



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CWP-23973-2023 (O&M)
Reserved on: 25.07.2024
Pronounced on: 02.09.2024

Dipinder Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Jagmohan Singh Bhatti, Advocate, for the petitioner.

Mr. Salil Sablok, Deputy D.A.G., Punjab,
for respondent Nos.1 and 2.

Mr. Nitin Kaushal, Advocate, for respondent Nos.3 to 7.

Mr. Nandan Jindal, Advocate, and
Ms. Pallavi Gujral, Advocate, for respondent No.8.

VIKAS SURI, J.

1. This petition under Articles 226/227 of the Constitution of India has been preferred by a medical student, whose attempt to upgrade her admission in BDS to MBBS course, despite having secured provisional allotment in second round of counselling, did not fructify. The prayer in the instant petition is *inter alia* for issuance of writ of *certiorari* for quashing letter dated 21.09.2023 (Annexure P-15), whereby the demand draft towards six months fee was returned to the petitioner and letter dated 22.09.2023 (Annexure P-16) by the concerned institute informing that admission process



cannot be completed in the absence of all original certificates of the candidate/student. Further, prayer made is for issuance of a writ of *mandamus* directing the respondents to issue admission slip and allow the petitioner to join the MBBS classes and also for issuance of a writ of prohibition against respondent Nos.5 to 9.

2. Brief facts of the case are, the Government of Punjab vide notification dated 10.03.2023 (Annexure P-1) announced the admissions to MBBS/BDS courses in medical and dental institutes in the State of Punjab, for the session 2023 onwards. Eligibility criteria for admission was to be as prescribed in the Information Bulletin for National Eligibility-cum-Entrance Test (NEET) issued by National Testing Agency (NTA) for the corresponding year. The fee chargeable for various courses by Government and private institutes under different categories, for respective years of the course, were also prescribed besides laying down the general conditions. The said notification was partially amended with regard to fee for admission to private institutes/universities for MBBS course, vide notification dated 27.06.2023 (Annexure P-2).

2.2 Baba Farid University of Health Sciences (for short, 'the University'), on 13.07.2023 published the Prospectus for under graduate medical/dental courses for Session - 2023 (Annexure P-3), wherein timelines were specified. The prominent dates include prospectus becoming available on the university website, last date for applying through online admission application form on university website and publication of final provisional



merit list after considering objections, if any. The last date for online application was 20.07.2023 and the final provisional merit list was to be displayed through the University website upto 29.07.2023. The prospectus also provided that the schedule of online counselling will be published later on, at the university website. Instructions for online counselling were also to be provided therein. The said prospectus specified step by step processes, from submission of online application form till verification of documents post provisional allotment of seat and payment of online fee after generating allotment letter.

2.3 The petitioner appeared in NEET UG-2023 examination against Roll No.3811010182 and achieved the required marks. She applied to the University for admission to BDS/MBBS under SC category and was registered at sr. no.922498 and placed at merit no.4562. In the first round of online counselling, petitioner was successful in securing a seat to BDS course in Desh Bhagat Dental College, Mandi Gobindgarh-respondent No.5 (for short 'Dental College'), under Government quota, in SC category. Accordingly, petitioner joined the Dental College within the stipulated timeframe and submitted her original documents for verification alongwith requisite fees of Rs.82,500/- for six months.

2.4 The petitioner wanting to upgrade from BDS to MBBS Course 2023, deposited the requisite fee to participate in round 2 of counselling. Petitioner was successful in upgrading to MBBS Course and accordingly, her name figured in the provisional allotment list of candidates of Round 2



under NEET UG-2023 and she was allocated a seat in Adesh Institute of Medical Sciences and Research, Bathinda-respondent No.8 (for short, 'Adesh Institute'), under management quota, SC category. Provisional admission slip (Annexure P-8) issued pursuant to second round online counselling, also provided instructions to provisionally selected candidates. The candidates were to report to the respective allotted College physically w.e.f. 29.08.2023 to 04.09.2023 for taking admission, after paying necessary six months fees through university payment gateway in the University account.

