



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

202-2**CWP-19031-2016****Date of decision: 28.01.2025**

Simran Shakya

....Petitioner

V/s

Government Medical College and Hospital,
Sector 32, Chandigarh and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Mayank Mathur, Advocate for the petitioner.
Mr. Ashish Rawal, Advocate for respondent No.1.
Mr. Samarth Sagar, Advocate for respondent No.2.

SUMEET GOEL, JUDGE

1. The substantive prayer made in the writ petition in hand reads,
thus:-

“(A) Issue a writ under Article 226 of Constitution of India in the nature of certiorari for quashing of order dated 09.09.2016 (Annexure P-1) passed by the Director Principal of respondent no.1, vide which the petitioner’s admission in MMBS (sic. MBBS) course (1st year) in Schedule Caste quota allocated to the U.T. Chandigarh pool has been provisionally cancelled for accommodating respondent no.2 who is admittedly an OBC Candidate.

(B) Issue a direction for staying the operation of the impugned order, dated 09.09.2016 (Annexure P-1) during the pendency of the present writ petition, so that the petitioner can attend her regular classes. ”

2. Vide order dated 14.09.2016, earlier passed by this Court, notice of motion was issued and the petitioner was extended an interim order that she would be permitted to attend the classes, provisionally, subject to final decision of the writ petition. The said order reads thus:

“Places reliance upon pendency of CWP-18187-2016, which has been adjourned for 21.09.2016. It is submitted that admission granted to the petitioner has been provisionally cancelled, without issuing any show cause notice, on account of the orders passed in the above-mentioned case on 02/07.09.2016 (Annexure P2).

Notice of motion.

Mr.Ashish Rawal, Advocate, and Mr.Rakesh Verma, Advocate, accept notice on behalf of respondents No.1 & 2, respectively and pray for time to file replies.

Mr.Rawal further submits that the impugned order has been kept in abeyance, as per instructions from the Law Officer, Shri Yadvinder Singh.

Keeping in view the above undertaking, the petitioner will be permitted to attend classes, provisionally, subject to final decision of the writ petition. It is made clear that this order is purely provisional and shall not create any right of equity, in favour of the petitioner.

To be heard along with CWP-18187-2016 on 21.09.2016.

Pleadings be completed in the meantime.”

2.1. Thereafter, vide order dated 28.09.2017 earlier passed by this Court, the writ petition was admitted, relevant whereof reads thus:

“Heard.

In view of the fact that question of providing reservation is still under consideration of the University authorities, let this petition be ‘admitted’

List for final hearing on 17.03.2018.

Interim order to continue.

The result of the petitioner(s) shall be declared provisionally and if need be, the petitioner(s) shall be allowed to appear/re-appear in the examinations and shall also be permitted to admit in the next semester.

Let a copy of this order be placed in the file of connected matter.”

2.2. The respondent No.2 had preferred Civil Appeal Nos.8234-8235-2023 before the Hon’ble Supreme Court against the interim order dated 24.08.2023 passed in CM-2496-2022 and CM-18869-2022, which came to be disposed off vide order dated 02.11.2024 passed by the Hon’ble Supreme Court, relevant whereof reads thus:

“5. Taking note of the fact that the appellant has to produce the M.B.B.S. degree certificate for counseling for admission in Post-Graduate course, we are of the considered vie that respondent No.7 can be directed

to issue a provisional degree certificate to the appellant, subject to the outcome of the pending Writ Petition No.18187/2016 pending before the High Court of Punjab and Haryana. Ordered accordingly. In view of the urgency of the matter, it shall be done on or before 09.12.2024.

