

(2003) 10 P&H CK 0115

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 1554 of 2000 in Civil Writ Petition No. 2397 of 1999

Haryana School Education Board

APPELLANT

Vs

Miss Mamta Tripathi and Another

RESPONDENT

Date of Decision : 23-10-2003

Acts Referred:

Haryana Board of School Education Regulations — Regulation 8(1)

Citation : (2004) 136 PLR 278

Hon'ble Judges : V.M. Jain, J;N.K. Sodhi, J

Bench : Division Bench

Advocate : K.K. Gupta, for the Appellant; None, for the Respondent

Judgement

N.K. Sodhi, J.—This order shall dispose of LPA 1554 of 2000 and CWP Nos. 2887 of 2001, 9561 of 2001 and 4648 of 2002, as common questions of fact and law are involved in these cases. For the sake of convenience, facts are being taken from LPA 1554 of 2000.

2. The short question that arises for consideration in this appeal under Clauses X of the Letter Patent is whether Regulation 8(1) of the Regulations framed by the Board of School Education, Haryana (hereinafter called the Board) for Matriculation examination providing that a candidate who has passed his Middle class examination from any Board other than the Haryana School Education Board is not entitled to take Matriculation examination as a private candidate is valid.

3. The father of the writ petitioner is a permanent resident of Village Gurbara in District Gonda in the State of Uttar Pradesh and he was posted as Chief Chemist in the Kaithal Cooperative Sugar Mill at Kaithal. The writ petitioner passed her Middle class examination in April 1997 from Uttar Pradesh and she was admitted in IXth class in Om Prabha Jain Senior Model School, Kaithal. She even passed her IXth class examination. She sent her admission form for taking the Matriculation examination as a private candidate" which was to be conducted by

the Board. Her candidature was rejected on the ground that she had not passed the Middle class examination from the Board and was, therefore, ineligible in terms of Regulation 8(1). She then filed CWP 2397 of 1999 in this Court, which was allowed by a learned single Judge on 24.8.1999, holding that the condition that the candidate must have passed VIIIth class examination from the Board was arbitrary and discriminatory and the same was accordingly struck down and the writ petition was allowed. The Board was directed to declare the result of the examination taken by the writ petitioner under the orders of the Court. It is against this order that the present appeal has been filed. Regulation 8(1) of the Regulations reads as under:-

"Rule 8(1) - Candidates who have passed 8th class examination from this Board with at least two years gap shall be allowed to appear as private candidates and those who have passed their middle examination before 1976 and in the year of 1988 from the concerned school shall also be allowed to appear as private candidate subject to the satisfaction and verification of the Board. The decision of the Chairman in this regard shall be final.

Provided that no one on the rolls of a recognised school after November 30 preceding the year of examination shall be allowed to appear as a private candidate."

4. A reading of the aforesaid Regulation makes it clear that it permits only such candidates to appear in the Matriculation examination as private candidates who have passed the VIIIth class examination from the Board. Candidates like the writ petitioner who passed their VIIIth class examination from other institutions have been made ineligible. Can this be said to be fair and reasonable? We are in agreement with the learned single Judge that the Regulation is discriminatory. The only rationale that was pointed out by the learned counsel for the Board is that the students from other Boards and institutions had been presenting bogus and forged certificates and, therefore, the Board in its wisdom decided not to make such candidates eligible for the Matriculation examination as private students. This can hardly be a valid reason for making such candidates ineligible. It is always open to the Board to have proper mechanism available with it to verify the genuineness of the certificates produced by a particular candidate. The hardship which such candidates have to suffer for no fault of theirs results in arbitrariness, especially in those cases where the parents of the students are holding transferable jobs. A candidate who has passed the Middle examination from a Board from Chandigarh or from Punjab or any other Board or institution should not, in our opinion, be made ineligible only on that ground. In this view of the matter, we have no hesitation in upholding the findings recorded by the learned single Judge. The question that now arises is, should the Regulation be struck down as has been done by the learned single Judge. We are of the view that instead of striking down the Regulation, the same can be read down to mean that a candidate who has passed his Middle class examination either from the Board or from any other Board or institution, recognised by the Board or by

the State Government should be held eligible for appearing in the Matriculation examination as a private candidate, subject to fulfilment of other requirements of the Regulations. In this view of the matter, the order of the learned single Judge is partly modified and Regulation 8(1) of the Regulations is read down as stated above. The net result would be that the direction given by the learned Single Judge directing the Board to declare the result of the Matriculation examination of the writ petitioner is upheld and her candidature regularised subject to the condition that the institute from where the writ petitioner had passed her Middle class examination was a recognised one. The Letters Patent Appeal and the writ petitions accordingly stand disposed of and the Board is directed to regularise the admission of the petitioners and declare their result in the light of the aforesaid observations/directions. There is no order as to costs.

Sd/-

V.M. Jain, J.