2.5 On 04.09.2023, the petitioner approached Adesh Institute with an application of even date (Annexure P-9) addressed to the University seeking permission for payment of the requisite differential fee in offline mode, i.e. by demand draft, having been unsuccessful to pay online despite multiple attempts due to technical issues. Along with the said application, demand draft dated 04.09.2023 (Annexure P-10) for an amount of Rs.4,21,000/-, drawn in favour of Registrar, BFUHS, was also appended. Petitioner moved another application dated 04.09.2023 (Annexure P-11) to the Principal of Adesh Institute, stating that her original documents were submitted at the Dental College and she undertook to submit the original documents soon.

2.6 Having failed to successfully complete the admission formalities by the stipulated last date i.e. 04.09.2023, petitioner engaged in a series of correspondence with Adesh Institute and the University.



2.7 Vide letter dated 21.09.2023 (Annexure P-15), the demand draft was returned by the University and petitioner was informed that her request to accept the tuition fee through demand draft was considered and not acceded to in the light of instructions mentioned in the Prospectus. It was also recorded therein that petitioner had not joined the respective college till the last date.

2.8 In response to petitioner's email dated 18.09.2023 (Annexure P-14), Adesh Institute reiterated that the petitioner had reported to the institute for admission without all requisite original documents and as per the instructions published by the University for seat allotment, the admission process cannot be completed in the absence of all original certificates, vide email dated 22.09.2023 (Annexure P-16).

2.9 Aggrieved by the aforesaid, petitioner has assailed the above noticed communications dated 21.09.2023 (Annexure P-15) and 22.09.2023 (Annexure P-16), through the present petition.

3. Upon notice, the petition has been contested on behalf of the University and Adesh Institute by filing written statement. It is pleaded that petitioner has approached the Court after the last date for completing the admission process. On merits, it has been stated that the University was authorised to conduct counselling for MBBS/BDS courses for academic session 2023-24, in various medical and dental colleges/universities (Government and private) as well as minority institutes in the State of Punjab. The schedule was published in the prospectus and as per the



guidelines laid down, it has been clearly stipulated that the fee shall only be accepted through online mode. Further, the petitioner failed to submit her joining with original documents pursuant to round-2 online counselling and thus, she was not allowed to join. The petitioner was advised to participate in subsequent round of counselling by applying afresh.

4. The controversy raised in the present petition lies in a narrow compass. The issue arising for consideration is whether petitioner could sustain her provisional allotment to MBBS course, secured in second round online counselling, even when the prescribed procedure for completing admission process could not be adhered to in letter and spirit.

5. Learned counsel for the petitioner has argued that the action of the institute/university in not acceding to the request of the petitioner for depositing the tuition fee through demand draft was arbitrary and not justified. Payment by demand draft was an acceptable mode as per the instructions of the University itself. Reference was made to information in that regard uploaded on the website of the University during the admission process. The second argument raised was that though the petitioner did not have the original certificates with her on 04.09.2023 as the same had been submitted to the Dental College for verification, where she was admitted to BDS course but a copy thereof, was duly provided along with the undertaking that the originals would be submitted shortly. It is further urged that on the following day itself, petitioner reported to Adesh Institute with the original documents/certificates and yet was not issued the admission slip.



Such action is whimsical and hence, liable to be struck down.

6. Per contra, learned counsel for the respondents have opposed the present petition stating that the petitioner has approached this Court at a belated stage i.e. after the last date (30.09.2023) for completing the admission process as per the stipulated timeline, which are in consonance with the directions passed by the Hon'ble Supreme Court of India. It is further submitted that the admissions were to be completed strictly in accordance with the instructions provided in the prospectus as well as those issued at the time of relevant stage of counselling i.e. Rounds 1 to 3, Stray Vacancy Round (online) or Walk-in Physical Extended Stray Vacancy Round (Physical). The petitioner was duly notified of her request for payment of fees though Demand Draft not having been acceded to by the Competent Authority as she had not produced the original certificates till last date of joining and accordingly, penalty was imposed as per rules. The petitioner was advised to apply afresh along with security amount, if she was interested to participate in round-3 of counselling. Petitioner did not intentionally participate in further rounds of counselling, i.e. 3rd round, Stray Vacancy and Walk-in Physical Extended Stay Vacancy, despite the MBBS seats at Adesh Institute being vacant.

