

118 CWP-14902-2020

Adesh University, NH-7, Barnala Road, Bathinda and another

V/S

State of Punjab and another

Present:- Mr. Gurminder Singh, Senior Advocate with Mr. Jatinder Singh, Advocate for the Petitioners.

1. Notice of motion.
2. On the asking of the Court, Mr. Vikas Mohan Gupta, learned Additional Advocate General, Punjab accepts notice on behalf of the Respondents.
3. The Petitioners are aggrieved by two specific clauses of the notification dated 2nd September, 2020, annexed as Annexure P-15 to the petition, issued by the Department of Medical Education & Research (Health-III Branch), Government of Punjab, as regards admission to the MBBS/BDS courses in medical and dental institutes in the State of Punjab from 2020 session onwards.
4. The first of these clauses is Clause 16, titled 'Admission to Private Institutes', which pertains to the distribution of seats in private medical/dental institutions. In particular, the grievance is against 16 (i), which stipulates that these seats in the aforesaid institutions be distributed as under:-

“Government quota seats : 50%.

Management/Minority quota seats : 50% (including 15% NRI quota)”

5. Mr. Gurminder Singh, learned Senior Counsel for the Petitioners contends that in view of the settled legal position, as explained by the Supreme Court in *P.A. Inamdar v. State of Maharashtra (2005) 6 SCC 537*, such appropriation of seats by the State in respect of unaided private educational institutions is impermissible.

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6. The second clause that the Petitioners are aggrieved by is Clause 14 (c), titled 'Fee for admission for M.B.B.S. course in Private Institutes/Universities'. The aforesaid seeks to regulate fees in MBBS courses in private institutions and universities, by stipulating as under:

Course	Government Quota 50%	Management Quota 35%
1 st year	Rs.3, 50,000/-	Rs.9, 00,000/-
2 nd year	Rs.3, 85,000/-	Rs.9, 90,000/-
3 rd year	Rs.4, 20,000/-	Rs.10, 80,000/-
4 th year	Rs.4, 55,000/-	Rs.11, 70,000/-
5 th year	Rs.2, 45,000/-	Rs.6, 30,000/-

7. Mr. Gurminder Singh, learned Senior Counsel points out that the fee fixed for the government quota seats is just 1/3rd of that chargeable for the management quota seats. He submits that if the appropriation of seats in terms of Clause 16 itself is impermissible, then such regulation of the fee structure for the government quota seats would also be illegal.

8. Mr. Vikas Mohan Gupta, learned Additional Advocate General, Punjab, appearing for the Respondents, points out that although there is a 50% government quota stipulated for the seats, there is no interference by the Government with admission to such seats, which is on the basis of the National Eligibility-cum-Entrance Test ('NEET'). According to him, the real controversy pertains to the fees for admission to the 50% government quota.

9. Since this is an issue that would have to be examined in some detail, while directing notice of motion to issue in the present petition, 4 weeks' time is granted to the Respondents to file their reply. Rejoinder thereto, if any, be filed before the next date of hearing.

10. It is directed that in the meanwhile, the Petitioners will be permitted to collect the fee prescribed for the management quota even in respect of the 50% government quota seats, subject to the stipulation that the differential amount *qua* the government quota seats be kept, within two weeks of the completion of the admission process, in a Fixed Deposit by Petitioner No.2 in its own name, with a copy of the Fixed Deposit Receipt being furnished to the Department of
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Medical Education & Research, State of Punjab, and with the further stipulation that the said FDR shall not be encashed by the Petitioners till further orders of this Court.

11. It is further directed that while granting admission to the students, the Petitioners will inform them that the reduction in the amount of fees prescribed for the previous academic year is the subject matter of challenge by the Petitioners in the present petition, and that the differential fees, if any, payable by the students would be subject to the outcome of the present petition.

12. List on 14th December 2020.

13. Order *dasti*.

(S. MURALIDHAR)
JUDGE

18th September, 2020
Anjal

(AVNEESH JHINGAN)
JUDGE