
(2000) 11 P&H CK 0097
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3509 of 1997

Sandeep Singh

APPELLANT

Vs

Haryana School Education Board

RESPONDENT

Date of Decision : 15-11-2000

Acts Referred:

Haryana School Education Board Matriculation Examination Regulations — Regulation 8

Citation : (2000) 11 P&H CK 0097

Hon'ble Judges : N.C. Khichi, J

Bench : Single Bench

Advocate : Mr. Gurcharan Singh, for the Appellant; Mr. K.K. Gupta, for the Respondent

Judgement

N.C. Khichi, J.—In the present writ petition the challenge is to order dated 7.2.1997 (Annexure P-5) passed by respondent No. 2 whereby the admission of petitioner to appear in the Matriculation examination in March, 1997, was rejected.

2. According to the petitioner, he passed his 8th Standard examination from D.A.V. Public School, Cheeka (Kaithal) under Roll No. 4897 during Session 1993-94 which was affiliated with C.B.S.E. New Delhi. Thereafter, he appeared in All India Secondary School Examination 1996 but failed in the examination. He was given the migration certificate on 7.5.1996. The petitioner further submitted that he applied for admission for appearing in the Matriculation Examination to be held by Haryana School Education Board, Bhiwani in March, 1997, within time and deposited Rs. 165/- as fee for the said examination which was accepted at Sub Centre, Kurukshetra of the Haryana School Education Board, Bhiwani on 27.9.1996 and a receipt was also issued in token of having received the admission form of matriculation and the fee. The petitioner further submitted that on 7.2.1997, his admission form had been cancelled in an arbitrary manner on the plea that he has not passed the 8th class from Haryana School Education Board.

3. Notice of motion was issued and the respondents were directed to issue roll number to the petitioner, enabling him to take the examination provisionally subject to final decision of the writ petition. On appearance, written statement has been filed by the Deputy Secretary (Legal), Board of School Education, Haryana and the main thrust is on Regulation 8 of the examination regulations which has been reproduced in the written statement as under :-

"8. The following persons will be eligible to appear as private candidates in the Annual Matriculation Examination :-

i) Candidate who have attained the age of 14 years or before the 1st day of March of the year of examination :

Provided that no one on the rolls of a recognised School after November 30 preceding the year of examination shall be allowed to appear as private candidate.

Candidate who have passed 8th class examination from this Board with at least two years gap shall be allowed to appear as a private candidate and those who have passed their middle examination before 1976 and in the year of 1988 from the concerned School shall also be allowed to appear as private candidates subject to the satisfaction and verification of the Board. The decision of the Chairman in this regard shall be final.

ii) Failed/Compartment Candidate.

Provided that failed candidates who rejoined a school but could not complete the required percentage of attendance will be allowed to appear as private candidates on payment of an additional fee of Rs. 50/- provided their admission forms as private candidates duly completed in all respects as per Regulations with the recommendations of the Heads of the schools concerned are received at least 14 days before the commencement of the examination.

iii) Candidates who having passed the Matriculation or Higher Secondary Part-1 examination of this Board/Punjab University desire to appear in a subject or subjects of the Matriculation Examination not already passed by them.

iv) Candidates who have already failed in the Matriculation or Higher Secondary Part-I Examination of this Board.

v) Candidates appearing for improvement of Division under the Regulation for "Improvement of Division".

As per the above Regulation, it is necessary that only such candidates who have passed the 8th class with at least two years gap can be allowed to appear as private candidates. Since it is the case of the petitioner himself that he has not passed 8th class examination from Haryana School Education Board, therefore, he has been rightly not granted admission. The other point raised by the learned counsel for the petitioner that he was eligible to appear on the submission of form and fee, is also to be rejected as mere submission of form and fee does not

entitle the petitioner to appear in the said examination as a private candidate. It would be necessary to mention here that submission of the form and fees are finalised subject to the satisfaction and verification of other eligibility conditions of the Board. In these circumstances, the action of the respondents cannot be said to be unjustified, illegal or unconstitutional. In this respect, I am fortified by the decision of the Apex Court in Central Board of Secondary Education Vs. Nikhil Gulati and Another, , wherein Apex Court has held that ineligible students should not be permitted to take the examinations and casual discretion by the Court is not required which may put the rule of law to a mockery, and promotes the rule of man.

4. Since as per Regulation 8 as reproduced above, the petitioner was not eligible to take the examination as a private candidate, this writ petition fails and is hereby dismissed. However, there will be no order as to costs.

5. Petition dismissed.