

**(2014) 07 P&H CK 0759**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** CWP No. 25012 of 2012

Anchal Singh

APPELLANT

Vs

Punjab University

RESPONDENT

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**Date of Decision:** July 14, 2014

**Hon'ble Judges:** Gurmeet Singh Sandhawalia, J

**Bench:** Single Bench

**Advocate:** Naveen Sheokand, Advocate for the Appellant; Alka Chatrath, Advocate for the Respondent

**Final Decision:** Allowed

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### **Judgement**

G.S. Sandhawalia, J.

The present writ petition has been filed, praying for issuance of writ of mandamus to respondent No. 3-Government College of Commerce & Business Administration, Sector 42, Chandigarh, to refund the admission fees of the petitioner of Rs. 9132/-.

2. The petitioner had applied for admission in the B.Com. Course on 09.06.2011 and deposited the fees on 09.7.2011, with the respondent-College. In view of the physical counselling held in the Panjab University campus on 10.08.2011, the petitioner took admission against a vacant seat in the G.G.G.S.D. College, Sector 32, Chandigarh and deposited the fees on 10.08.2011. Thereafter, she approached the respondent No. 3-College for refund of the fees and also submitted her Library Card/Identity Card. Representation was given on 02.11.2011 (Annexure P6) for the refund of fees but no action was taken. Resultantly, the present writ petition was filed.

3. The respondent-College rejected the case of the petitioner on the ground that she was not entitled for refund of the fees as the seat vacated by her had not been filled by any other student in B.Com. Ist year and since her seat had remained vacant in the session 2011-12, therefore, the college was not in a position to refund her fee. The said reply was on the basis of office order dated 30.03.2007/24.04.2007.

Relevant portion reads as under:

The college will refund the fee if a student leaves after joining the course and if the seat consequently falling vacant has been filled by another candidate by the last date of admission.

4. It was, accordingly, pleaded that 140 seats in total were allocated to the college in central counselling held in Punjab University, out of which, only 133 students took admission in the college and therefore 7 seats remained vacant for the session. Ten additional seats were also allocated to the college vide letter dated 02.09.2011 but the dispute does not pertain to the said seats. The respondent-University was also directed to file reply and in the same, it is submitted that in the physical counselling held on 10.08.2011, no seat remained unfilled on that date. It was also deposed that vide meeting of the advisory committee, the Principal of the College was allowed to fill up the seats, thereafter.

5. A perusal of the communication dated 13.09.2011 would also go on to show that the said college was given permission to fill the vacant seats of B.Com Ist year from the candidates having higher merit from the last candidate admitted in the said college, during the physical counselling. Accordingly, this Court is of the opinion that the petitioner had opted to shift on 10.08.2011 in the physical counselling to the other college and also deposited her Library Card with the respondent-College. The respondent-College could only fill up 133 seats out of 140 seats and in any case, had 7 seats lying vacant. It is not that due to the withdrawal of the petitioner from the said college, that one seat had gone vacant. In the Centralized Counselling, the college could not fill up its seats to optimum, even thereafter, permission was granted to fill up those vacant seats. But, it seems that the college had not been able to fill up the said seats. Thus, the petitioner had only shifted to the other college on the basis of her choice in the Centralized Counselling and this Court is of the view that denying refund of fee on this technical ground amounts to unjust enrichment by the respondent-Government College. The admission to the additional seats were open to be filled by the college vide letter dated 13.09.2012 and as per the pleadings, even 7 seats remained vacant. In such circumstances, it cannot be said that the college had not got the opportunity to fill up the seats. That the student has opted for better academic institutes, before the cut off date, which had been extended, as per the decision of the Academic Council and cannot be denied such right. In such circumstances, denying refund of fees to the petitioner would be highly unjustifiable and the respondent-College cannot be unduly enriched at the cost of the petitioner.

6. Accordingly, the present writ petition is allowed with a direction to respondent No. 3 to refund the said amount within 15 days from the receipt of certified copy of this order.