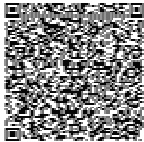




2025:PHHC:011512-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-34334-2024 (O&M)
Date of decision: 27.01.2025

Samarveer Singh
State of Punjab and others

V/s

....Petitioner
....Respondents

CORAM: HON’BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON’BLE MR. JUSTICE SUMEET GOEL

Present: Mr. D.S. Patwalia, Senior Advocate with
Mr. A.S. Chadha, Advocate for the petitioner.
Mr. Anurag Chopra, Additional Advocate General, Punjab.
Mr. Nitin Kaushal, Advocate (through V.C.) with
Mr. Sahil, Advocate for respondent No.2.

SUMEET GOEL, JUDGE

1. The petitioner has preferred the instant writ petition in the nature of certiorari, seeking quashing of letter/order dated 11.12.2024 (Annexure P-13), whereby respondent No.4 has cancelled the admission of the petitioner in respondent No.3-College for the Session 2024 onwards. Additionally; the petitioner seeks the issuance of an appropriate writ, order or direction, including a writ in the nature of mandamus; directing respondent Nos.3 and 4 to permit the petitioner to attend classes/lectures of the MBBS course and to refrain from taking any punitive action against the petitioner on account of any shortage in attendance.
2. Shorn of the non-essential details; the facts of the case which need recital are that the petitioner (herein) had appeared in the National Eligibility-cum-Entrance Test (UG)-2024, and secured 456 out of a total of 720 marks. The petitioner applied for the admission under the 50% State Quota in the Freedom Fighters category. The Baba Farid University of Health Sciences (hereinafter to be referred as ‘BFUHS’)-respondent No.2



(herein), was designated by the State of Punjab, as the authority for conducting counselling and carrying out admission of the medical students, across the State of Punjab, to facilitate the process. The petitioner, duly applied for admission under the State Quota, through online portal of BFUHS, paid the requisite fee and participated in the online counselling process.

2.1. Following the first round of online counselling, the petitioner received a provisional allotment letter dated 31.08.2024 (Annexure P-5) and was allocated a seat under the Freedom Fighters category in the Government Medical College at Amritsar under the Government Quota. Subsequently, the petitioner was issued a provisional admission slip dated 03.09.2024 (Annexure P-6) and after completion of all the required formalities and document verification by the respondent No.3-College, a final admission certificate was issued to the petitioner.

2.2. After verification of all the documents and recommendation of BFUHS, the Principal of the Government Medical College, Amritsar, issued a letter dated 10.10.2024 (Annexure P-9) to the Registrar, BFUHS, seeking clarification regarding the admission of the petitioner under the Freedom Fighters category. The Registrar, upon clarification, directed respondent Nos.3 and 4 to allow the petitioner to join the MBBS course for the academic Session of 2024 with immediate effect. However, respondent No.4 again raised objections regarding the admission of the petitioner through a letter dated 22.10.2024. In response, the Registrar reiterated its earlier directions through a letter dated 24.10.2024 (Annexure P-11), instructing the respondent No.4 to permit the petitioner to join the course without any further delay.



2.3. Despite the aforesaid clear directives by respondent No.2, the respondent No.4 chose to cancel the admission of the petitioner vide impugned letter/order dated 11.12.2024 (Annexure P-13), on the basis of letter dated 14.09.1995 (Annexure P-14).

3. Learned senior counsel for the petitioner has iterated that the documents of the petitioner, including the certificate endorsing certifying him as the grandson of a freedom fighter, were duly uploaded on the online portal during the counselling process. It has been further argued that the respondent No.2 verified the documents and allotted respondent No.3-College to the petitioner and issued him a provisional admission slip. Furthermore, after additional verification by the Committee constituted by respondent No.3-College, the petitioner was issued a final admission certificate. According to the learned senior counsel; despite clear directions from the respondent No.2 to allow the petitioner to join the College, the respondent No.4 arbitrarily cancelled his admission, without any authority. Learned senior counsel has further submitted that the impugned order dated 11.12.2024 (Annexure P-13) has wrongly cancelled the admission of the petitioner, ignoring the fact that a final admission certificate had already been issued to him, after following the due process. Learned senior counsel has asserted that once the final admission is granted, respondent No.4 has no authority to take any action against the petitioner. It has been submitted by the learned senior counsel that the reliance placed on the letter dated 14.09.1995 by respondent No.4 is erroneous as these instructions are prospective in nature and do not apply to the petitioner, whose father was certified as the son of a freedom fighter, in the year 1991. Moreover, the notification dated 10.03.2023 confirms that all the children and grandchildren of the freedom fighters are eligible for 1% reservation. The