6. *Since the CWP No.18187/2016 is pending before the High Court of Punjab and Haryana since 2016, we are of the considered view that these captioned appeals can be disposed of with the aforesaid direction to respondent No.7 and with a request to the High Court to dispose of the pending writ petition as expeditiously as possible, taking note of the nature of the issue involved.*

7. *Accordingly, these civil appeals stand disposed of. ”*

3. When the main writ petition was taken up for hearing today, it is the common ground of the rival parties that the petitioner has successfully completed the course in question i.e. MBBS. The issue which needs consideration, at this juncture, is as to whether and in what manner a subsequent event (that the petitioner has successfully completed course in question) after the institution of the present writ petition is required to be delved into. A three Judge Bench of the Hon’ble Supreme Court in a case titled as ***Pasupuleti Venkateshwarlu vs. The Motor and General Traders*** ***AIR 1975 SUPREME COURT 1409***; has held as under:

“4. xxxxxxxxxxxxxx. First about the jurisdiction and propriety vis a vis circumstances which come into being Subsequent to the commencement of the proceedings. It is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suitor institutes the legal proceeding. Equally clear is the principle that procedure is the handmaid and not the mistress of the judicial process. If a fact, arising after the lis has come to court and has a fundamental impact on the right to relief for the manner of moulding it, is brought diligently to the notice of the tribunal, it cannot blink at it or be blind to events which stultify or render inept the decretal remedy. Equity justifies bending the rules of procedure, where no specific provision or fairplay is violated, with a view to promote substantial justice--subject, of course, to the absence of other disentitling (actors or just circumstances. Nor can we contemplate any limitation on this power to take note of updated facts to confine it to the trial Court. If the litigation pends, the power exists, absent other special circumstances repelling resort to that course in law or justice. Rulings on this point are

legion, even as situations for applications of this equitable rule are myriad. We affirm the proposition that for making the right or remedy claimed by the party just and meaningful as also legally and factually in accord with the current realities, the court can, and in many cases must, take cautious cognizance of events and developments subsequent to the institution of the proceeding provided the rules of fairness to both sides are scrupulously obeyed. xxxxxxxxxxxxxx”

Further, a Five Judge Bench of the Hon’ble Supreme Court in a case titled as ***State of Maharashtra vs. Milind AIR 2001 SUPREME COURT 393***, dealing with somewhat similar set of facts as are in the present case, has held as under:

“31. Respondent no. 1 joined the medical course for the year 1985- 86. Almost 15 years have passed by now. We are told he has already completed the course and may be he is practicing as doctor. In this view and at this length of time it is for nobody's benefit to annul his Admission. Huge amount is spent on each candidate for completion of medical course. No doubt, one Scheduled Tribe candidate was deprived of joining medical course by the admission given to respondent no. 1. If any action is taken against respondent no. 1, it may lead depriving the service of a doctor to the society on whom public money has already been spent. xxxxxxxxxxxxxx”

4. As noted hereinabove, it is not in dispute that the petitioner has successfully completed her MBBS degree course, though on the basis of interim protection afforded to her by this Court. There is no allegation of any fraudulent or misleading practice having been undertaken by the petitioner. The respondent No.2, whose admission was affected on account of the petitioner having been granted admission to the course in question, was also protected by this Court in CWP-18187-2016 & it is not disputed by the learned rival counsel that she (respondent No.2) has also completed the course-in-question successfully. At this juncture, it will yield no result(s) for anyone if the petitioner’s qualification/admission is rescinded in anyway. It will be universally futile in case the petitioner is not permitted to reap the benefit of her having completed her MBBS degree course; even the Society

would be deprived of the service(s) of a qualified doctor for which scarce resources of a public-funded medical institution have been utilized. It would be a waste of the training, time, efforts of the faculty and other resources in the medical institution; as well as it will adversely affect the life of the petitioner, if she were not allowed to undertake the profession for which she has been declared qualified. It will bring no gain rather will have no effect at all, to the respondent No.2; if the petitioner is denied her qualification. In essence, it would be unproductive for the Society at large to deny medical practice based on her qualification to the petitioner.

5. In view of the above; the writ petition in hand is allowed, by directing as under:

- (i) The impugned order dated 09.09.2016 (Annexure P-1) passed by the Director Principal of Government Medical College & Hospital, Chandigarh is quashed. The respondents are mandated to take forthwith necessary consequential steps accordingly including awarding Registration Number (PU-PIN) as also the DMC (Detailed Mark-sheet Certificate) etc. to the petitioner as per applicable rules.
- (ii) It is explicated, by way of abundant caution, that the ratio decidendi of the case in hand shall not be treated as a precedent as it is being passed in the peculiar factual matrix of the instant case.
- (iii) Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

January 28, 2025
Ajay