

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).5660/2019
(ARISING FROM SLP(C) No. 16604/2019)

ADITYA JAIN & ORS.

APPELLANT(S)

VERSUS

BODH DEEP PAL & ORS.

RESPONDENT(S)

WITH

CIVIL APPEAL NO(S). 5706/2019
[ARISING FROM SLP(C) No. 17004/2019 @ DIARY NO.24295/2019]

O R D E R

1. Permission to file special leave petition(s) is granted.
2. We have heard learned counsel for the parties at length.
3. Leave granted.
4. The matter pertains to the requirement for stacking the claim in the Medical College in the Union Territory of Chandigarh. Following is the policy decision taken by the Union Territory of Chandigarh Administration on 31.10.2010:-

“In pursuance of judgment dated 31.08.2018 passed by the Hon’ble Punjab and Haryana High Court at Chandigarh in CWP No.18240, 17407, 19851, 21558, 21742 of 2018 (O & M) titled as Ashu Hooda v. Union Territory of Chandigarh and others, the Administrator, Union Territory, Chandigarh is pleased to frame the following eligibility criteria for admission to State Quota Seats in MBBS course in Government Medical College & Hospital, Sector-32, Chandigarh:-

1. Candidates who had completed 10th, 10+1 and 10+2 from schools/colleges recognised by the Chandigarh Administration and situated in the Union

Territory of Chandigarh, as regular student of the said school/college. However, this criteria shall be implemented in a staggered manner i.e. in 2019, the eligibility criteria would be only 10-+2, in 2020 it will be 10+1 & 10+2 and in 2021 it shall be 10th, 10+1 & 10+2.

OR

2. Candidates whose parents are residents of Chandigarh for the past 05 years immediately preceding the date of application even if they do not satisfy the criteria as laid down in condition No.1 above. The requisite residence certificate issued from the office of Deputy Commissioner will be taken as proof for this purpose.

OR

3. Candidates whose parents are employees of Central Government/State Government who are on deputation to U.T. Administration, including government employees of Chandigarh Administration/employees working in autonomous bodies/companies in which Chandigarh Administration has 20% or more share, for the past 03 years immediately preceding the date of application even if they do not satisfy the criteria as laid down in condition No.1 & 2 above.

However, candidates of all three categories above will have to submit an undertaking/affidavit that the candidate has not opted and claimed benefit of residence in any other State/UT other than Chandigarh after the declaration of NEET result."

5. It is apparent from the aforesaid that the requirement is to complete 10, 10+1 and 10+2 from the schools/colleges recognized by the Union Territory of Chandigarh and situated in the Union Territory of Chandigarh as a regular student of the schools/colleges. However, entire stipulation has to come into force in staggered manner.

6. The fact remains that the requirement of passing Class 12 was in vogue from the year 2010. Meanwhile, a judgment of the High Court came in CWP No.18240/2018, Ashu Hooda v. Union Territory Chandigarh and Others decided on 31.08.2018. The Division Bench of

the High Court has passed the following order:-

"Therefore, the end result of deliberations can be summed up that according to Pradeep Jain's case (supra), the State is enabled to provide a preference for the residents but to take a decision in this regard is entirely within the domain of the State or UT Chandigarh being a policy matter. As noticed above, we have held condition no.2 to be having a trace of arbitrariness to it but we cannot enforce a mandate upon the UT, Chandigarh to incorporate the element of benefit of residence to the inhabitants of UT, Chandigarh.

We would thus conclude by holding i) condition no.2 as arbitrary but refrain from issuing any mandate to the UT, Chandigarh for the present academic session except to bind them to a consideration for the next course as earlier observed. We have adopted this course for the reason that 31.8.2018 is the last date for concluding admissions and it is well nigh impossible to turn the clock back now for which the petitioners themselves are to be partially blamed as they were alive to the situation when they applied but approached this Court belatedly. However, this can't be termed fatal to their cause because it is only after the admission is worked out would they know the impact of the clause. ii) the candidates who have sought the benefit of residence in any other State would be debarred from claiming seats in any other States/UT, Chandigarh. The admitting authorities will, therefore, scrutinize the cases of all the incumbents whosoever has opted and claimed the benefit of residence in any other State would not be entitled to admission in UT, Chandigarh. Needless to say that All India rank in NEET shall be kept intact in considering the claims of those desirous of seeking admission to UT, Chandigarh."