administrative instructions cannot override a statutory notification and any distinction made between an adopted and a biological child is arbitrary and illegal. According to the learned senior counsel; the status of the petitioner as the grandson of a Freedom Fighter was certified by the Deputy Commissioner, Faridkot vide certificate dated 25.03.2022 and hence, the respondent No.4 is neither competent nor authorized to question this certificate. The cancellation of the admission of the petitioner by respondent No.4 is, thus, arbitrary and illegal. Learned senior counsel has contended that the respondent No.2, designated by the State of Punjab, to oversee the counselling and admissions, repeatedly directed the respondent Nos.3 and 4 to allow the petitioner to join and attend the classes/lectures. Despite these directions, the respondent No.4 has cancelled the admission of the petitioner, acting beyond its authority and contrary to the binding instructions. The arbitrary cancellation of the admission of the petitioner has caused irreparable harm, especially when the NEET-2024 counselling period has expired.

4. Learned State counsel has opposed the instant petition by arguing that a complaint was received against the petitioner in the office of respondent No.4, prompting an inquiry. During the inquiry, additional documents were sought from the father of the petitioner, who submitted the Adoption deed. The Adoption deed explicitly mentions that the adopting father Shri Boorh Singh had five daughters. Upon receiving the complaint, respondent Nos.3 and 4 sought advice from the appellate authority (DRME) regarding the cancellation of the admission of the petitioner, who further directed the matter to the Department of Freedom Fighter for an opinion thereon. In response thereto, the Department of Freedom Fighter referred to two letters, especially Letter No.9(13)-8P.-02-84/12532-12535 dated



14.09.1995 (Annexure P-14), which stipulates that the benefits of the Freedom Fighter quota cannot be extended to the adopted children of Freedom Fighters who already have biological children. This letter (*hereinafter to be referred as "1995 letter"*) reads thus:

"I have been directed to draw your attention towards the Government letter No.9 (13)-3P2-84/5822 dated 04.04.1985 and to write that it is the demand of the Freedom Fighters since long that those freedom fighters, who do not have any child, the children adopted by them legally, all the facilities should have been admissible to them, which are admissible to the children of freedom fighters.

2. After considering this matter, the Government has decided that those freedom fighters, who do not have any child, the children adopted by them legally, all the facilities such as reservation in direct recruitment of class-I and 2, 2% reservation in the professional courses, scholarships in schools, colleges and the facility of copies and the hostels etc. may be given to them. The Deputy Commissioner of the district of which the freedom fighter/heir would belong, will be the competent authority to issue the necessary certificate. For issuing the necessary certificate in this regard, the Deputy Commissioner of the concerned District will verify at his own level that the child is adopted by the freedom fighter legally or his real child."

Learned State counsel has, thus, iterated that, as per the *1995 letter*, which introduced the policy for adopted children, the benefits could not be afforded to the petitioner as the petitioner was born in the year 2006 i.e. after the issuance of this Policy. On the strength of these submissions, dismissal of the petition in hand is sought for.

5. Separate reply has been filed on behalf of respondent No.2- Baba Farid University of Heath Sciences, Faridkot, Punjab, relevant whereof reads as under:

"17. That in view of the submission made above, it is reiterated that Petitioner's admission was declared as per rules and based on the documents submitted by him and the petitioner should get admission in the applied category without any discrimination. Decisions have been taken by the University from time to time after examining all the facts. The



answering respondent has no objection if the petitioner’s admission be continued.”

Learned counsel appearing for the respondent No.2 has raised submissions in tandem with the above-said reply.

6. We have heard learned counsel for the rival parties and have perused the paper-book with their able assistance.

7. The prime issue which arises for consideration in the petition in hand is, as to whether the letter/order dated 11.12.2024 (Annexure P-13), whereby the admission of the petitioner in respondent No.3-College has been cancelled, deserves to be set-aside.

8. Indubitably, the petitioner had applied for admission into the MBBS course and was selected therein on the basis of an entrance test and counselling carried out therein. The petitioner, had applied for admission on the basis of Prospectus dated 09.08.2024 issued by the State of Punjab for admission to MBBS/BDS courses-in Medical & Dental Institutes in the State of Punjab, for the Session 2024 onwards. The relevant reservation related clause contained therein reads thus:

“15. Reservation in Government Medical/Dental Colleges:
The reservation for the State quota seats in Government Institutes in various categories for admission to the Undergraduate courses in Government Medical/Dental Institutes shall be as under:

xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx
xxx	xxx	xxx	xxx

(ix) Children/grandchildren of freedom fighters of Punjab 1%”

Further, **Clause 24 of the said Prospectus reads thus:**

““24. This notification supersedes all the notifications for admission to MBBS/BDS courses in the State, issued earlier.”

