

(1984) 11 P&H CK 0035
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4660 of 1984

Maninder Kaur and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 06-11-1984

Acts Referred:

Citation : AIR 1985 P&H 46

Hon'ble Judges : I.S. Tiwana, J

Bench : Single Bench

Judgement

1. This petition, to my mind, is the classic example of what a government can create with one hand and demolish with the other. With a view to "encourage the sports talent" in matters of admission to medical / technical institutions in the State, it took a policy decision on 11th Jan. 1962 (Copy Annexure P 1) and the relevant parts of the same read as follows:-

"I am directed to inform you that with a view to encourage sports talent Government have been considering the question of reserving certain percentage of seats for them for,--

i) admission to technical / medical institutions in the State.....

2. After careful consideration, Government have decided in regard to (I) above that 2 per cent of the seats in technical / medical institutions in the State should be reserved for outstanding sportsmen provided that they possess the minimum educational qualifications prescribed for admission to such institutions.....

In so far as the question of judging whether a person is a sportsman of requisite standards for the concessions referred to above, it has been decided that the sportsmen should be graded as follows:

(i) Grade A--Sportsmen of international standing i.e. those who have represented India in International tournaments, meets, events, competitions, etc.

(ii) Grade B--Sportsmen of national standing i.e. those who have represented their State, University, Service, school etc. in recognised National tournaments, contests, competitions etc., who hold National records in any event.

(iii) Grade C--Sportsmen who have achieved State status by representing their college, school, service contests etc, or hold State records in any event.

(iv) Grade D--Sportsmen who claim to have played for their college, school, institution etc. without achieving State status. x x x x x x

4. x x x x x x

5. To achieve the object in view, it has been decided by Government that the persons concerned should obtain a certificate from the Sports Deptt. Only such persons who are in possession of the certificates issued by the Sports Deptt. will be eligible for these concessions.

x x x x x x'''

This policy admittedly continued to govern the admissions to these institutions till the Government thought of altering it in the light of certain recommendations made by the Sports Department vide its letter dated 25th Jan. 1984 (Copy Annexure P 2). Though the parties are at variance with regard to the scope and content of this letter of the Department yet I do not feel the necessity of going into the controversy as I am of the considered view that this recommendation cannot by itself sanctify the decision taken by the Government if it is otherwise not sustainable in law. These are the salient features of the government decision dated 30th Aug., 1984 (Annexure P3) stated to have been taken in the light of the recommendation annexure P2:-

"The President of India is pleaded to order that selections of students for admission to MBBS/BDS courses, for the session 1984-85 in all the three State Medical and two Dental Colleges shall be made by holding a competitive entrance examination in the four compulsory subjects (Physics, Chemistry, Biology and English) of pre-medical or equivalent examination. x x x

III--Eligibility for admission to MBBS/BDS Courses:

(a) Admission shall be given on the basis of the relative merit of candidates determined on the result of the competitive entrance examination. In the case of the reserved seats relative merit of the candidates shall be determined within each category of reservation except that in the category of sportsmen / sportswomen, merit shall be determined as follows:-

Weightage will be added to the marks secured in the admission test in respect of sportsmen / sportswomen based upon their sports gradation as mentioned below:-

(i) A Grade--8% of the marks secured in the written test.

(ii) B Grade--5% of the marks secured in the written test.

(iii) C Grade--3% of the marks secured in the written test.

(iv) D Grade--2% of the marks secured in the written test".

2. It is the conceded position that the sportsmen / sportswomen who secured a minimum of 25% marks in the P.M.T. (Pre-Medical Test) became eligible for being considered for admission to one the seven seats reserved for this category of students. The petitioners have undisputably qualified the test. Their case is that on the basis of the formula now adopted by the Government vide annexure P 3 for determining their merit by giving weightage of marks in the light of their gradation in the field of sports the students who have secured the inferior most gradation certificate, i.e. D-Grade, are likely to be admitted in preference to the students who have secured the highest possible grade certificates, i.e., D-Grade, are likely to be admitted in preference to the students who have secured the highest possible grade certificates i.e. A-Grade. This, according to the petitioners, is not only irrational and against the very spirit of the policy of reservation in favour of sportsmen / sportswomen but is arbitrary also. As against this, the defence raised by the respondent-authorities is that the primary anxiety of the State is to produce "outstanding doctors and not outstanding sportsmen" and, secondly, the petitioners having participated in the process of selection in the light of annexure P3, they can not now turn around and challenge the very formula which has been made applicable to all the candidates seeking admission against the seats reserved for sports people. Having given my thoughtful consideration of the entire matter I find it difficult to sustain the stand of the respondent-authorities.

