

(1989) 10 P&H CK 0013

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 5631 of 1989

Gulshan Kumar and Another

APPELLANT

Vs

Maharlshi Dayanand University
and Others

RESPONDENT

Date of Decision: Oct. 6, 1989

Citation: (1990) 2 ILR (P&H) 146

Hon'ble Judges: I.S. Tiwana, J; Amarjeet Chaudhary, J

Bench: Division Bench

Advocate: Party in Person, for the Appellant; J.L. Gupta Vikrant Sharma and B.S. Malik, for the Respondent

Final Decision: Dismissed

Judgement

Amarjeet Chaudhary, J.

Petitioners Gulshan Kumar and Rakesh Seth passed their M.B.B.S. examination from Medical College, Rohtak in the years 1983 and 1985, respectively. Petitioner No. 1 obtained diploma course in Orthopaedics in November 1985 and thereafter he joined M.D. degree course in Department of Pharmacology the duration of which was to expire on May 3, 1989. Petitioner No. 2 joined diploma in Child Health in the month of May, 1987, but failed to clear the same. He took admission in Radiology in July, 1988 and meanwhile he appeared for supplementary examination in diploma in Child Health under the orders of the Civil Courts for which the Respondent-University had declined permission on the plea that he had subsequently taken admission in Diploma in Radiology. The duration of Radiology course was to expire in June, 1989. Petitioner No. 1 applied for admission to M. S. Orthopaedics and M. D. Radiology. Similarly Petitioner No. 2 also applied for admission to M.D. Paediatrics, a degree course and to M.D. Radiology. According to the Petitioners, they applied for respective disciplines being fully eligible but have been denied admission on the plea that as per conditions laid down in the Prospectus and Bulletin of Information issued by the Government Medical College,

Rohtak -- Respondent No. 2 they were not eligible to apply.

2. The Petitioners, therefore, by means of this writ petition prayed for the issuance of a writ of certiorari quashing condition Nos. 4(ii), (iii) and (iv) of the Prospectus aforementioned which according to them stood in their way in getting admission applied for.

3. In the return the Respondent-University while controverting the allegations made in the petition, pleaded that the Petitioners were not at all eligible to apply for admission to the Post-Graduate Courses for the session 1989-90. for Petitioner No. 1 was already pursuing one degree i.e. M.D. Pharmacology whereas Petitioner No. 2 though was eligible to apply for admission to degree course in Radiology as he was pursuing Diploma Course in the same subject, but he was not eligible to apply for admission to M.D. Paediatrics.

4. Challenge in this petition is to the provisions of condition Nos. 4(ii) to (iv) of the Prospectus on the ground that these conditions have been inserted in the Prospectus against the Rules framed by the Medical Council of India. Had the Petitioners known that they would be ineligible for future admission they would not have sought admission earlier. The Respondent-University was under an obligation to have informed them about the conditions of admission at the time when they took admission.

5. The relevant conditions of the Prospectus sought to be quashed are as under:

4(ii) A student who is admitted to a diploma course shall be eligible to apply for admission to the degree course in another subject, provided he/she should have passed the previous diploma examination. Such candidate shall not be paid stipend.

(iii) A student who is admitted to a diploma course shall not be eligible to apply for admission to another diploma course.

(iv) A student who is admitted to a degree course in a subject will not be eligible to apply for either a diploma or degree course in another subject or diploma course in the same subject.

6. Admittedly, Petitioner No. 1 had not yet completed his previous course i.e. M.D. Pharmacology when he applied for M.S. Orthopaedics whereas Petitioner No. 2 was still pursuing diploma in Radiology when he sought admission to M.D. Paediatrics and M.D. Radiology. So obviously as per the provisions contained in the conditions aforequoted, they were not at all eligible to seek admissions to the courses applied for by them. But the laments of the Petitioners that engage our attention is that the provisions of the aforesaid conditions of the Prospectus are ultra vires of the Regulations framed by the Medical Council of India, inasmuch by imposing these conditions the Respondents have taken away their right to freedom to have academic excellence. But the Petitioners have not been able to specify how the Rules framed by the University are against any provisions of the Medical Council of

India. Moreover, the Rules framed by the Medical Council of India are not mandatory. Even the Respondent-University can frame its own Rules and Regulations. The Petitioners whose ardent desire is to have admissions in various degree courses cannot be permitted to bypass the reasonably framed Rules and Regulations which in our considered opinion have been introduced keeping in view all vital aspects of the matter. Medical education in our country is very expensive. Whether it is a Post-Graduate Course or a Diploma Course, the State has to incur huge amount on teaching faculty, equipments and on other accounts like awarding stipend and fellowship etc. For such highly-demanded and expensive Courses, the seats are very limited. The public interest calls for that those who are admitted in such Courses should complete it and not abandon midway. Such conditions are made keeping in view the public interest at large, and if they are not in consonance with the rights and liberties enshrined in the Constitution of India, they can be suitably directed to be amended or omitted. But in the conditions of the Prospectus of the Respondent-University impugned by the Petitioners, we do not see any screw loose that calls for fixing the judicial lens and removing any anomaly, for an aspirant after having been selected for a specified course, not less than a Post-Graduate degree course, having regard to limited seats, strictly on merit and performance cannot be allowed to abandon the said Course mid-session and to seek admission to other discipline in total disregard to money and precious time spent on him as the seat, if allowed to be vacated in the mid-session cannot be made available to another student howsoever deserving.

7. The Petitioners in support of their contentions, relied upon decisions of this Court in *Parveen Kumar v. The State of Punjab and others* CWP 2335 of 1988 and *The State of Punjab v. Dr. Harnek Singh* LPA 185 of 1989. We are afraid, these authorities are not applicable to the facts of the present case. In *Parveen Kumar's* case (*supra*) the Petitioner after passing M.B.B.S. examination and successfully completing house job firstly in the speciality of medicine and thereafter in the speciality of Paediatrics joined Diploma Course in Child Health which course was one of the requirements to seek admission in the Post-Graduate Course, had in fact, completed his diploma course in Child Health, but in the instant case the Petitioners had not completed their respective courses when they sought admissions to other disciplines. Similarly, *Dr. Harnek Singh's* case (*supra*) is also distinguishable, for that was not a case of admission to any speciality or degree course. In that case the Petitioner after obtaining diploma in Anaesthesia had applied for the post of Registrar/Demonstrator in the State Medical Colleges at Amritsar and Patiala. There the selection of the Petitioner was also to be considered on the basis of seniority-cum-merit. But the case in hand is on the different lines. Thus, conditions 4(ii) to (iv) of the Prospectus of the Respondent-University are quite in order, perfectly valid and in the public interest. There is no violation of rules of natural justice as well.

8. In result, this petition fails and is accordingly dismissed. However, there is no order as to costs.