

(1972) 03 SHI CK 0005

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 229 of 1971

Harinderjit Singh

APPELLANT

Vs

The State of Himachal Pradesh and Another

RESPONDENT

Date of Decision : 15-03-1972

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1973 HP 19

Hon'ble Judges : D.B. Lal, C.J.;C.R. Thakur, J

Bench : Division Bench

Advocate : H.S. Thakur, for the Appellant; B.S. Ram, General, for the Respondent

Final Decision : Allowed

Judgement

D.B. Lal, C.J.—This is a writ petition under Arts. 226 and 227 of the Constitution of India, by Harinderjit Singh Sekhon, a candidate, wherein he has called in question the decision of the Selection Board refusing his admission in the first year degree course of the M. B. B. S. in the Medical College of Simla. The petitioner passed his Matriculation examination from the Government High School, Kasauli. which, according to him. is a school located in the rural area. According to the conditions laid down in the prospectus of the said college, 12 seats were reserved for candidates who had passed their Matriculation or Higher Secondary Examination from schools located in the rural areas. A Selection Board was also constituted for scrutinising the applications and for making selection for admission in the college. The petitioner having found himself qualified for admission in the college, submitted an application on 12th August. 1971 and in that application he specifically indicated that he had applied for a seat out of 12 seats reserved for the candidates who belonged to rural areas. The Principal of the college, thereafter, sent a letter to the petitioner on 19-9-1971, whereby he was asked to submit an eligibility certificate. The petitioner submitted the said certificate on 23rd September, 1971. and was confident that he would be

considered for one of those 12 seats reserved for candidates coming from rural areas. According to the petitioner, he was not considered against any one of these 12 reserved seats, and the college authorities did not inform him about the decision that might have been taken in respect of his application for admission. The petitioner thereafter sent repeated reminders to the college authorities and requested them to give a decision as to whether he was admitted or that his admission was refused. Since the college authorities did not give any decision to the petitioner, he filed this writ Petition, alleging that there was some mala fide intention on the part of the college authorities. The petitioner had obtained 60 per cent marks and he considered that he had a fair chance of selection provided he is considered for one of the reserved seats. According to the petitioner, his case has been discriminated against and Article 14 of the Constitution of India is attracted. His fundamental rights are also violated and as such he has prayed for a writ of mandamus directing the respondents who are the State of Himachal Pradesh and the Selection Board of the said college, to admit the petitioner in the first year course of the H P. Medical College, Simla.

2. The respondents have contested the petition on the ground that the petitioner having passed from Government High School, Kasauli, could not be considered to have studied and passed from a school located in a rural area. There-fore, according to the respondents, the case of the petitioner was considered for one of the open seats and his case was not considered for one of the 12 reserved seats meant for candidates belonging to rural areas. The Selection Board, as submitted by the respondents, had prepared certain guidelines for making the selection of candidates for admission to the Medical College. According to the respondents, the following guideline was prescribed for deciding, as to whether any Particular candidate belonged to rural area:--

"The Selection Board will be guided by the list obtained from the Director of Education who has based his information on the Census Report of 1971. The urban areas are usually administered by the Local Bodies like a Municipal Committee, Notified Area Committee and the Cantonment Board. Any area beyond the territorial limits of these, therefore, will be considered as rural area.

In cases where the student has failed to specify his/her passing of the High School or Higher Secondary examination, the rural areas or urban areas in his/her application, the Selection Board will scrutinise the applications and place him/ her in the respective position accordingly".

The respondents submit that the Selection Board considered the list supplied by the Director of Education and in that list Kasauli was entered within Simla District and was governed by an urban local body, namely, the Cantonment Board and, therefore, they concluded that the petitioner having passed from Government High School, Kasauli could not be considered to have passed from a School situate in rural area. Therefore, according to the respondents, the Selection Board was justified to treat the case of the petitioner as one falling against an open seat and not against a reserved seat. According to the respondents, there

was no discrimination against the petitioner and no question of violation of his fundamental rights arises. The petitioner was not considered eligible for admission, because on merits his case could not be equated with other candidates of the category eligible for open seats. That is why the petitioner was rejected for admission. According to the respondents, it was not incumbent upon them to have sent any information to the petitioner regarding refusal of admission, as that was not the requirement prescribed in the prospectus. Only candidates selected for admission were required to be sent intimation regarding their admission in the college. Therefore, according to the respondents, the writ petition, deserved dismissal with costs.

