

(2014) 04 P&H CK 0092
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 2424 of 2014

Isha Garg

APPELLANT

Vs

B.R. Ambedkar National Institute of Technology

RESPONDENT

Date of Decision : 21-04-2014

Acts Referred:

Citation : (2014) 3 SCT 208

Hon'ble Judges : Gurmeet Singh Sandhawalia, J

Bench : Single Bench

Advocate : Deepak Arora, Advocate for the Appellant; Karminder Singh, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

G.S. Sandhawalia, J.—The present writ petition has been filed for directing the respondents to admit the petitioner to Ph.D (Mathematics) full time course in the institute for the academic session 2013-14, on the basis of the entrance test conducted in June, 2013. The pleaded case of the petitioner is that the respondent-Institute called for applications for various Ph.D., M.Tech and M.Sc programmes. In pursuance of that, the petitioner applied for Ph.D (Mathematics) full time course for the academic session 2013-14. Necessary fees for the entrance test was deposited and thereafter, the entrance test was conducted on 19.06.2013 and the petitioner qualified in the same. The list of the successful candidates is appended as Annexure P. 1. An interview was held on 23.07.2013 and the petitioner along with 6 others were recommended for admission, as per the order of merit, by the Committee consisting of 6 persons and one Committee member did not sign on the said recommendation. However, instead of acting on the said recommendation, the respondent-Institute slept on the issue. Even the petitioner sought information under the Right to Information Act, 2005 and it appeared that due to the adverse remarks put of by one of the committee members, there was no clear-cut recommendation for admission. Resultantly, the writ petition was filed.

2. In response, the plea taken by respondent No. 2 is that there were no clear-cut recommendation for the admission to Ph.D (Mathematics) and the admission had not taken place. Recommendations were not unanimous and the same could not be implemented and therefore, a Committee was constituted to look into the same and after due consideration, it was observed by it that the recommendation of the Committee was not unanimous and therefore, admission was not done.

3. After hearing counsel for the parties, this Court is of the opinion that the decision of the Institute is totally arbitrary. Once they had invited applications for admission to the said course and conducted an entrance test, they were to go through the procedure and because of some internal wrangling inter se the Committee members and because of one person not giving his consent, the admission process could not be brought to a stand still, as has been done in the present case. It is not the case of the respondent-Institute that the petitioner or other persons who had applied were ineligible in any manner or had concealed some facts. It was on account of vacancies, after proper test and after payment of money in the said course that the said applications were invited. The respondent-Institute acting on his own whims and fancies delayed the admission process in an arbitrary manner. Reliance can be placed upon a Division Bench of this Court in *Association of Education Colleges v. Haryana State* 2009 (1) SCT 157 which examined the issue whereby a large number of seats for the B.Ed. Course were going vacant and the University was opposing the said prayer for admission on the ground that it was at a belated stage and the students had not appeared in the entrance test. It was noticed that the seats were available in the Colleges and were supported by the infrastructural requirements stipulated by the NCTE, which was a valuable resource and should not be allowed to go waste, subject to the fulfillment of the academic standards. Accordingly, it was held that the students should be allowed to be admitted on the basis of merit who had appeared in the qualifying examinations, without holding any independent Common Entrance Test. Relevant portion of the judgment reads as under:

14. The next question then is whether this Court should permit admissions or let the available seats go waste, Which out of the two options would serve the ends of justice is the only question that detained us. If one were to adopt a pedantic and hyper technical approach, one could say that admissions need not be made at this stage as the University's apprehension of dilution of academic standards and disturbance of academic calendar should not be disregarded. The wisdom behind that approach however, appears out weighed by the compelling need to avoid the wastage of seats and denial of an opportunity to eligible students to get admitted against the same. It is true that academic standard needs to be maintained and academic decisions by expert bodies respected as far as possible, but it is equally true that when admissions are delayed, a certain amount of adjustment can and ought to be made by the Institutions as also the affiliating University. These adjustments do not, however, necessarily dilute the academic standard as is apprehended by the University in the instant case. The Institutions are ready and capable of making up the requisite number of working days by

holding special classes for the students, who have joined late. The admission granted at this stage will not also require the University to compromise on the 40 days practice teaching or the percentage of lectures, which a student must have for being declared eligible for taking the examination. It is noteworthy that candidates admitted to a session has to perform by the same standard as is required of the other candidates in order to be declared successful in the examination. If a student, otherwise admitted late, is unable to come up to the standard of the University, he/she will be declared unsuccessful. Super-added to the above is the fact that the number of students, who may even now seek admissions, may not be very large to require holding of any test to determine their inter-se merit for grant of admission. The argument advanced by Mr. Gupta that the Colleges may have to hold independent CET for granting admissions, which may delay the completion of admission process, is in our opinion, misplaced. Such a situation could arise only where the number of students applying is more than the number of seats available in the Institutions. That, however, is not the position in the instant case. Even so, the apprehension that lesser merited students may be admitted while ignoring meritorious students, can be allayed by directing that the Institutions shall grant admissions strictly in accordance with the merit in the qualifying examination, which is one of the recognized norms for granting such admissions.

Accordingly, the present writ petition is allowed, the petitioner-Institute is directed to make admissions for the Ph.D (Mathematics) full time course. In the peculiar facts and circumstances of the present case, it is further directed that the University shall also issue notice to all the persons who were selected and inform them that it is open for them to appear and deposit fee for the course they had applied for and in case they wish to do so, the said persons shall also be entitled to admission in the said course. Writ petition stands disposed of with the abovesaid directions.