7. We have heard learned counsel for the parties at length and have perused the record with their able assistance.

8. Before proceeding further, it would be useful to refer to the relevant portions of the notification announcing Admissions, Prospectus and



Instructions/Notice given for respective rounds of counselling. For ready reference, they are extracted hereunder:

Notification dated 10.03.2023 (Annexure P-1)

20. GENERAL CONDITIONS

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- j) Guidelines of MCC shall be followed and referred to, from time to time in the process of counseling.

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- l) For students admitted through online counseling, fee shall be deposited as prescribed by Baba Farid University of Health Sciences, Faridkot after verification of documents at College level. For students admitted through physical counseling, fee shall be deposited through Bank Demand Draft only.

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21. The State Government reserves the right to amend any clause and procedure for admission.
22. In case of any doubt, the Administrative Secretary, Department of Medical Education & Research, Government of Punjab may issue clarification which will have force of the policy.
23. For any dispute arising out of this notification or of the admissions under this notification, the Administrative Secretary, Department of Medical Education & Research, Government of Punjab shall be competent to resolve whose decisions shall be final.

PROSPECTUS Session - 2023

Step-V

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3. Counselling for admission to MBBS/BDS, session 2023 will be conducted online followed by Physical reporting of the candidates to allotted colleges. During online counseling, candidates will fill online counselling form.



They shall give their preferences of course, college, category, quota. The Provisional Seat will be allocated as per NEET merit and in order of preferences given by the candidate. Therefore, candidates are advised to take proper caution while filling up the order of preferences of course, college, category, quota. Candidates of reserved categories (who scored marks equivalent or more than the minimum cut-off of open merit NEET marks) will also be considered in open merit. If candidate of reserve category is eligible in open merit, then seat of open merit will be allocated.

4. After provisional allocation of seat, candidates can download provisional allocation letter from the University website after logging into their account and will report to the respective college along with all original documents for the checking of documents and their eligibility. If found eligible, he/she has to deposit the tuition fee through online payment gateway. Issuing of Provisional Selection Slip alone does not confer any right to claim the allocation of seat in respective college as their provisional selection is subject to verification of documents and checking of eligibility as per guidelines of Punjab Govt. Notification enshrined in the Prospectus.
5. If any candidate does not follow the said process, his/her allocated seat will be cancelled automatically without any intimation and his/her seat shall be declared as vacant for the subsequent round of counseling.
6. If any candidate is not willing to change/upgrade the seat/college in 2nd round of counseling, he/she is not required to participate in the 2nd round of counselling. In case, candidate wishes/intends to upgrade/change his/her seat he/she will have to participate in the 2nd round of counselling and give his/her preferences afresh for the course/college/category/quota.
7. In case any candidate wants to quit the course/seat,



he/she will have to submit application to the respective college regarding his/her surrender of seat well in advance before the start of 2nd round of counselling, otherwise rules of 2nd round will apply and penalty will be imposed as per Gazette Notification No. MCI-34 (41)/2018-Med./109835 dated 18/05/2018 (available at page no. 67 to 69)

8. In case candidate seat is upgraded/changed in the 2 round of counselling and he/she has already deposited the tuition fee, he/she is not required to deposit fee again, only difference in fee, if any, shall need to be deposited.

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Step-VI Provisional allotment of seat:-

1. The Provisional seat will be allotted to the candidate as per merit list and institutional preferences submitted by him/her in online counseling form. Allocation of seat is provisional subject to verification of original documents/checking of eligibility by the Principal of concerned Colleges. After provisional allocation of seat, candidate shall deposit the tuition fee through online payment gateway and report to the allocated college for verification of documents and checking of eligibility. It is sole responsibility of the Principal to authenticate the eligibility of the provisionally allocated candidate before their joining/admission.

