
(1981) 01 P&H CK 0009
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1879 of 1981

Naresh Kumar Joshi and Others	Vs	APPELLANT
The State of Punjab and Others		RESPONDENT

Date of Decision : 07-01-1981

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1981) 01 P&H CK 0009

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

Bench : Single Bench

Advocate : Suresh Amba, for the Appellant; M.J.S. Sethi, Addl. A.G. Punjab for Respondent Nos. 1 to 4, for the Respondent

Judgement

I.S. Tiwana, J.—In view of the identity of of the cases pleaded and the contentions raised in these 10 Civil Writ Petitions Nos. 1879, 1860, 1992, 2090, 2167, 2185, 2220 to 2222 and 2607 of 1981 these are being disposed of through this common judgment. Learned counsel for the parties are further agreed that for this purpose a reference to the facts and records of C.W.P. No. 1879 only would suffice.

2. In pursuance of an admission notice dated November, 5, 1980 published in different newspapers, the respondent-Authorities admitted 1200 candidates to its three Patwar Schools located at Muktsar, Mohali and Jullundur. These candidates have to undergo one year's theoretical training in these schools and after that they are to be given six months practical training in the field. After the completion of this training the names of successful candidates are to be passed on to the Punjab Subordinate Service Selection Board or special Recruitment Committee for being appointed as Patwaris in the different districts of the State of Punjab. For the selection of these candidates, different selection Committees on district wise basis were constituted Respondent Nos. 2 and 3 i.e. Joint Secretary Revenue and Director Land Records, Punjab were of course to be the members of every committee and the third member was to be the District

Revenue Officer of the district from which the candidates were to be interviewed and selected. The petitioner in these petitions have challenged the selection of candidates amongst others on the ground of being violative of Article 14 of the Constitution of India.

3. The precise case of the petitioners is that the respondent-Authorities could not select the candidates for this course on district wise basis and instead should have selected them on the State level basis meaning thereby that one merit list of all the candidates interviewed should have been prepared and out of this list the first 1200 or the required number of candidates should have been allowed to join the course. The case of the respondent-Authorities, on the other hand, can well be stated by reproducing their stand as mentioned in para 3 of the written statement filed by Director Land Records, Punjab. It reads as follows:-

Paragraph 3 of the writ petition is denied because of the fact that as per statutory provisions of Rules 3 and 4(2) of Punjab Revenue Patwaris Class II Service Rules 1966, read with Appendix "A" thereto and paragraph 3.6 of the Punjab Land Records Manual, the cadre of the Patwaris is district wise and the names of the accepted Patwari candidates to are to be entered district wise in the register of Patwari candidates maintained under rule 4(2) of the Rules, *ibid*, and paragraph 3.6 of the Punjab Land Records Manual referred to above. It is also not out of place to mention here that a wide publicity about the district-wise selection was given in the leading newspapers as per Annexure R. 2. The fact about the district-wise interview was also narrated in the interview letters issued to the applicants. The question of State level selection does not, therefore, arise. The remaining part of this paragraph is however, admitted.

4. After hearing the learned counsel for the parties at length, I find that these petitions deserve to succeed. In fact, to my mind, the case of the petitioner is squarely covered by an authoritative pronouncement of their Lordships of the Supreme Court in *Minor P. Rajendran Vs. State of Madras and Others*, That was a case where the admission of certain candidates to the Medical College of the State of Madras questioned on a similar ground. In that case too, the candidates were selected for the admission on district-wise basis. The precise argument raised was that the district-wise distribution of seats was violative of article 14 of the constitution because it denied equality before law or equal protection of law in as much as such allocation of seates resulted in candidates of inferior calibre being selected in one district while candidates of superior calibre could not be selected in another district. As in that case, it is not denied here also by the respondent-Authorities that this thing has not happened in the present selection though no statistics are available for the same This at least is patent that the merits of candidates selected from one district 1 ave not been compared vis-a-vis the merits of candidates from other districts. The area of selection has squarely been confined to a particular district. After examining the arguments in *P. Rajendrari's* case (*supra*), their Lordships concluded like this:-

It is true that Article 14 does not forbid classification, but the classification has to

be justified on the basis of the nexus between the classification and the object to be achieved, even assuming that territorial classification may be reasonable classification. The fact however that the classification by itself is reasonable is not enough to support it unless there is nexus between the classification and the object to be achieved. Therefore, as the object to be achieved in a case of the kind with which we are concerned is to get the best talent for admission to professional college the allocation of seats district wise has no reasonable relation with the object to be achieved. If anything, such allocation will result in many cases in the object being destroyed and if that is so, the classification even if reasonable, would result in discrimination, in as much as better qualified candidates from one district may be rejected while less qualified candidates from other districts may be admitted from either of the two sources.

