

(2009) 11 J&K CK 0014
In the Jammu And Kashmir High Court

Master Ajay Kumar

APPELLANT

Vs

Sainik School Society and Another

RESPONDENT

Date of Decision : 06-11-2009

Acts Referred:

Constitution of India, 1950 — Article 14, 15(4)

Citation : (2010) 1 JKJ 888

Hon'ble Judges : Hakim Imtiyaz Hussain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Hakim Imtiyaz Hussain, J.—Respondent No. 2 Sainik School Nagrota, Tehsil and District Jammu, invited applications from the eligible

students for admission to class 6th. Petitioner also applied for the same. He belongs to Schedule Caste category. Under the admission rules,

reservation for persons belonging to State of J & K has been prescribed to the extent of 67%. Reservation of seats for Schedule Caste, Schedule

Tribe and different categories has also been prescribed. Petitioner states that under these provisions and reservation of seats for candidates

belonging to the State read with reservation of seats for Schedule Caste candidates, he too was entitled to get admission against one of the seats

but by applying the reservation rules wrongly, the respondents have denied admission to the petitioner and have thus deprived him of a right which

accrued to him under the rules. He has, therefore, prayed for a direction to the respondents to make selection of Schedule Caste candidates out of

quota 67% of seats reserved for the candidates belonging to the State and to draw the panel accordingly.

2. Respondents in their objections have submitted that the candidates selected under 67% quota in the open merit category as also those selected

under the reserved category of Schedule Caste have not been arrayed as party respondents in the present petition, as such, the present petition is

not maintainable for non-joinder of necessary parties. They further state that under the reservation rules applicable to the admission in Sainik

School, 15% reservation out of total number of seats is for various categories while as 67% quota is reserved for students belonging, to the State.

The selection of candidates, according to the respondents, has been done in accordance with these rules. In the circumstances the respondents

pray that the contention of the petitioner that action of the respondents has violated his right as enshrined under Article 14 and 15(4) is totally

misconceived, erroneously and misplaced.

3. Heard. Considered.

4.1 have gone through the rules governing the field.

5. Reservation to admission of a candidate in Sainik Schools is governed by rules 1.12 to 1.15 which reads as under:

1.12: 67% of the seats in each Sainik School will be reserved for boys from the State in which Sainik School is located. The short fall, if any, and

the remaining seats will be thrown open to boys from other States and Union Territories.

1.13: 15% of the total seats are reserved for schedule caste and 7-1/2% seats for schedule tribes.

1.14: 25% seats are reserved for children of service personnel including ex-servicemen.

1.15: The number of vacancies available in a Sainik School shall be determined and allocation of those, vacancies for boys belonging to Home

State and to the adjoining States/Union Territory for which a school caters shall be worked out. The boys belonging to Schedule Caste and

Schedule Tribes will be admitted on the basis of 1.13 above. The remaining qualified boys from the Home State will then be arranged in one list

called List-A from which vacancies earmarked for children of defence personnel and ex-servicemen as well as general category candidates shall be

allotted from amongst qualified candidates in the order of merit in accordance with the percentage of reservation for each category. An another list

called List-B will be prepared in which all the boys left over from List-A and also boys not belonging to Home State shall be included and

vacancies left will be further subject allocated amongst children of Defence Personnel and ex-servicemen as well as general category strictly in the

order of merit achieved in the entrance examination. To the extent boys in a particular category are found deficient, the unfilled seats will be

available for being filled by general category candidates in List-A or List-B as the case may be.

6. Petitioner's interpretation to these rules is that while granting reservation of 67% of seats earmarked for the students belonging to State, quota of

15% reservation for Schedule Caste and Schedule Tribes is to be added to the seats reserved for the State and in these circumstances, out of 67%

quota, 15% should be from the aforesaid categories. Thus, according to the petitioner, a candidate belonging to State of Jammu and Kashmir will

not only get 67% of the reservation out of the total seat, he would also get 15% of the reservation out of 67% seats reserved for the State.

7. On perusal of the reservation rules I find that such an interpretation, of the aforementioned rules is not possible.

8. Rule 1.12 provides that 67% of the seats will be reserved for the boys belonging from the State in which Sainik School is located. The short fall,

if any, and the remaining seats will be thrown open to boys from other States and Union territories. Rule 1.13, on the other hand, provides that

15% of the total seats are reserved for Schedule. Caste and 7-1/2 % seats for Schedule Tribes. Under rule 1.15 candidates belonging to Schedule

Caste and Schedule Tribes categories can be admitted on the basis of rule 1.13 mentioned above. From these rules it no where appears that 15%

reservation to Schedule Caste is to be given out of 67% quota for the students belonging to a particular State 15% quota for Schedule Caste

students, under these rules, is to be determined out of the total seats meant to be filled up. Out of rest of the seats i.e., the seats which are available

after satisfying the quota of reserved category candidates, 67% seats will go to the concerned State and rest of the seats will go to the candidates

of other States. If reservation of 15% is applied to 67% it would amount to grant of reservation to a particular category twice, first out of the total

seats and second out of the seats reserved for candidates from the State. This is not provided by the rules.

9. While working out reservation, 15% reservation is to be granted first to the total number of candidates who apply for the admission. Rest of

seats as also the unfilled seats will go to open merit candidates out of which 67% will go to the candidates from the concerned State.

10. It was submitted by the learned Counsel for the petitioner that the method adopted by the respondents would amount to the exclusion of

Schedule Caste candidate belonging to the concerned State.

11. I do not find any force in the submissions made by the learned Counsel for the petitioner as the candidate from the particular state does not get

excluded but he too can compete along with other candidates belonging to that category. He can also compete for open merit category reserved

for the candidates of the concerned State.

12. In these circumstances, I do not find any merit in this petition which is accordingly dismissed.