
(1984) 05 P&H CK 0029
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 2510 of 1979

Ajay Kumar Mittal

APPELLANT

Vs

Haryana Agricultural University, Hissar and Others

RESPONDENT

Date of Decision : 01-05-1984

Acts Referred:

Constitution of India, 1950 — Article 1, 14, 15, 15(4)

Citation : AIR 1984 P&H 278 : (1985) 1 ILR (P&H) 1

Hon'ble Judges : J.M. Tandon, J

Bench : Single Bench

Judgement

1. The petitioner applied for admission to the degree course of Bachelor of Veterinary Sciences and Animal Husbandry of the Haryana Agricultural University, Hissar in 1979. The University had made reservations for purposes of admission under Rule 1.3 (P. 1), the relevant part of which reads.

"For admission to various programs both undergraduate and master degree there will be reservation for categories as under:

- (i) Government of India nominee or candidates from other States or Union Territories 10%
- (ii) Scheduled Castes/Scheduled Tribes 20%
- (iii) Backward Classes 5%
- (iv) Children of bona fide farmers and landless labourers from rural areas 35%
- (v) Ex-servicemen or their children 5%
- (vi) Sportsmen 3%
- (vii) Children of University employees 2%
- (viii) Open Quota 20%

The reservation in categories in serial Nos, (ii) to (viii) will be for candidate

belonging to Haryana only. In the open quota too, preference will be given to candidates from rural areas. However, exception may be made in the College Sports, if good candidates are not available under reserved categories.

Candidates claiming reservations under category (iv) mentioned above must have passed at least the Primary or Middle or Matriculation Examination from a village school.

The fact, whether an applicant belongs to rural area family of farmers will be judged from the existence of his/her father's name in the concerned list of voters or from the revenue record indicating land held in rural area."

2. The petitioner having failed to secure admission from the open quota category has filed the present writ assailing the reservations (P. 1) for purposes of admission being violative of Articles 14 and 15 of the Constitution and has prayed for a direction to be issued to the University authorities to admit him to the B. V. Sc. & A. H. course for the year 1979-80.

3. In the written statement filed by the Registrar of the Haryana Agricultural University on behalf of respondents 1 and 2 it has been averred that the reservations made for various categories is constitutionally valid and is not violative of Articles 14 and 15 of the Constitution.

4. The learned counsel for the petitioner has argued that 35 per cent reservation for children of bona fide farmers and landless labourers from rural areas is violative of Articles 14 and 15 of the Constitution. Reliance has been placed on a Division Bench decision of this Court in C. W. P. No. 3371 of 1978 (Kumari Promila Jain v. State of Haryana decided on February 26, 1979, wherein a similar reservation, for candidates from rural area was struck down.

5. The contention of the learned counsel for the University is that this 35 percent reservation is justified under Cl(4) of Article 15 and is not violative of Article 1 of the Constitution. According to him, the social and economic backwardness of the sector of the society for which this reservation has been made can be made use to treat it as a distinct class for purposes of Article 14. This class being a weaker section of the society deserves special treatment in the matter of admission in educational institution. The learned counsel has further argued that this case is covered by the ratio of *Amarjit Singh v. Maha Rishi Dayanand University* ILR 5 P&H 493 wherein reservation for candidates from rural areas was been held constitutionally valid.

6. In *Kumari Promila Jain's* case (supra), 25 seats for admission to Medical College, Rohtak, were reserved for students from rural areas. The following three conditions were prescribed for being eligible for such reserved seats:

1. The name of parent of the candidate should be in the village electoral roll.
2. The parent should be engaged in cultivation or allied activities in the village.
3. The candidate should have received at least Primary Education from a school

situate i.e. any village not having a Municipality or notified area or Town Area Committee.":

7. In Amar Bir Singh's case {supra}, 25. seats in Medical College, Rohtak, were reserved for candidates from rural areas. The following. Condition was prescribed for being eligible for such reserved seats:

"The candidate must. have received education up to 8th Standard in a common rural village situated in any village not having any Municipality or noticed area or town area Committee,.

For. this purpose a: certificate is required to be submitted which may be" seen in Appendix "C".

