
(1999) 11 P&H CK 0011
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 12856 of 1999

Amarinder Singh and Others

APPELLANT

Vs

Sant Longowal Institute of Engineering and Technology and
Others

RESPONDENT

Date of Decision : 03-11-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 124 PLR 595

Hon'ble Judges : V.K. Bali, J

Bench : Single Bench

Advocate : P.S. Patwalia, for the Appellant; Govind Goel, for Respondent Nos. 1 and 2 and Arun Nehra, for the Respondent

Final Decision : Allowed

Judgement

V.K. Bali, J.—By this order I propose to decide two connected Civil Writ Petitions bearing number 12856 of 1999 and 13836 of 1999 as common questions of law and fact are involved in these writ petitions. The learned counsel for the parties also suggest the said course to be adopted by this Court.

2. The bare minimum facts that need a necessary mention have been extracted from Civil Writ petition No. 12856 of 1999 Amarinder Singh and Ors. v. Sant Longowal Institute of Engineering and Technology, Longowal and Ors. The petitioners who are six (6) in number in CWP No. 12856 of 1999 and one (1) in CWP No. 13836 of 1999, initially applied for admission in the certificate course in the respondent institute in various disciplines i.e. Welding Technology and Auto and Firm Machine. It is stated that in the Institute there is a provision of Vertical Promotion Scheme from certificate course to diploma course. In the year 1997 the petitioners successfully completed the certificate course and were given admission in diploma course. There are two categories of seats in the Institute, one, Vertical Entry Scheme which is only for the students from the Institute and second direct entry scheme which is both for the Institute's students and outside

candidates. All the petitioners successfully completed and finished their diploma in 1999 and, thus, applied for admission under the Vertical Entry Scheme. It is further relevant to mention here that the total seats in the Maintenance and Plant Engineering and Welding Technology are 30 each. In the diploma course in session 1997-99, 24 candidates were admitted in maintenance and Plant Engineering out of 30 seats, thirty candidates were admitted in Industrial and Production Engineering, 28 students were admitted in Welding Technology and 20 students were admitted in Foundry Technology. In the manner aforesaid, out of available/vacant 120 seats, only 102 seats were filled. 51 seats, thus, were filled in from the Vertical Entry Scheme, as mentioned above. It may be mentioned here that from each discipline 50% seats were to be filled in, in the manner aforesaid. It is then pleaded that the counseling was held on 29th and 30th July, 1999 and as the petitioners' names figured lower in merit, they were not called for counseling on 30.7.1999 and 51 students were given admission as per merit. Thereafter, it is pleaded that as per distribution of seats in the degree programme 60 seats were reserved for Vertical Entry Scheme and as the total number of students was 102, therefore, only 51 seats were filled in under the Vertical Entry Scheme. Nine (9) seats were still lying vacant and with view of fill these vacant seats out of the students, commensurate to their merit, these seats were filled in by picking up the students from the common merit, in compliance with un-numbered IInd note of annexure P-1 which is a part of the prospectus. It will be relevant to reproduce the un-numbered IInd note of annexure P-1 as it is this note on the basis of which Mr. Patwalia, learned counsel for the petitioner, has endeavoured to make out a case that the petitioners herein deserves admission to the course under contention. The same is reads thus:-

"A common merit list in respect of branches mentioned against Sr. No. 2 and 3 above in both courses shall be prepared wherein all the admitted candidates shall be pooled together and the branches shall be allotted as per merit of SLIET Entrance Test and choice."

3. It is then pleaded that in compliance of un-numbered IInd note, reproduced above, a common merit list of all the specialities, as referred to above, did come into being vide annexure P-3. The students, irrespective of the branches from which they had come, were pooled together and a common merit was prepared. Nine (9) seats were, thus, filled in, in the manner as referred to above by the students mentioned in annexure P-3, as per merit irrespective of the specialities from which they had come. Up to this, the petitioners have no grouse. However, the case as projected by them in their endeavour to get admission in the course under contention is that despite filling all available seats. 10% more seats were created vide annexures R-1 and R-2 and the method adopted to fill these 10% extra created seats was that the merit was prepared from each speciality and two candidates were picked up from respective speciality. It is this action of the respondents, i.e., deviating from initial process of the admission as prescribed in the prospectus to which the petitioners have taken a strong exception.

4. Pursuant to notice issued by this Court, respondents have filed reply and opposed the cause of the petitioners. Before I may proceed further in this case, it will be relevant to mention that as on today 7 seats are lying vacant even after giving admission to those who were accommodated in 10% extra seats, concededly as on today 81 students are undertaking their studies against the total strength of 88.

