
(2001) 01 P&H CK 0113
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9911 of 2000

Gobinder Singh

APPELLANT

Vs

The Punjab Agricultural University, Ludhiana

RESPONDENT

Date of Decision : 31-01-2001

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226, 227

Citation : (2001) 01 P&H CK 0113

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mr. Sanjiv Bansal, for the Appellant; Mr. A.R. Takkar, for the Respondent

Judgement

R.L. Anand, J.—Petitioner Gobinder Singh and Sarbjit Singh have filed the present writ petition under Articles 226/227 of the Constitution of India praying for a writ in the nature of mandamus/certiorari against the respondent quashing the action of the respondent in filling 5 seats of B.V.Sc. falling to the reserved category from amongst the general category candidates. It has been further prayed by the petitioners that the admission of the candidates of general category to the extent of 5 seats be quashed and directions be given to the respondent to admit the petitioners in the said Course.

2. The case set up by the petitioners is that they applied for Bachelor of Veterinary Science Degree Course of 5 years in Punjab Agricultural University, Ludhiana. In all there were 45 seats of which 11 were reserved for the members of the scheduled caste. As per the prospectus a candidate securing 50% marks in the qualifying examination i.e. 10+2 with Science subject is eligible to take the entrance examination and only such candidates who obtain 50% marks (General Category) and 40% marks (Reserved Category) in the entrance examination were to be called for counselling. The prospectus further provided that 5% marks can be reduced out of 40% for the reserved category candidates. The petitioner No. 1 secured 39.5% and petitioner No. 2 secured 38.25% marks respectively in

the entrance examination and they were at serial Nos. 7 and 8 to be admitted against 11 reserved seats. But the respondent has denied admission to the petitioner by not reducing 5% marks as provided in the prospectus and has admitted 5 general category candidates against the reserved category seats, which is illegal.

3. Notice of the writ petition was given to the respondent which filed the reply and denied the allegations. According to the respondent, the benefit of 5% marks is to be given to a candidate for the purpose of his eligibility and the petitioner are not entitled to the benefit of 5% marks for the purpose of counselling because they have already been benefited when their percentage has been reduced from 50% to 40%, as applicable to the general category, for the purpose of entrance test.

4. I have heard Mr. Sanjiv Bansal, Advocate on behalf of the petitioners, Mr. A.R. Takkar, Advocate on behalf of the respondent and with their assistance have gone through the records of the case.

5. The controversy in this case lies with regard to the interpretation of 3 Clauses of the prospectus. A candidate having 10+2 (Medical Group) or equivalent with atleast 50% marks in aggregate is entitled to be considered for the purpose of eligibility. In this regard I may quote in verbatim sub- clause (iii) of Regulation 5(a), as under :-

"iii) B.V. Sc. & A.H. 5-year programme 10+2 (Medical Group) or equivalent with atleast 50% marks in aggregate."

Thus the reading of the above would show that in order to get eligibility in the Course either by a general category or by a SC/ST category candidate, he must possess 10+2 (Medical Group) or equivalent with atleast 50% marks in aggregate.

6. The next clause of the prospectus which requires consideration is Clause 7A(a) (i), which runs as follows :-

"The minimum percentage of marks required to be obtained in the entrance test to be eligible to be called for counselling shall be 50% for general category including NRIs, wards of NRIs/NRI sponsored/Industry sponsored candidates and 40% for all the reserved categories including SC/ST candidates."

Thus a relaxation has been given vis-a-vis SC/ST candidates for the purpose of counselling.

7. Next comes the important clause on which arguments were addressed by both the counsel for the parties. This clause appears at page 24 of the prospectus and sub-note (iii) is important, which runs as follows :-

"Where admission is restricted the candidates who obtain certain minimum percentage of marks and not to all those who pass certain examination, the minimum marks prescribed may be reduced by 5% for candidates belonging to all reserved categories except nominees from foreign countries provided the

lower percentage prescribed does not fall below minimum requirement for passing the qualifying examination. The concession will also be admissible to candidates seeking admission to B.Sc. Home Science programme at Kaoni against seats reserved for Kaoni village."

8. The learned counsel appearing on behalf of the petitioners has interpreted the above clause appearing at page 24 of the prospectus by submitting that a benefit of 5% marks has been given by the University and the petitioners are entitled to this benefit for the purpose of counselling and entrance test. On the contrary, the learned counsel for the respondent submitted that this benefit of 5% marks has been given to SC/ST candidates for the purpose of eligibility and not for the purpose of counselling because for the purpose of counselling the University has already given the benefit to SC/ST candidates when the percentage of the marks has been reduced to 40% as against the 50% required to be taken by a candidate of general category. The learned counsel for the petitioners submitted that words "certain examination" appearing in note (iii) at page 24 of the prospectus will relate back to the entrance test and not to the basic test of 10+2. The submission of the learned counsel for the petitioners cannot be accepted if examined in depth. The petitioners cannot be allowed to take the advantage at two stages in one go. The University has already granted the benefit to the petitioners when it has reduced the pass percentage to 40% in the case of SC/ST. In this category a general category candidate was supposed to get 50% marks. By giving the benefit of 5 marks more in this category would mean that the petitioners will get the double advantage for the purpose of entrance test.

9. Faced with this difficulty the learned counsel for the petitioners submitted that if the interpretation sought to be given by the Court is taken as correct, then the University ought to have mentioned in the public notice that SC/ST candidates are entitled to the benefit of 5% marks for the purpose of basic examination of 10+2. This submission of the learned counsel for the petitioners appears to be correct and I must give the blame to the University in this regard when it has not given the notice to the general public clearly intimating that a candidate belonging to SC/ST category can take the benefit of 5% marks if he does not possess the basic pass percentage of 50 in aggregate. The question is what is the effect of this omission so far as the rights of the petitioners are concerned. Had the petitioners not appeared in the entrance examinations, there would have been some merit, but by taking the examination no prejudice has been caused to them.

10. In this view of the matter, I am not in a position to give any relief to the petitioners. Resultantly this writ petition is hereby dismissed with a strong warning to the respondent-University that in future the wording of the prospectus must be clear so that no ambiguity is caused to the desirous candidates who want to undertake the examination. I have seen a trend in publishing faulty prospectus on behalf of the universities/institutions giving rise to lot of litigation in the High Court.

No order as to costs.

11. Writ petition dismissed.