
(2012) 08 P&H CK 0320
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 22874 of 2010

Baldev Singh and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 03-08-2012

Acts Referred:

Constitution of India, 1950 — Article 21

Citation : (2012) 4 RCR(Civil) 764

Hon'ble Judges : Rakesh Kumar Jain, J; Rajive Bhalla, J

Bench : Division Bench

Advocate : Mansur Ali, for the Appellant; Amit Chaudhary DAG, Punjab and Mr. M.S. Brar, Advocate For the Respondent No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Kumar Jain, J.—By way of this order, we shall dispose of two writ petitions bearing CWP No. 22874 of 2010 titled as "Baldev Singh and others v. State of Punjab and another" and CWP No. 3792 of 2011 titled as "Davinder Singh and others v. State of Punjab and another", as they involve adjudication of common questions of law and facts. The petitioners pray for issuance of a writ declaring Clause (c) (i) in the form/brochure, regarding allotment of plots to riots victims of 1984 [for short "victims"] in Aerocity, Mohali, offered by the Greater Mohali Area Development Authority [for short "GMADA"], as unreasonable, arbitrary and further directing respondents to accept their application forms and consider them for allotment of plots in the riot victims category.

2. In brief, it is alleged by the petitioners, that they are victims of 1984 riots and migrated to Punjab with their families. The Government of India as well as the State of Punjab framed various policies for rehabilitation of riot victims, but as the petitioners could not get jobs in the State of Punjab, they started living in the Union Territory of Chandigarh where they were duly identified as riots victims and were issued red cards/identity cards. The respondent No. 2/GMADA invited applications for allotment of residential plots to riot victims, but Clause (c)(i) of

the brochure provides an eligibility criteria that "Riots affected should be a red card holder and continuously residing in Punjab since 1986". The grievance of the petitioners is that though they are riot affected and possess red cards, but since they are not living in Punjab continuously since 1986, they are not being considered in the said category, as they are living in Chandigarh. It is argued that the impugned condition enumerated in Clause (c)(i) of the eligibility criteria is unfair, unjust, arbitrary and unreasonable and should, therefore, be quashed. In reply filed by the respondents, it is categorically averred that the instructions have been issued after a meeting convened with the Danga Pirit Welfare Society, Ludhiana.

3. In the alternative, counsel for the petitioners has also argued that even though Chandigarh is a Union Territory but as it is also the capital of State of Punjab, the petitioners, who are though living in Chandigarh, would, therefore, satisfy condition of the eligibility criteria laid by Clause (c)(i) and their applications should be accepted by the respondents. In this regard, he has relied upon a decision of the Hon''ble Supreme Court in the case of Raminder Singh Nagra v. Jajgjit Singh Puri and others, 2010 (2) RSJ 676.

4. We have heard counsel for the parties and perused the record.

5. Admittedly, after the riots of 1984, sikhs from all over the country migrated to Punjab, for a safe abode. The Union of India as well as the Government of Punjab has/have announced various welfare measures to compensate for death, injuries, loss of business and residence of such migrants and in that process, it was decided to issue red cards to riot affected families, who have migrated to Punjab between 01.11.1984 to 11.12.1985 and got themselves registered with the office of the concerned District Magistrate on or before 02.11.1986. In the said background, while carving out a separate category, for allotment of plots in the Aerocity, Mohali, it was decided by the GMADA to allot plots to riot affected families/persons, who are red card holders, and are residing continuously in the State of Punjab since 1986. Apparently, the reason for laying down a condition of "continuously residing in Punjab since 1986", is to ensure that riot victims, residing in Punjab, could not go back to the place of their original abode, have no other residence, are in bona fide need of a house in Punjab. We do not find anything unreasonable or arbitrary in Clause (c)(i) in order to strike it down. The State of Punjab, through GMADA, is well within its right to provide plots to those riot victims who reside in the State of Punjab.

6. Insofar as the alternative argument raised by the petitioners' counsel based upon Raminder Singh Nagra's case (supra) is concerned, the son of the petitioner sought admission in MBBS course because sons of the employees of the State of Punjab were entitled to get preferential consideration, but he was denied admission on the ground that he did not pass 10+2 examination from a school in Punjab, his father was also not working in the State of Punjab and was rather a Central Government employee posted at Chandigarh in the office of Accountant General, Punjab. The Hon''ble Supreme Court had referred to Clause

2(c) issued by the Government of Punjab (Department of Personnel and Administrative Reforms) dated 06.06.1996, which reads as follows:

2(c) The employees of State Govt. institutions/undertakings who are posted in Chandigarh or in Punjab in connection with the affairs of the Punjab Govt. for a period of 3 years.

7. It was held that in view of Clause 2(c), the petitioner in that case, is entitled to, for admission to the said course as the petitioner's father, though a Central Government employee, was posted in the office of Accountant General, Punjab at Chandigarh and performed duties in relation to the State of Punjab. The Hon''ble Supreme Court also held that as the petitioner has also produced a copy of the certificate issued by the Central Board of Secondary Education, which shows that he has passed the examination from the govt. Model Senior Secondary School, Sector 35-D, Chandigarh. Chandigarh being the Union Territory which is also the capital city of State of Punjab is to be treated as part of State of Punjab. Both the grounds given by the High Court to deny admission to petitioner are not correct and in view of the factual situation, the petitioner is entitled to be considered for one seat which was already kept vacant pursuant to the order passed by this Court.

8. We have perused the above judgment and Clause (c)(i) of the brochure that provides that to be eligible for rehabilitation an applicant should be a red card holder and continuously residing in Punjab since 1986. The petitioners are red card holders but admittedly do not reside in the State of Punjab. The argument that as the petitioners are red card holders and their application for allotment cannot be rejected on the ground that they do not reside in the State of Punjab and cannot be accepted much less on the basis of the ratio in Raminder Singh Nagra's case (supra), as it deals with admission to an educational institution and the petitioner's father therein was admittedly working for the affairs of the State of Punjab, though posted in Chandigarh. The Hon''ble Supreme Court referred to a clause in the prospectus and also held that the petitioner has to be treated as a Punjab candidate as Chandigarh is the capital of Punjab. The later condition is not related to the present case. The policy in the present case relates to rehabilitation of riot victims, who, after the riots, have migrated to the State of Punjab and are residing there. The State, in the course of its discretion, has confined the benefit of rehabilitation to those riot victims who are residing in the State of Punjab. We find no illegality or arbitrariness of discretion in the policy so framed and are unable to discover violation of any law much less of Article 21 of the Constitution of India. It would be appropriate to urge that clause (c)(i) incorporates a condition that discriminates the basis of rehabilitation. If we were to hold in favour of the petitioners, all riot victims residing in other State would be entitled, as of right, to rehabilitation. In view of the observations recorded hereinabove with respect to the impugned Clause (c)(i), the present writ petitions are dismissed, with no order as to costs.