5. In the written statement filed on behalf of respondents No. 1 and 2 it has primarily been pleaded and so urged during the course of arguments that after filling up the vertical entry seats in the degree course the competent authority created 10% additional seats in terms of the decision of Board of Governors taken in its 11th meeting held on 31.5.1999 proceedings whereof have been placed on record as Annexure R-1. The additional seats are created with a view to cover up the drop out and for the maximum utilisation of infrastructural facilities available in the institute. As per the decision dated 26.8.1999, attached with the written statement as annexure R-2, 10% additional seats were created with a stipulation that from no branch of feeder diploma programme, the number of promotions should exceed 17. Therefore, as per the decision annexure R-2 a maximum of 17 seats from any of the 4 diploma programme relevant for vertical promotion to Mechanical Engineering could be filled in while admitting students in the degree course.

6. I have gone through the records of the case and heard learned counsel for the parties. The basic facts, as mentioned above, have not been disputed. It is, thus, clear that initially the total number of seats meant for vertical entry could not be filled. The filling up of 9 seats by applying the provisions of un-numbered note-II of the prospectus, annexure P-1, also remains un-controverted being in consonance with the provisions of the prospectus, that is, while accommodating 9 students the common merit list of the students irrespective of their branch from where they had come, was taken into consideration. This action of the respondent-Institute was in consonance with the provisions of the prospectus. During the course of arguments, it could also not be disputed or controverted that while accommodating 7 more students as per decision annexures R-1 and R-2, the method of admission as prescribed in un-numbered Note-II of prospectus, annexure P-1, was not followed. The only contention raised by Mr. Govind Goel, learned counsel for respondents Nos. 2 and 3 while defending the action of the respondents, is that by passing orders annexures R-2, it was specified that not more than 17 students will be admitted from a branch/speciality and it is for that reason that only two students from each speciality would be accommodated.

7. This Court is of the considered view that the argument advanced by Mr. Goel to oppose the cause of the petitioners is wholly unjustified. There are variety of reasons for invalidating the orders annexure R-2, to the extent that not more than 17 students would be admitted from one branch or speciality. The first ground to do so is that order, Annexure R-2, would militate against the

prospectus which, as per the decision of the Full Bench of this Court in Amardeep Singh Sihota v. State of Punjab and Ors.1993(4) S.L.R. 673, partakes the character of law. That apart, not a single word has been mentioned either in the pleadings nor in the written statement put forth by the respondents, as to why entry from each speciality be restricted upto 17 students. If, perhaps, the case of the Institute was that there were no infrastructural facilities with it to teach more than 17 students from each branch/speciality, there would have been some plausibility worth consideration. This however, is not the contention raised before this Court. Nothing more is required to be said as in view of the above two reasons which, individually and collectively, are enough to invalidate the action of the respondent Institute in passing orders Annexure R-2 limiting the number of students from each branch. At this stage, Mr. Goel contends that order, Annexure R-2 has not been specifically challenged by the petitioners and that being so, no occasion at all arises to set aside the same. The Court finds no merit in the aforesaid contention of the learned counsel as well. The case as projected before this Court is that the admissions made later in point of time with regard to extra seats that were created is against the norms prescribed in the prospectus. It is while meeting this challenge that petitioners have been confronted with order Annexure R-2. This decision was not to the knowledge of the petitioner when writ was filed. The petitioners might have amended the pleadings so as to challenge order, Annexure R-2 if, perhaps, some factual position was required to be explained. If order, Annexure R-2, can be challenged or called in question only on legal issues, for which no pleadings or evidence is required, the Court is of the considered view that such a challenge can always be permitted, even though for the first time during the course of arguments. That apart, the order Annexure R-1 was passed by the Board of Governors which is the competent authority to take a decision. It is relevant to mention here that while taking a decision annexure R-1 nothing was mentioned to limit the number of seats from each speciality. However, a stipulation to that effect was made by the Chairman or Director of the Institute while passing order annexure R-2.

8. 7 seats are still concededly lying vacant against which the petitioners can be adjusted without disturbing the students already admitted. In case seven extra seats were not available, it would have become necessary to disturb the admission of students, who were accommodated against the said seven-seats and who happened to be lower in merit than that of the petitioners. The petitioners are concededly immediately below in merit from the students who were initially accommodated against the 9 seats. That being the situation, no orders are required to be passed to disturb any student who has already been admitted.

9. As an upshot to the above discussion, this petition succeeds. The direction is issued to the respondent-Institute to forthwith admit all the petitioners in the course under contention i.e. degree in Mechanical Engineering. As sufficient valuable time of the students has already been lost, they shall be allowed to attend the classes forthwith. No cost.

10. Copy of the order be given dasti to the learned counsel appearing for the parties under the signatures of the Court-Secretary.