

CWP No.7941 of 2020(O&M)

Adesh University & Anr. Vs. State of Punjab & Anr.

Present:- Mr. Gurminder Singh, Senior Advocate assisted by
Mr. Jatinder Singh Gill, Advocate for the Petitioners.

Mr. Pankaj Gupta, Additional Advocate General, Punjab
for respondents.

Heard through Video Conferencing.

Challenger, *inter alia*, is to the amendment made vide Notification dated 17.04.2020 (Punjab Act 9 of 2020) (P-14) to the definition clause in Section 2(i) of the Punjab Private Health Sciences Educational Institutions (Regulations of Admission, Fixation of Fee and Making of Reservation) Amendment Act 2006, whereby amongst others, private universities like the petitioner-University have been included in the definition of “Private Health Sciences Educational Institutions” in order to *inter alia* regulate the fee structure in supersession of the fee fixed by the University; challenge is also laid to the Corrigendum dated 19.05.2020 (P-15) to the Notification dated 14.02.2020 (P-10), whereby the fee structure determined by the petitioner-University has been deleted and reduced fee structure notified under clause 17.1 of P-10 in respect of other colleges/Institutions has been extended to the Petitioner-University for admission to PG Courses as per prospectus for Session 2020-21 (P-11).

On the previous date of hearing i.e. 10.06.2020 following order was passed:-

“ *Heard through Video Conferencing.*

At this stage, the arguments have been entertained only on the following two issues:-

(i) the rationale / basis, upon which, the competent authority under the Punjab Private Health Sciences Educational Institutions (Regulation of Admission, Fixation of Fee and Making of Reservation) Act, 2006, as amended till 17.04.2020, has fixed the consolidated fee for the Post-Graduate (PG) Courses in the petitioners-University for the session 2020-2021; and

(ii) as to how the revised fee structure vide the Corrigendum dated 19.05.2020 (Annexure P-15) can be enforced qua the ongoing admission process initiated on 11.03.2020 vide issuance of the prospectus (Annexure P-11) based on the Admission Policy dated 14.02.2020 (Annexure P-10), and moreso, when some of the students have already deposited the pre-revised rate of fee at the time of admissions in the first counselling held on 24.04.2020.

Notice of motion for 18.06.2020. Notice regarding interim directions as well.

Mr. Sahil Sharma, Deputy Advocate General, Punjab, accepts notice on behalf of both the respondents / State and is directed to file a short reply in the light of the aforesaid contentions. ”

At the time of hearing today, counsel for the respondents has prayed for more time to file the affidavit in compliance of the directions

contained in the previous order, inspite of being well aware of the urgency and strict time schedule to be adhered for the admissions to PG Courses and notice regarding interim directions having been issued.

Learned Counsel for the petitioners points out that the schedule for second counselling has been notified and the last date fixed for expressing willingness to participate in the second counselling is 24.06.2020.

Faced with this situation, we are constrained to consider passing of the interim directions without the affidavit to be filed by the State.

Counsel have been heard on Stay.

It is not in dispute that the petitioner being a private university created under the enactment by the State Legislature has been fixing the fees to be charged from the students in terms of the provisions of the Adesh University Act, 2012, the rates of which are also approved by the State in each year of the admissions *inter alia* to PG Courses.

Prima facie, we are of the considered opinion that once Prospectus has been issued and implemented, it cannot be allowed to be changed mid-admissions so as to disrupt the process of admissions. Prospectus controls the method and procedure for admission to the courses. Govt. could have objected to the fees fixed by the University before the commencement of the first Counselling, wherein concededly some of the admissions have been made based on the Fee structure earlier approved (P-10) by the State Govt. and duly notified in the prospectus (P-11). Hence the State Govt. ought not to have interfered/altered the conditions of the prospectus to the disadvantage of the parties/Stakeholders.

Therefore, to maintain the balance of equities and convenience, it would be just and proper that the admissions to PG Courses be permitted to be made on the strength of the Prospectus (P-11) laying down the fee structure, which had been notified, advertised, adopted and followed, in the first counselling.

Accordingly, operation of the Corrigendum dated 19.05.2020 (P-15) qua the petitioner-University is stayed. However, the petitioner-University shall file an affidavit in this Court before the second counselling, undertaking that incase the present petition fails, the petitioner-University will refund the excess of the fees charged from the students with interest at the rate of 7% per annum.

List on **30.06.2020** for further consideration.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

June 18, 2020
Vinay