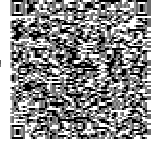


103 + 205 (2 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2026:PHHC:052031-DB



CWP-8173-2026 (O&M)
Date of Decision: 06.04.2026

Rushali Singhal

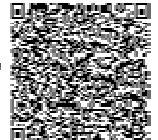
...Petitioner

Vs.

State of Haryana and others

...Respondents

2026:PHHC:052033-DB



CWP-5859-2026 (O&M)
Date of Decision: 06.04.2026

Malyavi Gupta

...Petitioner

Vs.

State of Haryana and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. Aashish Chopra, Sr. Advocate with
Mr. Yash Pal Sharma, Advocate and
Mr. Arav Gupta, Advocate
for the petitioner in CWP-5859-2026.

Mr. K.B. Raheja, Advocate
for the petitioner in CWP-8173-2026.

Mr. Pankaj Middha, Addl. AG, Haryana.

Mr. H.S. Gill, Advocate for respondent No.3.

Mr. Ajay Kumar Jain, Advocate for respondent No.5.

ASHWANI KUMAR MISHRA, J. (Oral)**CM-5090-CWP-2026**

Application for placing on record documents Annexure P-18 to P-20, is allowed subject to all just exceptions.

Main Cases.

1. These two petitions have been filed by the students who are claiming admission against the same seat. The question is as to which of the two candidates has a preferential claim against the said seat.
2. At the outset, we may note that if both the candidates are not considered for the seat, the seat itself would remain vacant for the academic session. The admission is to PG seat of Master of Surgery (Obstetrics and Gynecology). For the sake of convenience, Petitioner – Rushali Singhal is hereby referred to as ‘First Candidate’ while petitioner Malyavi Gupta is referred to as ‘Second Candidate’.
3. The admission to MS course is pursuant to a notification issued by the Government of Haryana dated 10.11.2025. 15% seats out of management quota seats in Private Medical College affiliated to Pt. B.D. Sharma University of Health and Science, Rohtak, including those under private universities are reserved for NRI category. The prospectus specifies hierarchy in which candidates are to be accorded preference in the NRI quota. The hierarchy as is indicated in the brochure is reproduced as under:-

“Admission to NRI category (NRIs/PIOs/OCIs/Foreign Nationals)”

15% seats out of management quota seats in private medical colleges affiliated to Pt. BD Sharma UHS, Rohtak including those under Private Universities namely SGT University, Budhera, Gurugram and Al-Falah University, Faridabad shall be reserved under NRI category seats.

The procedure for admission to NRI quota seat shall be as under:-

- 1. All admission under NRI category seats shall be as per merit of NEET-PG-2025 only.*
- 2. Only NEET qualified candidates shall be eligible under NRI category.*
- 3. PIOs, OCIs and Foreign Nationals who are NEET qualified can also apply under the NRI category. The preference for admission under NRI category shall be considered as under:-*

<i>i.</i>	<i>Actual NRIs/OCIs/PIOs candidates who originally belonged to the State of Haryana.</i>
<i>ii.</i>	<i>Children of NRIs/OCIs/PIOs who originally belonged to Haryana State</i>
<i>iii.</i>	<i>Actual NRIs/OCIs/PIOs who originally belonged to an Indian State and Union Territories other than Haryana.</i>
<i>iv.</i>	<i>Children of NRIs/OCIs/PIOs who originally belonged to an Indian State and Union Territories other than Haryana.</i>
<i>v.</i>	<i>Real Brother and Sister of the candidate.</i>
<i>vi.</i>	<i>If the first-degree relation of the student is NRI and residing abroad and the candidates fulfils the following conditions :-</i> <i>a) He should be the nearest relation.</i> <i>b) In the definition of nearest relation, candidate having following blood relations.</i> <i>i) Real Brother and sister of father i.e. real uncle and</i>

	<i>real aunt.</i> <i>ii) Real brother and Sister of mother i.e. real maternal uncle and maternal aunt.</i> <i>iii) Father and mother of father i.e. grandfather and grandmother.</i> <i>iv) Father and mother of mother i.e. maternal grandfather and maternal grandmother.</i> <i>v) First degree-paternal and maternal cousins.</i> <i>vi) Such person should be NRI</i> <i>c) Such persons should ordinarily be residing abroad.</i> <i>d) Such person should have looked after such student as the guardian of the student and</i> <i>evidence to that effect must have been produced before the committee by such person.</i>
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4. Both the candidates are claiming admission for the same seat in category No.VI i.e. first-degree relation of the student is NRI and residing abroad. Sub-Clause (b) specifies the definition of nearest relation. The second candidate applied for admission to MS (Obstetrics and Gynecology) seat in Maharishi Markandeshwar College of Medical Science and Research, Sadopur, Ambala. So far as the second candidate is concerned, she was provisionally offered a seat in the 3rd round of counselling in the NRI category. One of the requirements for admission in NRI category, is to deposit the fee from an NRI account. The second candidate deposited the fee from an account held in India. Subsequently, the fee was again deposited by an NRI from his account being held in India. The university in terms of the public notice took a stand that since the deposit of fee was not from NRI

