

(2012) 01 P&H CK 0318
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 14914 of 2011

Deep Inder Money

APPELLANT

Vs

The Panjab University and another

RESPONDENT

Date of Decision : 13-01-2012

Acts Referred:

Advocates Act, 1961 — Section 49
Constitution of India, 1950 — Article 14

Citation : (2012) 166 PLR 792 : (2013) 1 SCT 290

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : B.S. Sidhu, for the Appellant; Kanwalvir Singh Kang . for respondent No, 1, for the Respondent

Final Decision : Dismissed

Judgement

Augustine George Masih, J.—Petitioner, who is a single girl child, applied for admission in 3 years" LL.B. Course after passing her B. Com. examination. She is challenging the decision of the Syndicate vide which the benefit of reservation of one additional seat for only child (single girl child) has not been made applicable to the students who intend to take admission where seats are under the regulatory agencies such as Medical Council of India, Dental Council of India, Bar Council of India and National Council for Teachers' Education (NCTE). It is the contention of the counsel for the petitioner that once a policy decision has been taken by the Syndicate providing one additional seat for admission in the Panjab University Teaching Departments or its affiliated colleges in general not enlarging its scope to the courses falling under the regulatory agencies such as the Bar Council of India cannot be sustained being violative of Article 14 of the Constitution of India. It has been contended by the petitioner that she applied under the category of "single girl child" as mentioned in the prospectus issued for admission to 3 years" LL.B. Course for the session 2011-2012 by the respondent-University and was placed in the said category when the result was declared. In the light of the decision of the Syndicate, petitioner was entitled to

admission in the course which has been denied to her by not considering her under the said category of single girl child because of the decision of the Syndicate restricting this benefit to the courses falling under regulatory agencies such as the Bar Council of India. Prayer has also been made that Bar Council of India be directed to permit such reservation.

2. Upon notice having been issued, respondents have filed their reply. It has been stated by the University that it is a statutory autonomous body and the admission in the Department of Laws is governed by Rules and Regulations as prescribed by the Bar Council of India. Reservation of the seats in the Department of Laws has been strictly done in terms of the instructions for admissions to various courses in the Department of Law for the Session 2011-2012, which is in accordance with the regulations prescribed by the Bar Council of India and, thus, there is no discrimination done as far as the petitioner is concerned in the said admission process. No reservation in the LL.B. Course was provided for either by the Bar Council of India or as per the decision of the Syndicate which would entitle the petitioner for admission. LL.B. Course is regulated by regulatory body of the Bar Council of India which grants sanction for particular number of seats for an institute and no other additional seat can be created by the institution for any purpose on its own. This reservation for the single girl child has been provided by creating an additional seat in the other courses for which permission has not been granted by the Bar Council of India and, therefore, the present petition is devoid of any-merit and deserves dismissal.

3. That apart, it has been stated in the affidavit that there were other candidates also who had applied under the category of single girl child and are much higher in merit than the petitioner. The details of those students have been given in para 4 of the reply filed by respondent No. 1, according to which eight students have obtained higher marks than the petitioner who had not got admission and, therefore, in any case, she was not entitled to admission even under this category if such a reservation had to be provided. It has been explained that generalized application form for admission to various courses in the University was issued in which all categories for the purpose of admission were mentioned. However, it was specifically provided, while dealing with the reservation of seats, that the concession of additional seat for only single girl child was not applicable to the courses falling under the regulatory agency such as the Bar Council of India. In the light of the specific note in the prospectus, petitioner is not entitled to any benefit as claimed through this writ petition.

4. Bar Council of India which has been impleaded as respondent No. 2 and in the reply with reference to Section 49 of the Advocates Act, 1961, has stated therein, that the Bar Council can make rules which primarily deals with the minimum qualification required for admission to a course of a law degree in law and standards of Legal Education to be observed by the Universities/Colleges and inspection thereof for that purpose. Referring to Legal Education Rules, 2008, it has been stated by the Bar Council of India that it merely lays down for basic

minimum standards for the Universities and Centres of Legal Education to fulfil for grant of recognition of approval of affiliation by the University. It does not interfere with any admission process or prescribe for any reservation nor gives directions with regard to reservation except to the extent of conducting the admission process in fair and transparent manner. It has been further stated that the Bar Council of India has given no directions to the University with regard to single girl child category reservation.

5. Counsel for the petitioner submits that in the light of the specific assertion made by the Bar Council of India, the stand of the respondent-University in not granting reservation to the single girl child category in the 3 years" LL.B. Course, cannot sustain and the petitioner deserves admission as has been prayed in the present writ petition. The decision of the University granting reservation by creating an additional seat in all other courses except those which are falling under regulatory agencies such as the Bar Council of India, cannot be sustained and deserves to be quashed.

6. On considering the pleadings of the parties, the benefit as claimed by the petitioner cannot be granted to her as there is a specific bar in the prospectus circulated by the University making all and sundry aware of the fact that there shall be no reservation in the courses which fall under regulation of the Bar Council of India which obviously includes three years" LL.B. Course. The petitioner, if aggrieved by non-grant of reservation under this category, should have approached the Court at an early stage prior to the initiation of the admission process. It has been stated by the respondent-University in para 4 of its reply that in any case this benefit could not be granted to the petitioner as there are eight candidates who have secured higher marks than the petitioner which would leave her not entitled to admission to the course. Further, it is not in dispute that the course had already started and first semester examination has also been held. All seats, as sanctioned by the Bar Council of India, have been filled and there is no seat available against which the petitioner can be accommodated. The decision of the Syndicate not extending the benefit of single girl child reservation to the course of law by creating an additional seat, which is regulated by the Bar Council of India, is fully justified in the light of the fact that creation of an additional seat is beyond the purview of the University as the number of seats in the course is sanctioned by the Bar Council of India and that cannot be exceeded as it would entail action by the Bar Council.

7. Contention of the counsel for the petitioner that the decision of the University in not granting an additional seat for single girl child in the LL.B. 3 years" Course is violative of Article 14 of the Constitution of India, cannot be sustained as this reservation is not provided under the Constitution or any statute but is a reservation which has been provided by the University on its own. If such a reservation has been provided by a statutory autonomous body such as the University, the said discretionary power cannot be said to be violative of Article 14 of the Constitution of India when the same has a rationale basis i.e. the

course falls under the regulatory agency of the Bar Council of India and the creation of additional seat is not within the purview of the University. For the reasons stated above, the claim of the petitioner cannot be accepted therefore, the writ petition stands dismissed.