCI cardholder candidates only for 15% NRI quota. The relevant clause reads as under:-

“17. Non-Resident Indian (NRI) SEATS
 xx xx xx xx
(i) xx xx xx xx
(ii) xx xx xx xx
(iii) xx xx xx xx
(iv) xx xx xx xx
(v) xx xx xx xx
(vi) **OCI/PIO candidates shall be
considered only for 15% NRI Quota seats.”**

Furthermore, the petitioner originally chose to file application form in the NRI category. As per Clause 14 of the prospectus, once a particular category has been chosen, it is not permissible for any candidate to subsequently change the category.

iv. Undoubtedly, the Supreme Court in Anushka Rengunthwar’s case (supra) and Pallavi’s case (supra) has held that OCI cardholders are entitled to be considered as Indian citizens, if the card was issued upto 04.03.2021, however, in this case, he neither applied for open category within the prescribed time nor came to the Court within reasonable time. The reliance placed on interim order passed by the Supreme Court in



Dr. Radhika Thappeta's case (supra) does not help him because in that case, the petitioners were only permitted to appear for counselling in the general category as they had already appeared in NEET (UG) 2021 examination.

6. Further, the petitioner's counsel relies upon Clause 5(ii) of information issued by National Medical Council, however, he has overlooked Sub-Clause (i) of Clause 5.2.2, which reads as under:-

"5.2.2 Eligibility of OCI cardholders for NEET (UG)

(i) Indian Nationals, Non Resident Indians (NRIs), Overseas Citizen of India (OCI), Persons with Indian Origin and Foreign Nationals are eligible for admission in Medical/Dental/Ayurveda/Siddha/Unani/Homeopathy Colleges subject to the rules and regulations framed by respective State Governments, Institutions and The Government of India, as the case may be."

7. It is evident that with respect to seats to be filled up from the State quota, the rules and regulations framed by the respective State Government, Institution or Government of India shall be applicable. The prospectus was uploaded on 09.08.2024, whereas, 15.08.2024 was the last date for submitting online admission application form by various categories including open. He filed the writ petition on 31.08.2024, when the last date was already over, hence, the writ petition suffers from unexplained delay.

8. Resultantly, finding no merit, the writ petition is dismissed.

9. All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

10th September, 2024

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Whether speaking/reasoned

: Yes/No

Whether reportable

: Yes/No