

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 21125 of 2010 (O&M)

Decided on : 17-03-2011

Suman

....Petitioner

VERSUS

The State of Haryana and others

....Respondents

CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER

Present:- Mr. Mahesh Sangwan, Advocate for the petitioner

Mr. Sunil Nehra, Sr. DAG, Haryana

Mr. Sumit Sangwan, Advocate for respondents no.3 and 4.

MAHESH GROVER, J

CM no. 4048 of 2011

Allowed.

CWP no. 21125 of 2010

The petitioner earlier approached this Court with a prayer that she has been wrongly ignored for counselling in Diploma in D.Ed/D.Ed (urdu) course. She pleaded before this Court that she has submitted the form well within the time but her claim was wrongly ignored by the respondents. The Court evaluated the respective stands of the parties and passed the following order:-

“The response in this case is that the application of the petitioner was never received. However, Mr. Nehra on instructions, submits that still the petitioner should go and approach the respondents to submit the application form and she would be considered for second counselling according to

her merit.”

The petitioner then appeared for the second round of counselling and was offered a General Category seat in Art stream of study against the status of available vacant seats of second counselling in throughout Haryana.

The grievance of the petitioner is that the village to which she belongs had donated the land for the institution and 5% seats were reserved for the children of the village. She thus contends that she should be accommodated against that category.

Respondents have filed their reply and have brought to the notice of this Court that apart from the order passed in the case of the petitioner, in the cases of similarly situated persons, almost identical orders were passed in which it was specifically stated that the petitioners therein would be considered in the second round of counselling subject to availability of vacant seats. It is the categorical case of the respondents that 5% quota seats against which the petitioner raises her claim have been filled up in the first round of counselling and since there was no such seat available in the second round of counselling, the petitioner obviously could not be accommodated against the said quota and that too without dislodging one of the candidates.

Upon due consideration of the matter, I am of the considered opinion that the instant petition is mis-conceived. Whether the petitioner missed the bus in the first counselling due to fault of the respondents or due to fault of the petitioner is difficult to adjudicate upon in exercise of jurisdiction of this Court under Article 226/227 as this involves disputed questions of fact. Suffice it to say that in the earlier writ petition filed by

the petitioner directions were given to consider the case of the petitioner in second round of counselling which was concededly done. The petitioner wants to be considered in a particular category of seats which were reserved for the children of the village which had donated the land for the said institution. The quota is limited to 5% which stood exhausted in the first round of counselling itself. In this eventuality, the petitioner cannot be granted any benefit of the said quota and necessarily would have to satisfy herself with the admission that has been granted to her. It has been brought to the notice that the petitioner has not availed of this seat which was offered to her.

Having regard to the aforesaid, the instant petition is dismissed. However, the respondents may consider the case of the petitioner to enable her to take the course if the rules and regulations otherwise provide.

March 17, 2011
rekha

(Mahesh Grover)
Judge