

(2001) 01 P&H CK 0174

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 1689 of 2000 (O and M)

Rohin Kaushal

APPELLANT

Vs

Aalok Jagga

RESPONDENT

Date of Decision : 05-01-2001

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10
Constitution of India, 1950 — Article 226

Citation : AIR 2001 P&H 213 : (2001) 2 RCR(Civil) 219

Hon'ble Judges : R.C. Kathuria, J;N.K. Sodhi, J

Bench : Division Bench

Advocate : Mr. Rajiv Atma Ram and Mr. Vinod Sharma, for the Appellant; Mr. S.K. Pipat Mr. P.S. Patwalia, Mr. Ravi Kant, Mr. Ashwani Talwar, Ms. Anu Chatrath and Mr. Gur Rattan Pal Singh, for the Respondent

Judgement

N.K. Sodhi, J.—This order will dispose of four Letters Patent appeals 1689, 1699, 1709 and 1710 of 2000 all of which are directed against the judgment dated 10.11.2000 passed by the learned Single Judge disposing of four writ petitions. For the sake of convenience, the facts giving rise to L.P. A. No. 1689 of 2000 are being noticed.

2. Admissions to the B.A. LL.B. 5 year Degree Course for the academic Sessions 2000-2001 were made by the Army Institute of Law, Patiala (for short the institute) on the basis of merit of entrance test which was held in May, 2000 on All India basis. The last date for the receipt of application forms for the entrance test was 31.3.2000. After the declaration of result of the entrance test, successful candidates were required to apply for admission to the course at the Institute by submitting duly filled in application forms. The classes for the LL.B. first semester started in July, 2000. There were in all 60 seats to be filled out of which 48 were reserved for Wards of Army personnel and 9 for Punjab Residents. Three seats were meant for All India General Category candidates. Clause 2.4.3 of the prospectus issued by the Institute provided that in order to claim the benefits of ward of Army Personnel Category/Punjab Residents/All India General

Category the required certificate shall be submitted along-with the applicant form for the entrance test. This clause further provided that in case an application fails to submit the required certificate alongwith the application form, then she/she would be considered only for general category. Clause 4.2 of the prospectus laid down the eligibility criteria for children of Punjab Residents. It provides that in order to claim the benefit of Punjab Resident category, the applicant will have to attach the required certificates referred to in "An-nexure-II" alongwith the application forms. It also provides that seats, if any, remaining unfilled in Army quota would be filled by the children of Punjab Residents/General Category. The appellants herein were given admission to the course as they fulfilled all the conditions and attached the requisite certificates alongwith their application forms. Aalok Jagga respondent who admittedly had secured more marks than the appellants in the entrance test was denied admission to the course solely on the ground that he failed to attach with his application form an affidavit of his parent/guardian to the effect that they or their children had not obtained the benefit of residence in any another State which, according to the Institute, was a necessary requirement of clause 4.2 of the prospectus. He then filed civil writ petition 9422 of 2000 in this court impleading amongst others the appellants herein as respondents challenging the admission granted to them on the ground that he had obtained more marks in the entrance test and that filing of an affidavit of the parent/guardian was not a necessary requirement of clause 4.2 read with clause 2.4,3 of the prospectus. Similarly, Ms. Sabina Garg and Dharambir Singh Syal who had obtained more marks than the appellants in the entrance test had been refused admissions on the same ground and they too challenged the admission of the appellants and others by filing civil writ petitions 9106 and 9033 of 2000 in this Court. One Rahul Ram Pal had also been denied admission to the course and he too challenged the action of the Institute by filing civil writ petition 10082 of 2000 in this Court. All these four writ petitions were heard together by the learned single Judge who on examining the relevant clauses of the prospectus came to the conclusion that filing of an affidavit by the parent/guardian to the effect that they or their children had not obtained the benefit of residence in any other State was not the requirement of clause 2.4.3 read with clause 4.2 of the prospectus and, therefore, the Institute was in error in denying admission to the writ petitioners who admittedly had more marks than the respondents therein (appellants herein). The learned Single Judge also found that the residence certificate of Rahul Ram Pal had been attested on 8.5.2000, that is, long after the last date for the receipt of applications for the entrance test and, therefore, he could not be considered eligible for admission to the course. Consequently, civil writ petition 10082 of 2000 filed by him was dismissed whereas the other three writ petitions 9422, 9033 and 9106 of 2000 were allowed and the admission granted to the private respondents therein was quashed. Directions were given to the Institute to grant admission to the writ petitioners as they were eligible as per the prospectus. Hence the present appeals by the candidates whose admissions have been quashed. It may be mentioned that the Institute has not preferred any appeal against the judgment of the learned Single Judge.