Step-VII Verification of documents after provisional allotment of seat:-

1. The Provisional selected candidates desired to join the provisionally allotted seat, shall have to report to the Principal of concerned college and required to produce all of their original documents/credentials for verification. It is sole responsibility of the



Principal to authenticate the eligibility of the provisionally allocated candidate before their joining/admission. If the selected candidate is found eligible as per instructions mentioned in Punjab Govt. Notification no. 5/5/2021/-5HB-111/446-dated 10.03.2023 then he/she will be allowed to submit his/her joining report after medical checkup.

- 2. After the verification of the documents and checking of eligibility, the candidate can pay the online fee after generating allotment letter both at his/her own level or college level.

FOR UPDATES PLEASE VISIT UNIVERSITY WEBSITE: www.bfuhs.ac.in

Schedule for 2nd round of UG Medical/Dental online Punjab State Counselling under NEET UG-2023 (Annexure R-2)

12.	Display of revised provisional allotment / result after any change in provisional allotment due to objections (if any).	28.08.2023
13.	The provisionally selected candidates will pay the balance amount of fee (Six month fee after deducting amount of security deposit) through university payment gateway available on university website and will report to the respective college for joining in the respective allotted college.	From 29.08.203 to 04.09.2023

Note:

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- 2. Candidate to whom seat will be allotted in 2nd round but they do not report/join at the college may exit with forfeiture (i.e. The security deposit will not



be refunded in such case).

3. Candidates who will not join the allotted seat in Round 2 will be eligible for further rounds of counselling but the security amount deposited for 2nd Round will be forfeited and applicant will have to register fresh and will have to deposit the fresh security deposit for 3rd round alongwith. The provisions with regard to security deposit and eligibility for participation will be as per revised information bulletin posted on MCC website.

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Provisional Admission Slip NEET UG-2023 UG Medical
2nd Round Online Counselling For Admission to M.B.B.S.
Course

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Instructions to Provisionally selected candidate

1. The Provisional Allocation is based on your merit and choices of institutions submitted by you during Round-II online counselling.
2. Allocation of seat is purely provisional, subject to the final document verification and fulfilment of eligibility of the candidate by the principal.
3. The provisional allotment letter is based on the personal data viz., category etc., submitted by the candidate. University is neither responsible for the truth/factualness of the date nor for any inadvertent error that may have in the Provisional Allotment Letter being published on the web. The allotment is purely provisional and the seat of the candidate is liable to be cancelled in case the candidate does not fulfil the eligibility criteria on verification of the original documents at the time of the reporting or any time thereafter (as the case may be).
4. The candidate shall submit the tuition fee for six months through on line payment gateway, the link for which is available in their LoginID.



- 5. You are required to report the respective allotted College physically w.e.f.; 29.08.2023 to 04.09.2023 for taking admission, after paying necessary six months fees through university payment gateway in the university account. In case you fail to report for joining up to 04.09.2023, the provisional seat allotted to you will be treated as cancelled and no claim thereafter will be entertained in any case. The candidate is advised to contact the allotted college authorities for detail before proceeding.
- 6. The candidate is required to ensure that he/she is issued an admission letter by the College where he is taking admission (generated through online submission by the allotted college).
- 7. Are required to keep original documents / certificates ready for joining at the college verification & checking of eligibility.
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xxx
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xvi. xxx

b) Schedule for 3rd round of UG Medical/Dental online Punjab State Counselling under NEET UG-2023

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13.	The provisionally selected candidates will pay the balance amount of fee (Six month fee after deducting amount of security deposit) through university payment gateway available on university website and will report to the respective college for joining in the respective allotted college.	From 22.09.203 to 23.09.2023
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Notice posted on the University website on 30.09.2023 at 3.00 PM



Baba Farid University of Health Sciences, Faridkot

Physical Counselling for left over MBBS seats under NEET UG 2023 will be held on 30-09-2023 9:00pm at Committee Hall, Baba Farid University of Health Sciences, Faridkot. The present candidates will be considered on NEET UG merit basis as per stray vacancy round terms and conditions. The selected candidates are required to pay the fee on the spot at the counselling venue through any mode (RTGS/ NEFT/Bank Demand Draft/Online). For details visit bfuhs.ac.in. Vacancy position is as under:-

College	Quota/ Category	Seats
Adesh Institute of Medical Sciences, Bathinda	Management/SC	01
SGRD Medical College Amritsar	SC	01

9. Concededly, the admission process is governed by notification dated 10.03.2023 (Annexure P-1) as amended vide notification dated 27.06.2023 (Annexure P-2), Prospectus for under graduate Medical/Dental Courses, Session - 2023 (Annexure P-3), the instructions/guidelines issued thereunder for counselling and those by the Medial Counselling Committee (MCC).

