

(1997) 06 SHI CK 0023
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 217 of 1997

Miss Kranti Gupta

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 25-06-1997

Acts Referred:

Constitution of India, 1950 — Article 311

Citation : (1997) 3 ShimLC 92

Hon'ble Judges : Srinivasan, C.J.; Lokeshwar Singh Panta, J

Bench : Division Bench

Advocate : Ravi Bakshi, for the Appellant; Indar Singh, A.G. for Respondent No. 1 and Abhilasha Kumari, for the Respondent

Final Decision : Dismissed

Judgement

Srinivasan, C.J.—The Petitioner applied for appearing in the common entrance test 1997 for admission in the MLB B S./B.D.S and B A M.S. courses. Application was rejected by a communication dated 6-6-1997 on the ground that the Petitioner had not passed two out of three examinations from the Schools located in Himachal Pradesh State. The communication is said to have been received by the Petitioner on 14-6-1997. The Petitioner sent a representation on 17-6-1997 to the Controller of Examination stating that she claimed exemption under Clause IV (in) of the prospectus as her father is an officer in the Nationalised Bank (Punjab National Bank) which is fully owned by the Government of India under the provisions of Banking Companies Transfer and Acquisition Act, 1970 and a bona fide Himachal. The Petitioner followed it with Anr. representation on 20-6-1997 in which it was stated that the question of eligibility may be considered in the light of criteria laid down in the prospectus and it was stated that the rejection was improper and on extraneous grounds not set out in the prospectus.

2. In this writ petition the Petitioner has produced a copy of pages 4 and 5 of the prospectus said to have been obtained by her. In that copy the relevant clause

reads as follows:

Candidates who have to compete for admission to Indira Gandhi Medical College, Shimla....should have passed atleast two of the following examinations from the recognized Schools or Colleges affiliated to ICSE/CBSE and H.P. Board of School Education or equivalent Boards/University established by Law in India.

(a) Middle or Equivalent.

(b) Matric or Equivalent.

(c) 10 + 2 or Equivalent.

3. It is contended that the clause does not specify that the Schools must be situated within the State of Himachal Pradesh as stated in the communication of rejection dated 6-6-1997.

4. This contention is answered by the second Respondent by pointing out that there was a printing mistake in the prospectus and it was corrected by issuing a corrigenda immediately after the mistake was discovered. It is also stated that the corrigenda was published in the newspapers pursuant to press note issued by the Assistant Registrar (Tests) on 1-5-1997 The corrigenda, an so far as it is relevant, reads that in sub-para (i) at page 4 of the prospectus the following words shall be added;

situated in the State of Himachal Pradesh" at the end after the words "law in India".

Thus, according to the learned Counsel for the second Respondent, the prospectus was corrected and with every prospectus, issued by the University, corrigenda was attached and issued to the concerned candidates. In view of the statement made by learned Counsel for the Respondents which we have no reason to reject, we find that the contention of the Petitioner is not acceptable. The requisite qualification has not been fulfilled by the Petitioner.

5. The second contention urged by the Petitioner which was put-forward in the letter dated 12-6-1997 is that she is entitled to exemption under Clause (iii) of the eligibility clause. The said clause reads as follows:

The wards of Defence personnels/serving Central Government employees who are bona fide Himachal is are also exempted from the condition of passing two classes from the State of Himachal Pradesh.

6. It is argued by the learned Counsel for the Petitioner that the father of the Petitioner is an employee in the Punjab National Bank which is a Nationalised Bank owned by the Central Government in full. According to him the services of the bank will be Central Government Service. We are unable to accept this contention. We have already held in two or three cases that bank employees are not Central Government employees even if the banks are Nationalised Banks. It has been held in State of Bank of India Vs. S. Vijaya Kumar, that employees of

State Bank are not entitled to the benefit of Article 311 of the Constitution. The reasoning therein will apply here also. Hence this contention fails. Consequently, the rejection of the Petitioner's candidature is in accordance with law and this writ petition fails and it is dismissed. No costs.

C.M.P. No. 532 of 1997.

Allowed.

C.M.P. No. 531 of 1997.

In view of the dismissal of the writ petition, this petition is also dismissed.