3. We have heard the learned counsel for the parties. The sole question that arises for consideration is whether the filing of an affidavit by the parent/guardian to the effect that they or their children/wards have not obtained the benefit of residence in any other State is a necessary requirement of clauses 2.4.3 read with clause 4.2 of the prospectus. Clause 2.4.3 to which reference has been made in the earlier part of our order requires that a candidate who claims the benefit of any reserved category like the Punjab Residents has to submit the required certificate alongwith the application form for the entrance test. This clause does not require the submission of any affidavit of the kind which the Institute wanted the candidates to submit. It further makes it clear that in case the applicant fails to submit the required certificate then he/she would be considered only for general category. Clause 4.2 lays down the eligibility criteria for children of Punjab Residents category with which we are concerned in these appeals. To claim the benefit of Punjab Resident category the candidate was required to attach the requisite certificates referred to in "Annexure-II" alongwith the application form. Annexure-II is the letter dated 6.6.1996 issued by the Government of Punjab, Department of Personnel and Administrative Reforms circulating guidelines for the grant of residence certificates. A perusal of this letter would show that residence certificate would be issued by the competent authority only when the parent/guardian of the candidate files an affidavit before it to the effect that they or their children/wards had not obtained the benefit of residence in any other State. It is, thus, clear that this affidavit is to be submitted only to the competent authority for the purpose of obtaining the residence certificate which is then has to be submitted by a candidate alongwith his application form for the entrance test. The affidavit is not required to be submitted by the candidates for the entrance test as that is not the requirement of either clause 2.4.3 or even 4.2 of the prospectus. We are, therefore, in agreement with the learned Single Judge that the Institute was not justified in denying admission to the writ petitioners solely on the ground that they had not attached with their application forms the aforesaid certificate. The denial of admission to them was, therefore, unwarranted and the learned Single Judge was right in directing the institute to grant admission to the writ petitioners. No fault can, thus, be found with the judgment of the learned Single Judge in this regard and the same is upheld.

4. The question that now arises is whether admission of the appellants who joined the course in July, 2000 be set aside when they have completed the first semester of the course and taken the examination and are otherwise eligible. There is no gainsaying the fact that admission of the appellants is being set aside for no fault of theirs. They were given admission in July 2000 by denying the same to the writ petitioners and this happened because the Institute had wrongly interpreted the provisions of the prospectus. If the appellants had been denied admission soon after the declaration of the result of the entrance test, they could have sought admission elsewhere. There are three writ petitioners who have to be given admission and we are informed by the learned counsel for the Institute

that one seat belonging to the Army quota is lying vacant. In terms of the prospectus that seat has to be given to a Punjab Resident/General Category candidate. We are then left with two candidates. It may be mentioned that during the pendency of these appeals one Gagneshwar Walia moved an application under Order 1 Rule 10 of the CPC seeking permission of the Court to be impleaded as a respondent in the appeals. His prayer has been allowed by a separate order. He also took the entrance test held by the Institute and obtained more marks than even the writ petitioners. He also, therefore, claims that he too be given admission as he is more meritorious than those who have been ordered to be admitted. If this application is included then three of the candidates who have already been granted admission will have to vacate their seats. For the reasons already stated above, we are not inclined to set aside the admission of the candidates because they are not to blame and it is the Institute which wrongly denied admission to the writ petitioners by wrongly interpreting the provisions of the prospectus. We are of the view that fairness and justice demand that the Institute should create three additional seats to accommodate three candidates whose admissions have been set aside by the learned Single Judge so that they can continue with their studies and complete the course in accordance with the Rules governing the same. We order accordingly. This direction is being issued keeping in view the nature of the course. The number of seats to be created is not much as can affect the existing infrastructure more so when the course is such that no teacher taught ratio has been fixed as in the case of Engineering and Medical courses. It is made clear that the direction given in the peculiar circumstances of this case shall not be a precedent for the future. The Institute will, therefore, admit the writ petitioners and also the applicant Gagneshwar Walia without disturbing the admission of any of the appellants. The issue of directions as above is supported by a Full Bench of this Court in *Swaranjit Singh v. State of Punjab* 1997(4) S.C.T. 511.

5. Before concluding, we may mention that the learned counsel for the Institute contended that apart from the applicant Gagneshwar Walia there could be some others as well who may be more meritorious than the writ petitioners. That may be so but none of them has approached the Court so far and if they were to approach now, they will not be entitled to admission because of the delay on their part. Since the applicant has come to the court before the final disposal of the appeals, we are entertaining his request to the peculiar facts of this case.

The appeals thus, stand disposed of with the aforesaid directions.

6. Appeal allowed.