

(1994) 01 P&H CK 0053

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12387 of 1991

Rupender Kansal

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 04-01-1994

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : AIR 1995 P&H 59 : (1994) 106 PLR 560 : (1994) 2 RCR(Civil) 302

Hon'ble Judges : V.K. Bali, J

Bench : Single Bench

Advocate : Mr. Puneet Kansal, for the Appellant; M.G. Masih, AAG and Amy Rana, for the Respondent

Judgement

1. This order shall dispose of two connected writ petitions bearing C.W.P. No. 12387 and 18084 of 1991 as common question of law and facts are involved in both these cases. The facts have however, been extracted from civil writ petition No. 12387 of 1991 (Rupender Kansal v. State of Punjab).

2. Petitioner's academic particulars given in the writ appear to be impressive. He passed middle standard examination from Punjab School Education Board by securing 703 marks out of 800, thus, having a percentage of 87.92% and was placed in the merit list. He thereafter passed matriculation examination from the same board by securing 606 marks out of 800, thus securing 75.75% marks and was again placed in the merit list. After doing 10th Class, he was pursuing his studies at Chandigarh. He had done his 10 + 2 from Government College for Boys, sector 11; Chandigarh, which college is affiliated to the Punjab School Education Board for + 1 and + 2 classes. He had appeared in 10 + 2 examination in the year 1989 from Government College, Chandigarh and secured 339 marks out of 450 i.e. 75.3%. He was again placed in the merit list and offered merit scholarship by the Board. In February, 1991 he, however, came to know that students who had secured less marks than him had been granted scholarship whereas he had been ignored for the same. He, thus,

submitted a representation to the Board clamouring for merit Scholarship. His claim was, however, rejected vide letter dated March 21, 1991 by holding him ineligible on the ground that he had passed 10 + 2 examination from Chandigarh and the Rules do not permit merit scholarship to a student whose parents were not Punjab Government employees and were not serving at Chandigarh or in the areas located around Chandigarh. It is this order conveyed to him through letter aforesaid (Annexure P-2) that has been challenged in this writ by styling the same to be arbitrary as also against the provisions contained in Punjab School Education Board (Award of Board Merit Scholarship) Regulations, 1980.

3. In the written statement that has been filed On behalf of Punjab School Education Board through its Secretary, Jagjit Singh Sidhu, all that has been pleaded to defend the cause of petitioner is that the Punjab State Merit Scholarship is intended to be awarded only to those students who come in prescribed number of merit students and join higher studies in the institutions situated in the State of Punjab. This facility, it is pleaded, has also been extended to the students who undertake higher studies in Chandigarh subject to the condition that their parents were Punjab Government employees serving in Chandigarh Or surrounding villages in view of the Instructions issued vide letter dated August 5, 1991 relevant extract of which reads thus:

"The students who are studying in the institutions situated in Chandigarh and whose parents are Punjab Govt. employees and are working in Chandigarh or surrounding places are also eligible for these scholarships."

In so far as Regulations of 1980 are concerned, it is pleaded that the provisions contained therein do not deal with the Punjab Government Merit Scholarship which are granted by the Punjab Government. Under the 1980 Regulations, one scholarship is awarded by the Board for every thousand candidates or a part thereof for senior secondary certificate Part II examination provided that if the last scholar covered under the quota is found bracketed with some other scholarships and accordingly the number of scholarships shall be increased. It is further stated that the position obtained by petitioner in terms of marks secured by him in the S.C.C II examination held in April, 1989 did not entitle him to the award of scholarship under the 1980 Regulations. The total number of candidates who appeared in S.S.C, II examination held in April, 1989 was 88597 and in view of the Regulations, the number of Scholarships worked out to be 89 and merit of petitioner was below 89.