8. In Amar Bir Singh's case (supra) the Division Bench decision in "Kumary Promila Jain's case (supra) was" noticed and it was held that the facts" of "the latter"s case are totally distinguishable and.the ratio thereof is,. therefore; not attracted: In other. words, in Amar Bir Singh's case ILR 198A P&H 493 (supra),...the Full Bench did. not find any fault with the ratio of the decision is Kumari" Promila Jain"g case (supra):

9. In this background the point. for consideration is whether: the impugned 35 percent reservation. in the instant case is similar. to the reservation which. was struck down In Kumari Promila.Jain"s case (supra) not. It is obvious. that if the impugned 36 per cent reservation in the instant case is similar to the reservation. made in Kumari Promila Jain"s, case (supra) been the same "cannot by sustained. The comparison of the two reservations hardly leases any doubt that they are similar" in. substance. In the impugned 35 per cent reservation the candidate must fulfil" the following conditions for becoming eligible to be considered for admission.

(1) He must have passed Primary or" Middle or Matriculation Examination from a village school..

(2) His father"s name is entered in the voters" list or in the revenue records indicating that he held land in the rural area.

10. In Kumari Promila Jain's case (supra), a candidate should have fulfilled I the following conditions for becoming eligible to be considered for admission against.25 per cent seats reserved for rural areas:

1. The name of thc parent of the Candidate should be entered in.thc village electoral roll.

2. The parent should be engaged in cultivation or allied activities in. the village.

3. The candidate should have received at. least. Primary Education from a village school.

10A. The impugned 35 per. cent reservation in the instant Case is.similar to the reservation which. was. struck down in Kumari Promilla:Jain"s. case (supra). The

reservation made in Amar Bir Singh's case (supra) is completely, different and; therefore, the ratio thereof cannot be availed for sustaining the Impugned reservation. The Division Bench decision in Kumari Promila Jain's case (supra) is a binding precedent. The impugned reservation, 35 per cent for Children of bona fide farmers and landless labourers from rural areas in the instant case cannot be sustained as constitutionally valid. In view of this finding, the contention of the learned counsel for the University that this reservation is justified on the ground that the rural area is the source is misplaced and without force.

11. The learned counsel for the petitioner has argued that apart from 35 per cent reservation for children of bona fide farmers and landless labourers from rural areas, 20 per cent reservation has been made for Scheduled Castes/Scheduled Tribes and 5 per cent for Backward classes apart from 20 per cent reservation for other categories. The reservation being more than 50 per cent is unconstitutional. Reliance has been placed on Ramesh Chander Garg Vs. State of Punjab and Others, . It has been held in Ramesh Chander Garg's case (supra) that reservation for weaker section of the society under any liable whatsoever should not in the aggregate exceed 50 per cent of the total available seats and the reservation of 50 per cent is invalid and violative of the rule of equal protection of laws and amount to a fraud on Article 15(4) of the Constitution. In the instant case, the impugned reservation (P: 1) cannot be held to be constitutionally valid on this ground as well.

12. The learned counsel for the petitioner has further specifically assailed 2 per cent reservation for University employees. It has been argued that "such reservation is unconstitutional and reliance has been placed on Ajay Kumar v. Chandigarh Administration Union Territory, Chandigarh, "AIR 1988 P&H 8, and Umesh Chandra Sithia v V.N Singh; Air 1968 Para 3. The contention of the learned counsel for the petitioner must prevail. In "Ajay Kumar's case (Supra), the view expressed in Prasanna Dinkar Sohale and etc. Vs. The Director-in-charge, Laxminarayan Institute of Technology, Nagpur and Others, , that the reservations in favour of the wards of the University are unconstitutional and invalid was followed: A similar view was taken in Umesh Chandra Singh's case (supra).

13. The petitioner had applied for admission to a degree course by B: V: Se: "and A: f.I. of Haryana Agricultural University Hissar, in 1975". "The impugned reservations pertain to that year. The learned counsel for the University has: stated that the impugned reservations" and more in vogue" and further in the absence "of 35 percent. Reservations for this children-of bona fide farmers and landless labourers. of, the rural areas, the petitioner" would have secured admission in" 1979 On merits. Some of the reservations, including 35 percent reservation for children of farmers and landless labourers from rural-areas-.has "been held to be unconstitutional and--invalid. It is futile to quash the impugned reservation at: this stage because it is no more in vogue, It will also not be

appropriate to quash the admission of the candidates against invalid reservations because most of them must. have completed the course by now. Keeping is. view the facts and circumstances it will. be-proper that. the University authorities allow admission to the petitioner in the. forthcoming. B. V. Sc. &A." :H. Course on.the basis of his merit in i979, if he so desires.

14 In view of discussion above the writ petition is allowed to the extent that the Haryana Agriculture University authorities are directed" to admit the petitioner "in the forthcoming B. V. Sc. & A, H. course on. the basis of his merit in 1979, No order as to costs.

15. Petition allowed.