account, as such, the admission in NRI category, cannot be granted to the second candidate. The university had issued a public notice for NRI/OCI/PIO category candidates on 14.11.2025, which was before the 3rd round of counselling. In this notice, following clauses are contained:

“xx xx xx

5. Candidates who are provisionally allotted seats have to deposit ‘provisional tuition fee’ through admission web portal only.

6. Provisional tuition fee (in USD or equivalent INR as applicable) has to be paid only through the NRE/NRI/NRO/Foreign bank account of candidate/parent/sponsorer (as the case may be) through admission web portal only within the prescribed time schedule.

7. Proof of NRE/NRI/NRO/Foreign Account.

xx xx xx”

5. The notice categorically provides that tuition fee has to be deposited through NRI foreign account of the candidate. The apparent idea is to ensure that the funds originate from an overseas account. The second candidate although offered to deposit the fees twice but on both the occasions, the deposit of fee was from an Indian account. The university, therefore, has rightly non-suited the second candidate during 3rd round of counselling for admission to aforesaid seat as the tuition fee had not been paid through an NRI bank account of the candidate.

6. The mere fact that at some subsequent point of time, the account has been converted to an NRI status, cannot be given much weightage. The second candidate having failed to secure admission in 3rd round of

counselling then applied for admission in the stray round. She has further been denied permission to do so on account of the fact that a candidate who has already secured admission in 3rd round would not be entitled to participate in the stray round. The relevant clause of the public notice for the stray round counselling reads as under:-

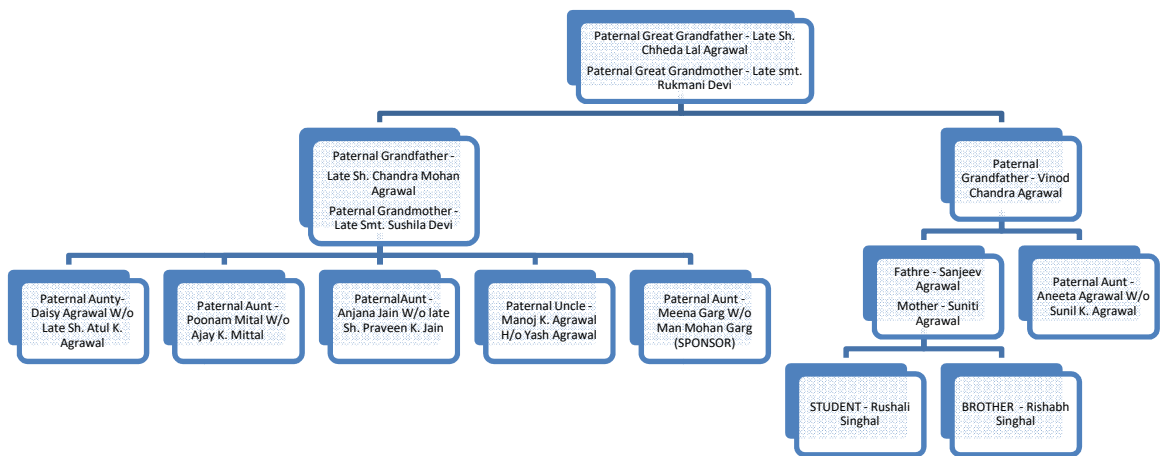
“2. The candidates, who have been allotted seats in round-3 Haryana State Counselling, shall not be considered eligible for the Stray Vacancy Round of counselling.”

7. Learned senior counsel for second candidate submits that the note, aforesaid, excludes a candidate who has been offered admission in the 3rd round from participation in the stray round. It is submitted that in this case the second candidate was provisionally allotted a seat but was never granted any admission and, therefore, the exclusion clause denying permission for participation in the stray round, cannot be applied to the case of the second candidate. Prayer is accordingly made to direct the respondent – University to consider the claim of second candidate for allocation of seat in question to her.