4. The pleadings of the parties clearly reveal that there are two types of scholarships, one under the 1980 Regulations and the other known as Punjab State Merit Scholarship which is granted under the Scheme. Petitioner has not staked his claim to the scholarship that is governed under the 1980 Regulations and he is clearly not entitled to the same in view of the fact that the provisions contained, in the Regulations permit one Scholarship for every thousand candidates or part thereof and commensurate to the students who appeared, the scholarships to be offered were 89 and admittedly the petitioner was below the

said merit. However, in so far as claim of petitioner with regard to State Merit Scholarship is concerned, the same clearly is based upon valid grounds. It is not disputed that petitioner has secured percentage of marks entitling him to get State Merit Scholarship but he could not get it only for the reason that the students who are studying in the institutions at Chandigarh and whose parents were Punjab Government employees and were working in Chandigarh or surrounding villages, were alone eligible. Eligibility for grant of State Merit Scholarship to those who had passed 10+1 or 10+2 examinations from the Institutions located at Chandigarh and thereafter also they had joined some Institution at Chandigarh itself and whose parents were not employees of the Punjab Government or even if they were employees of the Punjab Government, were not living at Chandigarh or villages surrounding Chandigarh, is the only question that needs adjudication by this Court. It is pertinent to mention that father of Miss Charu Narang in C.P. No. 18084 of 1991 is a Punjab Government employee as admittedly he is P.C.M.S. Class I officer. The instructions issued vide letter dated August 5, 1991, relied upon by the respondents, do exclude petitioner from the eligibility criteria but could on the sole ground that parents of such students, who have studied at Chandigarh, must necessarily be employees of Punjab Government and also be residing in Chandigarh, petitioners be excluded from the array of consideration. In other words, whether the conditions as spelled out from the instructions quoted above, are such that they violate the principles of equality as enshrined under Art. 14 of the Constitution of India. This Court, after examining the pleadings of the parties as also hearing their learned counsel, is of the considered view that the object behind grant of Punjab State Merit Scholarship is to recognise the merits of students who undertake higher studies in the institutions situated in Punjab as also to further encourage them to pursue their studies in a vigorous manner so as to bring out best talents out of them. Object of granting merit scholarship has nothing to do with parents of such students serving Punjab Government and posted at Chandigarh or village surrounding it. The embargo so as not to grant the merit scholarship simply on the ground that the student concerned had studied in Chandigarh and was also further pursuing his studies at Chandigarh and his parents were not Punjab Government employees and even if they were Punjab Government employees, were not residing at Chandigarh, has no reasonable nexus with the object to be achieved by granting scholarship. That apart, the Government College for Boys, Sector 11, Chandigarh is affiliated to Punjab School Education Board for 10 + 1 and 10 + 2 Classes. For the mere fact that the student concerned is pursuing his studies at Chandigarh, it cannot be said that he has not passed the examination from the institutions located in Punjab as, admittedly, Chandigarh is capital of Punjab. There could be some meaningful defence available to the respondents if the students concerned was residing in some other State and after having passed the concerned examination, joined higher class for pursuing further studies in Punjab State. Herein, petitioner had passed the examination from the Punjab School Education Board and admittedly it is the same examination for all the students, be they are located in the territories forming part of Punjab or

Chandigarh. Chandigarh may be a Union Territory but it continues to be capital of Punjab and for that reason it cannot be said that those, who had passed the examinations from the institutions located in Chandigarh and which institutions were affiliated to Punjab School Education Board, were not residents of Punjab.

5. In the circumstances that have been mentioned above, there is no choice with this court but for to hold that the proviso contained in instructions, Annexure P-2 and which has been quoted above, is arbitrary and makes distinction between the persons equally situated, having no reasonable nexus with the object to be achieved, and is thus violative of Art. 14 of the Constitution and, thus, cannot sustain. These petitions are, therefore, allowed. A direction is issued to the respondents to grant the petitioners State Merit Scholarship and pay to them the amount that might be admissible under the Rules, forthwith parties are, however, left to bear their own costs.

6. Petitions allowed.