9. The admission of the petitioner has been cancelled on account of the 1995 letter which is addressed to the Deputy Commissioners in the



State of Punjab, Secretary of Punjab Public Services Commission, Secretary of Subordinate Services Selection Board of Punjab and all Semi-Government Organizations under Government of Punjab. The Prospectus in question contains clear and specific reservation criteria. By no stretch of legal imagination, the said communication/letter can be read to be qualifying, in any manner, the reservation criteria provided for in the prospectus in question. It would be apposite to refer herein to a Full Bench judgment of this Court passed in ***Rahul Prabhakar vs. Punjab Technical University, Jalandhar 1997(3) SCT 526***, relevant whereof reads as under:

“7. A Full Bench of this Court in ***Amardeep Singh Sahota v. The State of Punjab, 1993(4) SLR 673 : 1993(4) SCT 328 (P&H) (FB)*** had to consider the scope and binding force of the provisions contained in the prospectus. The Bench took the view that the prospectus issued for admission to a course, has the force of law and it was not open to alteration. In ***Raj Singh v. Maharshi Dayanand University, 1994(4) RSJ 289 : 1994(2) SCT 766 (P&H) (FB)*** another Full Bench of this Court took the view that a candidate will have to be taken to be bound by the information supplied in the admission form and cannot be allowed to take a stand that suits him at a given time. The Full Bench approved the view expressed in earlier Full Bench that eligibility for admission to a Course has to be seen according to the prospectus issued before the Entrance Examination and that the admission has to be made on the basis of instructions given in the prospectus, having the force of law. Again Full Bench of this Court in ***Sachin Gaur v. Punjabi University, 1996(1) RSJ 1 : 1996(1) SCT 83\7 (P&H) (FB)*** took the view that there has to be a cut off date provided for admission and the same cannot be changed afterwards. These views expressed by earlier Full Benches have been followed in CWP No.6756 of 1996 by the three of us constituting another Full Bench. Thus, it is settled law that the provisions contained in the information brochure for the common entrance Test 1997 have the force of law and have to be strictly complied with. xxxxxxxxxxxx”

Thus, the inescapable conclusion that emerges upon a meticulous examination of the Clause 24 of the Prospectus, particularly when viewed against the backdrop of established legal principle affirming that a prospectus carries the force of law and must be adhered to without



deviation, is that the *1995 letter* is to be considered otiose for ascertaining the reservation criteria for courses governed by the Prospectus. It is, therefore, that the reservation scheme outlined in the Prospectus takes precedence and holds primacy over the reservation framework prescribed in the year 1995 letter. The Prospectus being a binding legal document, cannot be supplanted or undermined by an antedated administrative letter (*1995 letter*) which explicitly stands inoperative owing to a specific provision, in the form of Clause 24, contained in the Prospectus.

9.1. The doctrine proscribing change of rules midway through the game or after the game is played, is predicated on the rule against arbitrariness enshrined in Article 14 of the Constitution. Article 16 is only an instance of the application of the concept of equality enshrined in Article 14. In other words, Article 14 is the genus while Article 16 is a species. Article 16 gives effect to the concept of equality in all matters relating to the public employment. These two articles strike at arbitrariness in State action and ensure fairness and equality of treatment. They require that State action must be based on valid relevant principles alike to all, similarly situated, and is not to be guided by any extraneous or irrelevant considerations. In all its actions, the State is bound to act fairly, in a transparent manner. This is an elementary requirement of the guarantee against arbitrary State action, which Article 14 of the Constitution adopts. A deprivation of the entitlement of private citizens and private businesses must be proportional to a requirement grounded in public interest. The unequivocal conclusion, thus, is that the stipulations contained in the Prospectus have binding force and no deviation can be made therefrom. In other words, the conditions contained in the Prospectus have to be scrupulously adhered to and no party can be extended any latitude to vary them. In other words, “*Rules of Game*” must not be



changed once the game has begun, during the course of game or after the game has been played. Such course of action is impermissible in law. Ergo, the plea raised by State of Punjab that reservation criteria/condition as contained in the Prospectus in question is circumscribed by the letter/communication dated 14.09.1995 is misfounded and, hence, calls for rejection.