3. It is not disputed that 12 seats were reserved for candidates belonging to rural areas. That was the condition prescribed in the prospectus but the phrase "rural areas" has not been defined in such prospectus. That is why the Selection Board had to formulate certain guidelines, so that a decision could be given in respect of any particular case, as to whether a candidate belongs to rural areas. The respondents have themselves quoted in their reply the said guidelines which provides (sic) very specifically that those areas which are not administered by local bodies like Municipal Committee, Notified Area Committee and the Cantonment Board and fall beyond the territorial limits of these local bodies, are to be considered rural areas. Therefore, the short question is, as to whether the Government High School, Kasauli, could not be considered to be located within the territorial limits administered by any of such local bodies. The petitioner has submitted several certificates along with the writ petition which go to indicate that the Government High School, Kasauli is situated outside the territorial limits of the Cantonment Board of Kasauli. There is a certificate of the Head Master dated 9th August 1971 counter-signed by the Tehsildar, Kasauli as well as the Vice President, Cantonment Board: Kasauli (Annexure "D"), which indicates that the Government High School, Kasauli is located in the rural area of Village Mashobra, Tehsil Kanda-ghat. Therefore, it follows that the said school is not located in Kasauli, as understood within the Cantonment Board limits of that place. There is another certificate signed by Kangi Ram, Sarpanch Panchayat, Jangeshu, Tehsil Kandaghat (Annexure "E"), which points out that the Government High School, Kasauli is located in rural area. There is yet another certificate (Annexure "F") of the Block Development Officer Dharampur Simla Hills H. P. dated 21st December, and this certificate also indicates that the Government High School, Kasauli is located, in the rural area in village Mashobra, Panchayat Jangeshu, Paragna Bhaget, Tehsil Kandaghat, and further indicates that the management and other supervision of this school is being done by the Dharampur Block Samiti. This clearly indicates that the management and supervision of the school is not being done by the Cantonment Board authorities. The last two certificates are from the Vice President, Cantonment Board, Kasauli dated 21st December 1971 and the Executive Officer, Cantonment Board, Kasauli, and these certificates indicate that the school is located outside the cantonment board limits of Kasauli and that its management and supervision is

not being done by the Kasauli Cantonment Board. Rather the school is located in the rural area within Mashobra village. It is quite a different thing that this school is named as Government High School, Kasauli and it may be that it is located immediately beyond the cantonment limits. It might be catering to the needs of the students belonging to Kasauli town. But these features will not go to prove that the school itself is located within the urban limits. The certificates do indicate, in our opinion, that the said school is located within the rural area. Therefore, according to the very guide-lines prescribed by the Selection Board, the school is located within rural area. The respondents have not controverted these certificates in their reply. They have merely relied upon a certain list of urban local bodies, supplied to the Selection Board by the Director of Education and according to the respondents this list has been prepared in accordance with the information received from the Census Report. In our opinion, the fact that Kasauli town has been specified in this list as an urban local body, does not militate against our decision that the school, although named as Government High School, Kasauli, yet, is situate outside Kasauli Cantonment limits. All the more when there is sufficient uncontroverted evidence to give that inference. Therefore, in our opinion, that Selection Board has not correctly followed its own guidelines and the petitioner could only be considered a candidate from rural area according to the criteria laid down by the Selection Board. When the Selection Board, which is a quasi-judicial body, has disregarded its own guidelines and has wrongly considered the petitioner to have belonged to urban area, in our opinion, interference becomes necessary by this Court and the mistake committed by the Selection Board has got to be set right.

4. The learned Advocate General has emphasised that the question as to whether the petitioner had studied in a school situate in rural area is a question of fact which requires detailed examination by the Court. The learned counsel has further stressed that such a detailed examination of question of fact cannot be undertaken by the Court in its writ jurisdiction. As we have already pointed out. the certificates submitted by the petitioner have not been denied by the respondents. These certificates, to our mind, clearly indicate that the Government High School, Kasauli, is situate within rural area and the petitioner having studied there could not but be considered to have passed his Matriculation Examination from a school situate in rural area. Nothing further is required to be done and no further evidence is required to be admitted to prove or disprove this fact. The respondents having not questioned the validity of these certificates, cannot be heard when they submit that some other facts need be proved in order to hold that the school is situated within rural areas. Therefore, this is not a case in which any disputed question of fact even arises. Rather the facts alleged by the petitioner have been admitted by the respondents and the documents produced amply go to establish that the school is situated within rural areas and the petitioner can be considered a candidate coming from rural area only and he deserved consideration against one of the 12 reserved seats for rural areas.

5. The case of the petitioner was obviously never considered as against one of the 12 seats reserved for candidates belonging to rural areas. There has been a discrimination, inasmuch as a proper classification was not made in regard to the petitioner and his case was not properly considered for admission. There is also violation of his, fundamental rights because his future career depends on his admission in the Medical College, When a quasi-judicial body like the Selection Board refuses to adhere to its own rules and regulations. which ere presumably meant to preserve natural justice and takes decision contrary to such rules and regulation, interference has to be made by the Court to set right such decision. Therefore, in our opinion, a writ of mandamus has got to be granted in favour of the petitioner and a direction is to be given to the respondents to give a decision in respect of the petitioner by considering him as a candidate coming from rural areas against one of the 12 seats reserved for rural areas. This decision would, of course, relate to the First Year Degree Course of the Medical College for the Session 1971-72. The petition is therefore, allowed and the direction as aforesaid is issued in favour of the petitioner. Since the respondents have almost admitted all the facts submitted by the petitioner, we prefer not to make any order as to costs.

Chet Ram Thakur, J.

6. I agree.