3. As is a manifest from the reproduction of the relevant parts of the two policy decisions (annexures P1 and P3) of the government, the sole purpose of making reservations in favour of the sportsmen / sportswomen is to encourage the sports talent. It is again not disputed that out of the five petitioners, two namely Maninder Kaur and Damanajit Kaleke at Sl. Nos. 1 and 4 respectively, have secured A-Grade certificates and the remaining three are possessed of B-Grade certificates. It is again that admitted position that the merit list which has been prepared by the respondent-authorities in the light of annexure P3 does not include any of the petitioners and rather out of the candidates who are likely to be admitted, two are possessed of D-Grade certificate, another two have C-Grade certificates and the remaining three out of seven have B-Grade certificates. In a nutshell, none of the candidates possessing A-Grade certificate is likely to be admitted on the basis of this formula. The admission to these reserved seats have not been finalised in view of the following order of the Motion Bench dated 17th Oct., 1984:-

"The petitioners be also interviewed but the admissions to the seats belonging to the sports quota may not be finalised till further orders".

4. It is apparent in the light of the abovenoted factual position that though the reservation sports talent yet on the basis of the formula annexure P3, now

adopted by the Government, the best possible sportsmen having A-Grade certificates have to be ignored and the candidates mostly possessing D and C Grade certificates are to be given admission to these Colleges. This, on the face of it, is not only irrational but arbitrary also. Though as per the stand of the respondent-authorities, their primary anxiety is to produce "outstanding doctors and not outstanding sportsmen" yet I find that on the working of the formula annexure P3, they are neither likely to produce outstanding doctors nor outstanding sportsmen. When the merit of the candidates likely to be admitted against these seats is adjudged as students, they are sought to be preferred on the ground that they are better students. In a nutshell, the candidates likely to be admitted are neither the best of the students nor the best of the sportsmen. If the policy contained in Annexure P1 has to have any meaning, then essentially qua the sportsmen / sportswomen who have qualified the P. M. test and have thus come to form a class by themselves, the only consideration that should prevail with the authorities for purposes of these admissions apparently has to be the rating of these candidates in the light of their performance in the field of sports. In case the recommendation of the Sports Department vide Annexure P2 means anything different than this, as is sought to be contended by Mr. Bedi, then that to my mind amounts to a complete negation of the department itself as I cannot imagine a Sports Department recommending that inferiormost sportsmen / sportswomen should be preferred to the superiormost ones in the field of sports. Thus I repel this stand of the respondent authorities.

5. So far at the contention of non suiting the petitioners on the ground that they have participated in the process of selection and now they cannot be allowed to impugn the very formula under which their merit has been adjudged, the same has to be stated to be rejected. Had not the petitioners qualified the P.M.T. they would not have been eligible for being considered for purposes of admission. It is only after qualifying in the P. M. T. that they could impugn the formula annexure P3. Mr. Bedi, the learned Deputy Advocate General, has made a reference to certain precedents where the candidates having participated in an interview were debarred from challenging the constitution of the selection committee but, to my mind, those judgments have no relevance to the facts of this case for the simple reason that the eligibility of the candidates in those cases was never in doubt and they could challenge the constitution of the selection committee at any stage prior to appearing before the same for purposes of interview. In the instant case, as already pointed out, the petitioners had no locus standi to challenge annexure P3 till they qualified the P. M. T. by securing more than 25% marks.

6. As a last resort, Mr. Bedi raises, an argument of frustration by submitting that it is entirely for the government to lay down the criteria for purposes of admission and the Court cannot possibly substitute the same by its own thinking for formula. I have no dispute with this proposition but what cannot be ignored is that the formula adopted by the State cannot possibly be irrational or arbitrary and defeat the very purpose which is sought to be achieved by making reservations in favour of sportsmen / sportswomen. Thus, without suggesting

any formula of my own, I quash annexure P3 to the extent to which it operates in the manner that better class sportsmen are to be ignored in favour of those who can hardly be called sportsmen, i.e. D and C Grade certificate holders, I however, pass no order as to costs.

7. Petition allowed.