

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

DATE OF DECISION: 11.2.2010

Sonam Mittal & Others

...Petitioners

VERSUS

Maharshi Dayanand University & Others

...Respondents

CORAM

HON'BLE MR.JUSTICE PERMOD KOHLI

PRESENT: Mr.Amar Vivek, Advocate for the petitioners

Mr.DS Patwalia, Advocate with
Mr.Salil Sabhlok, Advocate

Mr.Tarun Vir S.Sehgal, Advocate

Permod Kohli, J. (Oral)

I have heard learned counsel for the parties.

Respondent no.3-College was established to impart BDS Course with intake capacity of 100 students. The admission was to be made on the basis of PMET. The intake capacity was to be filled by ratio of 50% against the candidates sponsored by the University and 50% against the management quota. Admittedly, the University allocated 50 students against the management quota. Out of 50 students, only 42 students deposited their fees and eight seats remained unfilled. The respondent no.3-College on its

own admitted 8 students against the unfilled vacancies. In the meanwhile, the University held another counselling on 13.11.2003 under the orders of this Court in CWP No.1561 of 2003 and allocated seven students to respondent no.3-College. Respondent no.3-College, however, expressed its inability to admit these students. The University vide its communication dated 15.11.2003 informed the College to comply with the direction, failing which action shall be taken in accordance with law. It appears that respondent no.3 admitted five students forwarded by the University on the basis of the counselling held on 13.11.2003 to the Course. Respondent no.3-College also approached the Dental Council of India for regularization of the excess admission made by it. Request of the college was declined. The management of respondent no.3-College vide the order impugned in the writ petition dated 22.11.2003 cancelled the admission of the petitioners who were allocated to respondent no.3-College by the University on the basis of counselling held on 13.11.2003 by separate order. The present petitioners accordingly challenged the order in this Court.

Under various orders of this Court, the petitioners and the private respondents have completed the course and appeared in all the examinations. The private respondents are those who were admitted by the College on its own allegedly in excess of the intake capacity. Petitioners no.1 and 5 left the course in between. The private respondents have also completed their course in entirety under the various directions of this Court. In the meanwhile, the Dental Council of India in its meeting held on 7.7.2009 asked respondent no.3-College to surrender six additional seats from the management quota in the next academic year. Respondent no.3 separately challenged the said order in CWP No.14275 of 2009. The said

writ petition was, however, dismissed and the order has attained finality.

In the present writ petition, while considering the above mentioned facts this Court vide its order dated 27.8.2009 had directed respondent no.3-College to file an affidavit giving the details of the excess admission and also to undertake whether the Management is ready and willing to surrender the seats under the management quota against the admission made beyond the prescribed quota in terms of the resolution adopted by the Executive committee of the Dental Council of India. In response to the aforesaid order, an affidavit has been filed by one Sh. Dharamvir Gupta, Chairman, Sudha Rustagi College of Dental Sciences and Research, Faridabad. It is stated that respondent no.3 has already written to the Financial Commissioner and Principal Secretary Health and Medical Education Department, Government of Haryana vide its letter dated 20.10.2009 placed on record as Annexure A-1 with the affidavit. From the aforesaid communication, it appears that it has been conveyed to the Government to implement the decision of the Dental Council of India for the academic session, 2009-2010 instead of academic session 2010-2011. This letter itself is sufficient to indicate that respondent no.3-College is again trying to misrepresent the Government. The letter is dated 20.10.2009 whereas the last date for admission in view of **Mridul Dhar vs. Union of India, (2005) 2 SCC 65** is 30th September of the year. When the letter was written, the admission for academic session, 2009 has already been completed and no student can be admitted either by the Government or any other institution beyond the date prescribed. The affidavit undertaking to surrender seats will be construed for the session 2010-2011. Respondent no.3 shall surrender three seats for the next

academic session 2010-2011. As against six excess admission made by respondent no.3-College, three students left the course and fees have been refunded by the College. It is admitted case of the parties that the petitioners as also the private respondents have already completed their courses. At this belated stage, it is not deemed appropriate to disturb anyone of them. The University shall issue the regular mark-sheets and degrees to such of the students who have successfully qualified the course. They will also be entitled to be registered on the roll of the State Dental Council and any other roll as may be permissible under law.

Disposed of accordingly.

(PERMOD KOHLI)
JUDGE

11.2.2010
MFK