
(2015) 09 SC CK 0123

In the Supreme Court Of India

Case No : Civil Appeal No. 7136 of 2015 (Arising out of SLP (C) No. 23046 of 2015)

Master Satyam Gandhi

APPELLANT

Vs

Union Territory, Chandigarh and Others

RESPONDENT

Date of Decision : 16-09-2015

Acts Referred:

Citation : (2015) 6 AWC 5629 : (2015) 9 SCALE 772 : (2016) 1 SCT 13

Hon'ble Judges : M. Yusuf Eqbal, J;C. Nagappan, J

Bench : Division Bench

Advocate : Malini Poduval, for the Appellant; P.H. Parekh, for Parekh and Co., Advocates for the Respondent

Final Decision : Allowed

Judgement

M. Yusuf Eqbal, J—The Petitioner has preferred this special leave petition against the impugned order dated 03.08.2015 passed by the High Court of Punjab and Haryana in CWP No. 8009 of 2015.

2. The facts of the case lie in a narrow compass.

3. The Petitioner was a student of the Respondent-school viz., St. Jones School, Chandigarh. The school is affiliated with the CBSE. The Petitioner passed his Class X and was interviewed on 24.03.2015 for the purpose of admission in class XI. At the time of interview, the Petitioner preferred the medical stream but it was declined by the Respondent-school on the ground that he is ineligible for the said stream because of his pre-Board result. The Petitioner allegedly requested to admit him in any other stream as per his eligibility, but when the final list was prepared and displayed on 29.03.2015 on the notice Board of the Respondent-school, the name of the Petitioner was conspicuously absent in the said list. The contention of the Petitioner is that he is a brilliant student who had been deprived of his right to education in the same school from where he had passed class X. Being aggrieved, the Petitioner filed a Writ Petition before the High Court

seeking a direction to the Respondent-school to admit him in class XI.

4. The Respondents-school, on the other hand, pleaded that it is a private unaided minority educational institution and it had started class XI and XII in the year 2011-2012 after getting permission from the CBSE, upgrading the Respondent-school to the senior secondary school. The Respondents' further case is that by circular dated 13.05.2014 issued by the school, it was clearly stated that all students cannot be accommodated in class XI because of the space constraint and availability of limited seats in class XI as the four sections of Class X had been reduced to two sections in Class XI and the short-listing was done on the basis of students' academic performance and grades in the co-scholastic areas, especially attitude and values. It was further averred that the Petitioner applied for admission in Class XI in medical stream and as per aptitude test conducted by the Respondent-school, the Petitioner had an aptitude for commerce.

5. The Respondents' further case is that the Petitioner had even forged the signature of his parents on the admission form. Further counselling for the admission to Class XI for the academic year 2015-2016 was held and since the Petitioner was not found to have an aptitude for medical stream, he was offered a seat in commerce stream, to which he had categorically refused.

6. On 23.03.2015, the list of eligible students for admission in Class XI was put up on the school notice board and in a few days, the admission process was completed for the main stream students.

7. Considering the facts of the case pleaded by the parties, the High Court dismissed the writ petition. Hence, this special leave petition.

8. Leave granted.

9. We have heard Ms. Malini Poduval, learned Counsel appearing for the Appellant and Mr. P.H. Parekh, learned Senior Counsel appearing for the Respondents.

10. By filing counter affidavit, the Respondent-school reiterated its stand that the Appellant was offered the commerce stream, but he had categorically refused to take admission into commerce stream, and thus, declined to take admission in the Respondent-school. It is highly incorrect to allege that the Appellant was not given admission in Class XI even in the commerce stream.

11. It has not been disputed by the Appellant that he applied for admission in class XI in the medical stream, but because of his marks in the pre-board result and aptitude test conducted by the Respondent-school, he was found ineligible and was denied admission in the medical stream. It is also not in dispute that the Appellant was given option to take admission in the commerce stream which he did not opt at the first instance, as a result the admission even in the commerce stream were over on 29.03.2015. The High Court after taking into consideration the facts of the case and the relevant bye-laws of CBSE, particularly Clause 7.4,

came to the conclusion that the relief sought for by the Appellant cannot be granted by issuing appropriate writ directing the school to admit the Appellant even in the commerce stream.

12. After considering the affidavits and the documents annexed therewith and also hearing the learned Counsel appearing for the parties, we do not find any reason to interfere with the impugned order passed by the High Court. Hence, this appeal is dismissed.

13. Before parting with the order, it goes without saying that the students who study up to Class X in any school whether aided or non-aided, such students are entitled to get admission in Class XI in the same school unless he or she declines before the admission is closed. However, in which stream they are to be admitted, it depends upon their merits and performance that shall be decided by the school authority.