10. It is not in dispute that the father of the petitioner namely Shri Prabhjeet Singh was adopted by one Shri Boorh Singh in adoption ceremony on 17.07.1986, *qua* which the adoption deed was later on executed on 17.07.1988. The veracity of the said Adoption-deed is not in dispute. Further, the factum of Shri Boorh Singh being a freedom fighter and his progeny being entitled to the benefit of freedom fighter quota is also not in dispute. However, the State of Punjab has proceeded to annul the admission granted to the petitioner, primarily, on the strength of the 1995 letter. This letter/communication stipulates that the children adopted by a freedom fighter shall be accorded the benefit only if such freedom fighter did not have any biological child. In essence, the cause pleaded by the State of Punjab for cancellation of admission of the petitioner is that, since Shri Boorh Singh had five daughters, therefore, his having adopted the father of the petitioner will not result in any benefit to the father of the petitioner as also the petitioner. The Clause 15(ix) as contained in the Prospectus encapsulating reservation for children/grandchildren of freedom fighters is drafted in clear and unequivocal terms. It explicitly provides for 1% reservation in favour of children/grandchildren of freedom fighters, without drawing any distinction between adopted and biological children/grandchildren. The language of the Clause is unambiguous and leaves no room for interpretative deviation, ensuring that the benefit of



reservation is equally extended to all the eligible children/grandchildren of freedom fighters, irrespective of their biological status. This demonstrates the intent to provide uniform reservation without any discrimination between the adopted and biological children/grandchildren.

10.1. At this juncture, it would be apposite to refer herein to Section 12 of Hindu Adoption and Maintenance Act, 1956 (*hereinafter to be referred as ‘HAMA 1956’*), which reads thus:

“An adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family;
Provided that –
(a) xxx xxx xxx xxx
(b) xxx xxx xxx xxx
(c) the adopted child shall not divest any person of any estate which vested in him or her before the adoption.”

The Hon’ble Supreme Court in a three Judge Bench in the case titled as ***Sitabai and another vs. Ramchandra, 1970 AIR Supreme Court 343*** has enunciated that a perusal of the provisions of the *HAMA 1956*, especially Section 12 thereof, clearly stipulates that the effect of adoption under this Act is to bring out severance of all ties of the child given in adoption, in the family of his or her birth. In other words, the aureate ratio decidendi of this judgment clearly elucidates that the adopted child, altogether, ceases to have any ties with the family of his birth “*for all purposes*” as per plain language of the Statutory provision contained in Section 12 of *HAMA 1956*. Correspondingly, these very ties are automatically replaced by those created by adoption in the adoptive family.

Thus, the distinction sought to be drawn by the State of Punjab, on the basis of the beneficiary in question being an adopted child or a



biological child, is fallacious. Hence, the rationale pleaded by the State of Punjab, to justify the cancellation of admission of the petitioner is sans merit and, therefore, deserves rejection.

11. The petitioner, after first round of online counselling, had been provisionally allocated a seat in the Government Medical College at Amritsar and was subsequently issued a provisional admission slip dated 03.09.2024 as well. Subsequent thereto, a final admission certificate also came to be issued in favour of the petitioner. Later on, vide the impugned communication/letter dated 11.12.2024 (Annexure P-13), the admission of the petitioner was cancelled. The Hon'ble Supreme Court in SLP(C) No.27875 of 2023 decided on 09.01.2024 titled as ***Aarogyam Association of Regional Ayush Colleges Gujarat State vs. Desai Sujan Jayrambhai (Minor) and others***; relying upon the *dicta* of three Judge Bench judgment of the Hon'ble Supreme Court in ***S. Krishan Sradha vs. State of Andhra Pradesh (2020) 17 SCC 465***; has enounced that a meritorious candidate, who has been illegally denied admission for no fault of his, can be given admission in the same academic year, if the facts of a given case so warrant. Further, it is a settled canon of our jurisprudence that this course of order/direction by a Constitutional Court is in consonance with the salutary *Principle of Restitutive Relief* which has repeatedly met with favour by the Hon'ble Supreme Court. More recently, the Hon'ble Supreme Court in a judgment tiled as ***Vansh S/o Prakash Dolas vs. The Ministry of Education & The Ministry of Health & Family Welfare & Ors.: 2024 AIR (Supreme Court) 1924***; has reiterated the *dicta* of an earlier judgment by the Supreme Court in the ***Manoj Kumar vs. Union of India and others, 2024 SCC Online SC 163***; which reads thus:

“21. The second step relates to restitution. This operates in a different dimension. Identification and application of appropriate remedial



measures poses a significant challenge to constitutional courts, largely attributable to the dual variables of time and limited resources.

