
(2010) 11 P&H CK 0012
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3359 of 2010

Rimpy Devi

APPELLANT

Vs

State of U.T. Chandigarh and Others

RESPONDENT

Date of Decision : 09-11-2010

Acts Referred:

Citation : (2010) 11 P&H CK 0012

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Ranjit Singh, J.—The Petitioner appeared in class 10th examination conducted by National Institute of Open School in April 2008 . The result of the examination was declared on 12.06.2008. The Petitioner qualified in all the subjects except one and was, accordingly, placed in Compartment. As per the rules of Education Department of Union Territory as well as the rules formulated by Central Board of Secondary Education (CBSE), the Petitioner was entitled to get admission in class 11th and he, accordingly, took admission in Government Girls Senior Secondary School, Sector 22-B, Chandigarh in July 2008. In October, 2008 the Petitioner appeared in the examination for the subject in which she was placed in compartment. The result of the said examination was declared in December, 2008 and the Petitioner was declared passed. Since the Petitioner had cleared the compartment examination, her admission to class 11th was required to be regularized and it was so done.

2. On 31.03.2009, the Petitioner passed class eleventh examination and was promoted to twelfth class . When the Petitioner submitted her form for appearing in CBSE examination for twelfth class she was not issued roll number though other students were issued their roll numbers. The Petitioner made efforts to know the reasons and learnt that it was being withheld by the CBSE Board on the ground that the Petitioner was not a bona fide regular student of the school. The Petitioner could also get hold of a letter dated 16.02.2010, which was addressed

to Respondent No. 4 stating that the Petitioner was ineligible to appear in senior secondary Examination as she had passed the tenth class examination in the month of October, 2008 and that she did not fulfill the condition of 2 years gap between passing of tenth class examination for being eligible to appear in plus-two class examination. The Petitioner, accordingly, has filed the present petition.

3. While issuing notice of motion, the Court noticed the contention raised on the basis of material on record and noticed as under :

Vide the impugned order, the Respondents have declined the issuance of Roll Number to the Petitioner for appearing in 12th class examination on the ground that the Petitioner had not completed two years gap between the passing of the 10th class and the proposed 12th class examination.

The Petitioner has passed the Matriculation examination in October, 2008. Learned Counsel for the Petitioner has placed on record Marks Sheet dated 12.06.2008 which indicate that the 10th class examinations were held in April, 2008 and the Petitioner was placed in compartment in two papers. The Petitioner accordingly appeared in the compartment papers in the month of October, 2008, result whereof was declared in the month of December, 2008.

In view of the above position, it is apparent that there is gap of two years between the passing of 10th class examination and the proposed 12th class examinations which are likely to be held in 2010.

Notice of motion for 25.03.2010.

4. Directions, therefore, were given to issue roll number to the Petitioner and she appeared in the examination. Subsequently, her result was not being declared. The Petitioner then moved an application before this Court and the Court passed an interim order as under :

Heard, learned Counsel for the parties. Prima facie, the condition of 2 years gap between 10th and 10+2 examination seems to be there. The Petitioner seems to be eligible to appear in the examination. This application has been filed for directing the Respondent-Board to declare the result so that the Petitioner can further take action on the basis of that result. Let the result be declared provisionally within 4 days. The Petitioner may take subsequent action on the basis of result so declared.

Application disposed of.

Copy of this order be given dasti under the signatures of the Special Secretary of this Court.

5. Thus, it is seen that on more than one occasion, the objection raised by the Respondent-Board has been considered and it is found that there was infact 2 years gap between the date of passing of the tenth class examination and the date when she was to appear in class plus-two examination. Merely because the Petitioner finally cleared the tenth class examination in December, 2008 would

not mean that she had not studied the class in the year 2008 to allege that there was no gap of 2 years in passing the class as is being urged by the Board.

6. The counsel for the Board would then urge that the admission granted to the Petitioner was illegal as she had not passed tenth class when she was permitted to attend classes for class eleventh. As per the Petitioner, she was entitled to get admission in view of the compartment in one subject and the admission was to be regularized only after clearing the compartment examination. The Union Territory being party has filed reply. An additional affidavit has been filed disclosing the information where such an objection was never raised by the Board earlier. List has been given and annexed with the additional affidavit where candidates who had passed tenth class examination in October 2005 were permitted to take class 10+2 examination in the year 2007 without raising any objection. The counsel appearing that the Union Territory also points out that such an objection had earlier never been raised.

7. The counsel for the Petitioner would also say that the admission granted to the Petitioner did not suffer from any illegality and the Petitioner being in compartment was entitled to take admission in 11th class and her admission was rightly regularized subsequently upon her clearing the examination.

8. I am not in a position to accept the submission made by the counsel appearing for the Board in this regard. There is a clear gap of 2 years noticed between the date of passing the tenth class and 10+2 class examinations taken by the Petitioner. The Petitioner had appeared in the examination for tenth class in April 2008. It is thus clear that the Petitioner had studied for a year to appear in the examination in April 2008. Merely because, she cleared the compartment examination in December 2008 would not mean that she was appearing in plus two examination before 2 years. As per earlier practice, such students had been permitted to appear in examinations by the Board without any objection. Petitioner being in compartment was apparently entitled to take admission in the next class and there is no apparent illegality in this regard. The Petitioner has already been permitted to appear and has passed the examination. The result was declared as directed by this Court. The Petitioner has passed the examination to pursue her life further.

9. The present writ petition is, accordingly, allowed. Directions are issued to the Board to regularize the result of the Petitioner which has already been declared being validly declared.