
(2006) 12 SHI CK 0012
In the High Court Of Himachal Pradesh

Nishar Ahamed and Others

APPELLANT

Vs

State of H.P. and Others
 Virender Kumar, Kishori Lal
and Shanta Kumar Vs Chaudhary Sarwan Kumar H.P. Krishi
Vishvavidyala and Others

RESPONDENT

Date of Decision : 28-12-2006

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2007) 3 ShimLC 303 : (2007) 3 ShimLC 301

Hon'ble Judges : Surinder Singh, J;Deepak Gupta, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Deepak Gupta, J.—These petitions can be disposed of by a common order. Chaudhary Sarwan Kumar Himachal Pradesh Vishvavidyalaya, Palampur, (hereinafter referred to as the University) issued an advertisement inviting applications from eligible candidates for admission to the two years" Veterinary Pharmacist Training Course. The admissions to this course were made on the basis of a written test and interview. The criteria for a candidate to be eligible to apply was that he must have passed 10+2 examination. One of the other essential qualifications was that he should have done matriculation with science subject. Only permanent residents of Himachal Pradesh between the age of 18 to 20 years were eligible to apply.

2. The petitioners being eligible for admission applied for the said course. A written test was conducted on 13.7.2003. The result of the same was declared on 11.9.2003. The petitioners cleared the written test and were called for personal interview. After the interview, the petitioners were not selected and thereafter they filed the writ petitions in this Court. In the writ petitions, it has been alleged that 20% marks for interview were very much on the higher side and that the respondents have indulged in wide scale malpractices and have encouraged nepotism and unfair practices by giving higher marks in the

interview to undeserving candidates whom they wanted to favour. It is also alleged that the candidates who had secured very high marks in the written test and were otherwise also well qualified were given very low marks in the interview so as to oust them. It was also alleged that on each day as many as 150-200 interviews were conducted and such interviews could not have been carried out in a fair manner. A Division Bench of this Court had dealt with this matter in CWP No. 611 of 2004. The said writ petition was decided on 6.5.2005 by a Division Bench of this Court to which one of us (Deepak Gupta, J.) was a member. This Court held as follows:

3. The candidates are being selected not for any public employment but only for a two years, post school, vocational course. The manner in which the oral interview test has been conducted in the present case leaves vast scope for discrimination, manipulation and nepotism which may remain undetected under the cover of an interview. There is no reason why the respondents should insist on the interview. There are no reasons to test the personal traits of a candidate for admission to a course like the Veterinary Pharmacist course. There is inherent weakness and infirmity in the system of interviews itself which is subjective rather than objective. The major role is played by the subjective assessment of the Selection Committee. The students who are seeking admission are young and predominantly belong to rural areas and personality of such students still remained to be developed and as such the only consideration for their admission to the course should be their academic performance.

4. Keeping into consideration the entire law cited above and the present existing situation we hold that the interview test is totally uncalled for and should not be conducted for admission to courses of the nature like Veterinary Pharmacist, JBT etc. where young boys and girls whose personality has not fully developed are to be judged. In the facts of the present case the interview test is illegal, discriminatory and suffers from the vice of arbitrariness. Hence, it is violative of Article 14 of the Constitution of India.

5. Even though we held that the interviews were conducted in a very improper manner, leaving vast scope for discrimination, manipulation and nepotism since the Veterinary Pharmacist course had already started in the month of August, 2004 and the matter was decided on 6th May, 2005, we had not granted any relief to the petitioner in the said case.

6. The only difference between the present case and CWP No. 611 of 2004 is that in the said case the petitioner therein had first approached the learned Tribunal, whereas the present petitioners have straightaway approached this Court. However, the fact remains that the selection which is under challenge started in August, 2004 and the writ petitions which we are dealing with were filed in between October and December, 2004. The persons who were selected were not made parties to the writ petitions and, therefore, we are of the opinion that it would not be appropriate to interfere with the selection which has already taken place and the persons, so selected, have already completed the two years"

Veterinary Pharmacist course in August, 2006. Therefore, even though we hold that the selections made were improper, in view of the earlier judgment passed by this Court, no relief can be granted to the petitioners.

7. The petitions are accordingly dismissed. All the pending applications in all the above mentioned writ petitions also stand disposed of.