22. *The temporal gap between the impugned illegal or arbitrary action and their subsequent adjudication by the courts introduces complexities in the provision of restitution. As time elapses, the status of persons, possession, and promises undergoes transformation, directly influencing the nature of relief that may be formulated and granted.*

23. *The inherent difficulty in bridging the time gap between the illegal impugned action and restitution is certainly not rooted in deficiencies within the law or legal jurisprudence but rather in systemic issues inherent in the adversarial judicial process. The protracted timeline spanning from the filing of a writ petition, service of notice, filing of counter affidavits, final hearing, and then the eventual delivery of judgment, coupled with subsequent appellate procedures, exacerbates delays. xxxxxxxxxxxxxxxx”*

12. Keeping in view the entirety of the factual matrix of the case in hand; especially the factum of no fault being attributable to the petitioner, he pursuing his legal right expeditiously and diligently, the deforciant fault being solely at the end of the authorities (respondent Nos.1, 3 and 4), contumacious rationale sought to be employed by the authorities (respondent Nos.1, 3 and 4) to justify the illegal cancellation of admission of the petitioner, the stand of the respondent No.2-Nodal Agency (Baba Farid University of Health Sciences) confirming the legality of admission of the petitioner and to serve complete *nay* substantial and restitutive justice; the impugned order deserves to be quashed.

13. Before parting with this order, another aspect of the *lis* in hand craves attention. In discharging its role as a litigant, the State must adopt a balanced and judicious approach, resisting the temptation to oppose the claims indiscriminately. The State must exercise due diligence in distinguishing between a baseless and a legitimate claim. While it is justified in defending itself against spurious claims, this duty must be discharged with a sense of responsibility. The Constitutional framework envisions the State as a Welfare State, which is inherently obligated to act in



the best interest of its citizens. In litigation involving the State and its citizens, this welfare-oriented ethos must guide the State's conduct. Unlike a private litigant, whose sole objective is often to secure a favourable judgment, the State bears a higher responsibility to ensure that justice is served, consistent with the principles of fairness and equity.

The Courts across the legal system – this Court being not an exception – are choked with litigation. Frivolous and groundless dispute(s) constitute a serious menace to the administration of justice. They consume time and clog the overburdened infrastructure. Productive resources, which should be deployed in the handling of genuine causes, are dissipated in pursuing worthless cause(s). In our country, the State is the largest litigant today and the huge expenditure involved makes a big draft on the public exchequer. The present case is an illustration of, how litigations are pursued on behalf of the State, in a totally mechanical and indifferent fashion. The proceedings reveal a lack of due diligence, reflective of an apathetic approach that undermines the principles of responsible governance & judicial propriety. Such conduct reflects an absence of serious application of mind, resulting in an unwarranted litigation that burdens the judicial system. This tendency can be curbed only if the Courts across the system adopt an institutional approach which penalizes such comportment. The imposition of exemplary costs, is a necessary instrument, which has to be deployed to weed out, such an unscrupulous conduct. *Ergo*, this Court deems it appropriate to saddle the concerned authorities with costs, which indubitably ought to be veritable and real time in nature.

14. In view of the above ratiocination, the writ petition in hand is disposed of, by directing as under:



- (i) The impugned letter/order dated 11.12.2024 (Annexure P-13) is quashed. Respondents are mandated to take, forthwith, requisite consequential steps accordingly.
- (ii) Respondents are directed to extend latitude to the petitioner, regarding the aspect of attending Classes/Lectures, in terms of the applicable Rules/Regulations, including guidelines of National Medical Commission and the Medical Council of India.
- (iii) State of Punjab is directed to pay to the petitioner costs of Rs.50,000/- within two weeks from today. Exemplary costs of Rs.1,00,000/- is saddled upon respondents Nos.3 and 4 to be deposited in favour of Poor Patient’s Welfare Fund PGIMER, Chandigarh for having wasted precious time of this Court which could have been utilized for hearing & deciding more pressing matters. Liberty is reserved in favour of the State of Punjab to recover the said costs, in accordance with law, from the concerned erring Official(s).
- (iv) Pending application(s), if any, shall also stands disposed of.

(SUMEET GOEL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

January 27, 2025
Ajay

Whether speaking/reasoned:	Yes
Whether reportable:	Yes