Ultimately, however, instead of quashing the admission made by the Authorities to the medical college their Lordships struck down Rule 8 which permitted the districtwise selection of the candidates and directed that the said rule should not apply for future selection.

5. Mr. Sethi learned Additional Advocate General appearing for the respondent Authorities vehemently urges that in the present case, there is enough of basis or justification for admission being made on districtwise basis. He further emphasises that the territorial classification always is not bad. At the same time, he concedes that there has to be a reasonable or a justifiable basis for such a classification and also there has to be a nexus between the classification and the object to be achieved. The object undisputably is to attract the best talent available for the posts to be filled in after the completion of the course. According to the learned counsel, the facts as reproduced above from the written statement of the Director Land Records furnish enough of justification for resorting to the district wise selection as has been done. He explains that the conditions of service of Patwaris are governed by statutory rules known as Punjab Revenue Patwaris class III service Rules, 1966, and under these rules the Patwaris have a districtwise seniority, district wise cadre and also district wise candidature. According to the the learned Counsel, in the face of this factual position, districtwise section is also not bad. This submission of the learned counsel, to my mind, cannot possibly be held good for the short reason that all the above noted considerations are post selection considerations and provide no justification for the selection being made on districtwise basis. Learned counsel is not in a position to explain as to why a candidate selected from a particular district cannot be a Patwari candidate in another district or belong to the cadre of the said district.

6. Still in a later Supreme Court case reported as *Minor A. Peeriakaruppan and Sobha Joseph Vs. State of Tamil Nadu and Others*, a similar matter was examined again wherein too the admissions had been made to the various medical colleges of the State of Tamil Nadu on unitwise basis. As pointed out by their Lordships this method was resorted to by the authorities with a view to by

pass the judgment in P. Rajendran's case (supra). Here again the method of selection on unitwise basis was held to be violative of article 14 of the Constitution of India.

7. At the initial stage of the case, the learned Additional Advocate General raised two preliminary objections which though are not stated in their written statement filed on behalf of respondent-Authorities yet according to him go to the root of the matter and these objections are that (i) if those candidates who are likely to be affected by the quashing of the selection made have not been impleaded as respondents and (ii) the petitioners have not pleaded facts or have not provided any material to show that they have been discriminated against. However, I do not find any merit in these objections, firstly, for the reason that the petitioners are not challenging the selection of any particular candidate; what they are challenging is the mode and manner of selecting the candidates and secondly, from the Pleadings it is patent that while selecting the candidates from particular district the merits of the selected candidates were not considered vis-a-vis the candidates from other districts. In the face of this admitted position no further material is required to hold the selection as violative of Article 14 of the Constitution of India.

8. In the light of the above discussion, I am of the considered opinion that the selection in the case in hand on districtwise basis is violative of Article 14 of the Constitution of India. In spite of this conclusion of mine, however, I am not prepared to quash the selection of the candidates admitted to the course about three months back, is started on May 4, 1981. The additional reason for this course being adopted by me is that on July 21, 1981 the learned Additional Advocate General gave an undertaking at the time of motion hearing of C.W. No. 1879/1981 in case the judgment in this petition and the connected petitions goes in favour of the petitioners, the state would forthwith admit the petitioners to a fresh course to be started for them exclusively and even would not set up a plea that an appeal has to be filed against the judgment of this Court in these cases. Otherwise, also, I am of the considered view that the setting aside of the selection of the candidates who have already joined the course may not even directly or indirectly benefit the petitioners in any manner. The petitioners who had filed petitions by July 20, 1981 are bound to be admitted to the new course in view of the undertaking of the learned Additional Advocate General.

Thus these petitions stand disposed of with the above-noted observations but with no order as to costs.