7. The Division Bench of the High Court has directed that the State is enabled to provide a preference for the residents but to take a decision in this regard is entirely within the domain of the State or Union Territory of Chandigarh as it is a policy matter. The High Court felt that condition no.2 of passing 12 only from Union Territory of Chandigarh to be the eligibility criteria is having a trace of arbitrariness. However, a mandate cannot be

enforced upon the Union Territory of Chandigarh, the Court cannot compel Union Territory of Chandigarh to incorporate the element of benefit of residence to the inhabitants of Union Territory of Chandigarh. The High Court has not issued any mandate to the Union Territory of Chandigarh for the present academic session except to bind them to a consideration for the next course. The High Court has observed that it is not possible to put the clock back for which the appellants have to be blamed partially as they were alive to the situation. The High Court has further observed that there is influx of officers from both the States in the Administration and we feel that non inclusion of clause of residence probably keeps the window open for the people of Punjab and Haryana to gain access to higher education in Union Territory of Chandigarh as also in their own States, in providing a bare minimal eligibility condition of having passed 12th examination from a recognized school/college situated in Union Territory of Chandigarh whereas the residents of Chandigarh would have no such advantage of claiming preference on the basis of residence in Punjab and Haryana and would be deprived similarly in Chandigarh as well. It is a case of double whammy as the students can compete only against 15% All India quota whereas children from other States compete in 15% All India quota also while being safely ensconced in their home States.

8. The Union Territory of Chandigarh Administration's policy decision was notified on 31.10.2018, in compliance of the order passed by the High Court it has introduced the requirement of 10th, 11th and 12th. However, 12th is being insisted for the year 2019,

11th and 12th for the year 2020 and 10th 11th and 12th for the year 2021. The Union Territory has decided to implement the policy in staggered manner so that nobody is taken by surprise and the students know their fate right from 2019 what would ultimately happen in 2021.

9. The impugned Judgment of the High Court has come on 4th July, 2019, on the date when the first counseling was to be held after declaration of the result of NEET. The students had already applied long back, in view of the policy decision of the Union Territory, now it is *fait accompli* for those who have not completed 10th, 11th or 12th from Union Territory now they have been rendered ineligible in terms of the orders passed by the High Court they might not have applied elsewhere. We feel that it would not be fair to implement the judgment of the High Court from 04.07.2019 itself for the year 2019. In our opinion, in case it was desirable to introduce the three years requirement of 10th, 11th and 12th it ought to have been done before the application forms were to be filled so that the incumbents know whether they were eligible to apply or not. Once they have applied, appeared in the examination and given their choice for a particular State/Union Territory, they cannot be left in lurch. Thus, in our opinion, it would not be fair to implement the judgment of the High Court w.e.f. 2019. It would be appropriate to implement the stipulation in a staggered manner, as observed in the policy.

10. Accordingly, the impugned order is modified. Let the counseling be held within ten days from today.

11. The appeals are, accordingly, disposed of.

12. Pending application(s), if any, shall stands disposed of.

.....J.
[ARUN MISHRA]

.....J.
[S. ABDUL NAZEER]

.....J.
[M.R. SHAH]

NEW DELHI;
JULY 18, 2019.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 16604/2019

(Arising out of impugned final judgment and order dated 04-07-2019 in CWP No. 30432/2018 passed by the High Court of Punjab & Haryana at Chandigarh)

ADITYA JAIN & ORS.

PETITIONER(S)

VERSUS

BODH DEEP PAL & ORS.

RESPONDENT(S)

(FOR ADMISSION and I.R.)

WITH

DIARY NO.24295/2019 (IV-B)

(WITH APPLN(S) FOR EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, PERMISSION TO FILE SLP/TP/WP)

Date : 18-07-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE M.R. SHAH

For Petitioner(s) Mr. Nidesh Gupta, Sr. Adv.
Mr. Atul Kumar, Adv.
Mr. Abhimanyu Sharma, Adv.
I. Dewan, Adv.
Mr. Tarun Gupta, Adv.

Mr. P.A. Patwalia, Sr. Adv.
Mr. Shovit Singh, Adv.
Mr. Hanshika Verma, Adv.
Ms. Natasha Dalmia, Adv.
Mr. Tushar Bakshi, AOR

For Respondent(s) Mr. Tushar Mehta, SG
Mr. Chandra Prakash, Adv.
Mr. Vivek Singh, Adv.
Mr. C.P. Rajwar, Adv.
Mr. Mohit Kumar D., Adv.
Mr. Adit Khurrana, Adv.
Ms. Swati, Adv.

Ms. Shruti Pandey, Adv.
Mr. Atul Sharma, Adv.
Mr. Abhishek Agarwal, AOR

UPON hearing the counsel the Court made the following
O R D E R

Permission to file special leave petition(s) is granted.
Leave granted.

The appeals are disposed of in terms of the signed order.

(NARENDRA PRASAD)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER

(Signed order is placed on the file)