8. Coming to the first candidate, the ground of objection is somewhat distinct. So far as the first candidate is concerned, she has already deposited her fee through an NRI account. The only issue on which she has been non-suited is that she does not qualify to be an NRI candidate by virtue of Clause 3 (b) of the notification and, therefore, her provisional admission, has not been accepted. Learned counsel for first candidate submits that the Government of India has already notified the list of NRI candidates eligible for PG counselling on 27.01.2026, vide Annexure P/5, wherein, the name of the first candidate finds mention. Learned counsel representing the first

candidate also submits that she had also applied for counselling in the stray round in the State of Rajasthan and though she was eligible for admission yet she did not opt for it only because she was allotted a seat in the State of Haryana and in such circumstances, it would not be inequitable for her to be denied admission at this stage.

9. The NRI relationship on the strength of which the first candidate claims, is reflected from a family tree specified at page No.116 which is extracted herein below:-



10. Learned counsel for first candidate states that her father’s cousin is one Meena Garg and it is her husband namely Shri Man Mohan Garg, who has deposited the fee on her behalf.

11. Learned counsel for respondents states that the relationship so stated does not meet the criteria of an NRI as the sponsor is not a first-degree maternal or paternal cousin of the candidate.

12. Counsel for the first candidate states that the relationship of the sponsor with the first candidate has been found as such, so as to extend her the benefit of NRI quota by the Central Government and it will not be open for the State of Haryana or the respondent – University now to take a

contrary stand. It is also stated that the first candidate would be put to an irretrievable injury inasmuch as she has opted not to go for the admission offered to her at Rajasthan only because she was provisionally offered seat in the State of Haryana, which is being denied to her now. It is in the above factual backdrop that we have to consider the case of two candidates.

13. For the purpose of admission to MS seat, the primary consideration, in our view, would be merit, where there are competing claims arising on record. The first candidate has secured '161' marks in NEET, whereas the second candidate has secured '109 marks. The merit of the first candidate, therefore, is definitely higher. Having given our anxious consideration to the rival contentions advanced, we find substance in many of the objections which are taken by the respondents to contradict the claim of both the candidates. So far as the second candidate is concerned, she cannot be treated to be an NRI candidate for the purpose of admission on the strength of provisional allocation of seat to her in the 3rd round of counselling simply because the fee for such course has not been deposited from an NRI account. The second candidate, therefore, cannot place a valid grievance against the action of the respondent – University in not offering her a seat in the 3rd round of counselling. So far as denial of her claim for participation in the stray round is concerned, we find force in the argument advanced on behalf of second candidate that it is only the grant of admission in the 3rd round of counselling, which debars the right of a candidate to apply for admission in the stray round. Mere provisional allocation of a seat would, therefore, not be conclusive. The object in the scheme apparently is to deny the right where a candidate opts for a different seat once he/she has been allotted the seat. In this case, since no seat was actually allotted to the

second candidate, she could not have been non-suited for participation in the stray round. To this extent, the grievance of the second candidate is liable to succeed. However, the issue that now requires consideration in the present petitions, is as to which of the two candidates has to be preferred when the question of grant of admission to the solitary seat arises. We are of the view that both the candidates ought not to be non-suited, as that would result in the seat being wasted for the entire academic session. One, out of the two candidates has to be chosen to ensure that the seat for MS is utilized.

14. Between the first candidate and second candidate, merit of the first candidate is higher. Though we are doubtful of her claim to be included in the definition of NRI clause in terms of notification dated 10.11.2025, as the relationship of the sponsor and the first candidate, cannot be said to be of first-degree paternal cousin as it is the first cousin of the father of the first candidate whose husband is the sponsor. However, that in itself would not be conclusive in the peculiar facts of the case for the reasons enumerated herein above. Apart from the fact that first candidate is higher in merit, she was also declared to be an NRI candidate in the notice issued by the Directorate General, Health Services, Government of India, on 27.01.2026. The first candidate was also offered admission in Rajasthan, which she overlooked only because of the provisional admission offered in the State of Haryana. She has already deposited her fee from an NRI account. In such circumstances, we are of the view that in the peculiar facts of the case, the claim of the first candidate is entitled to be given preference over that of the second candidate. The respondent—University is, accordingly, directed to grant admission to the First Candidate forthwith, subject to fulfilment of all other formalities. We clarify that it shall not be treated as any precedent for

subsequent years, when question of eligibility of a candidate arise for being included in the NRI category. Accordingly, the writ petition filed by first candidate i.e. CWP-8173-2026 is allowed while writ petition filed by the second candidate i.e. CWP-5859-2026, is dismissed.

15. All pending misc. application(s), if any, also stand disposed of.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

06.04.2026
rajesh

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No