10. It is admitted that the petitioner was eligible to participate in 2nd round online counselling and had been provisionally allocated a MBBS seat in Adesh Institute, under Management/SC category. It is not disputed that the admissions concluded on 30.09.2023, after the Walk-in Physical



Extended Stray Vacancy Round Counselling was conducted by the University. The instant petition has been instituted on 09.10.2023.

11. A conjoint reading of the above noticed provisions of the applicable regulations/Instructions make it abundantly clear that for students admitted through online counselling, fee was to be deposited as prescribed by the University, after verification of documents at College level. The only exception was with regard to students admitted through physical counselling, which fee was to be deposited through Bank Demand Draft only. It is evident from the record and is not contested by either side, that first three rounds (round 1, round 2, round 3) and Stray Vacancy round, all were online counselling. Only the last counselling held by the University on 30.09.2023 at 9.00 PM, i.e. Walk-in Physical Extended Stray Vacancy Round, was through physical counselling and as per the notice published earlier on the same day, the selected candidates were to pay the fee on the spot at the counselling venue through any mode, viz. RTGS/NEFT/Bank Demand Draft/Online.

12. A perusal of the application dated 04.09.2023 (Annexure P-11) made by the petitioner to Principal, Adesh Institute would show that it is admitted therein that the petitioner did not have the original documents with her while reporting at Adesh Institute on the last day i.e. 04.09.2023. Rather it was submitted that she will soon submit original documents. Thus, upto the last date for admission pursuant to 2nd round online counselling, the petitioner did not present her original documents for verification and neither



an exception could be made nor the time could be enlarged under the application regulations/instructions. Clauses 2 to 7 of Instructions to provisionally selected candidates (Annexure P-8) would be relevant. According to the said instructions, the candidate was required to submit the tuition fee for six months through online payment gateway, the link of which was available in their login ID. The candidates were required to report to the respective allotted college w.e.f. 29.08.2023 to 04.09.2023 for taking admission, after payment of necessary six months fee through University payment gateway in the university account. It was also stipulated therein that in case the candidate failed to report for joining upto 04.09.2023, the provisional seat allotted will be treated as cancelled and no claim thereafter will be entertained in any case. The candidates were required to keep original documents/certificates ready for joining at the college for verification and checking of eligibility, which were also specified in the said instructions. During the course of hearing, learned counsel for the petitioner has not pointed out any contrary provision or exception to the rule.

13. The above noticed instructions leaves no room for any doubt that mere depositing of fee by a candidate is not sufficient to claim the seat, until and unless the candidate does not report to the concerned allotted college within stipulated date and time for checking of eligibility and documents, thereby completing of all formalities for joining. In view of the same, acceptance or otherwise of the fee through Demand Draft would pale into insignificance and cannot safeguard the provisional allotment of seat



beyond the last date.

14. An email dated 08.09.2023 (Annexure R-3) was also sent to the petitioner, wherein the admission branch of the University informed that her request for deposit of fee through demand draft was considered by the competent authority but not acceded to as she had not produced the original certificates till the last date of joining. The applicable penalty was, thus, imposed as per rules on account of non-joining the allotted seat. Despite the above, petitioner neither applied for participating in 3rd round/stray vacancy round nor participated in the Walk-in Physical Extended Stray Vacancy round, while a vacant seat was available in Adesh Institute till the last.

15. In the light of the above discussion, the irresistible conclusion with regard to the issue under consideration is against the petitioner. Moreover, no relief could possibly be granted to the petitioner after the admission process concluded on 30.09.2023.

16. Accordingly, the petition being bereft of merit is dismissed.

17. Pending applications, if any, shall also stand disposed of.

(SHEEL NAGU)
CHIEF JUSTICE

(VIKAS SURI)
JUDGE

September 02, 2024
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No