

(1992) 01 P&H CK 0053
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9863 of 1991

Sh. Lachhi Ram

APPELLANT

Vs

The State of Haryana and others

RESPONDENT

Date of Decision : 17-01-1992

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1992 P&H 165

Hon'ble Judges : V.K. Bali, J;Amrit Lal Bahri, J

Bench : Division Bench

Advocate : H.S. Sangha and Amarjit Singh, for the Appellant; Dr. Balram Gupta, for the Respondent

Judgement

A.L. Bahri, J.—Lachhi Ram was admitted in B.Ed, course in August 1989 and he was allowed to take the final examination in April, 1990. However, his result was cancelled by Maharishi Dayanand University, Rohtak respondent No. 2 on the ground that domicile certificate produced by him was forged and not genuine. In this writ petition, challenge is to the order of the University aforesaid passed in May, 1990 Annexure P-2. Two-fold arguments have been addressed by the counsel for the petitioner. Firstly that reservation made on the basis of domicile certificate for admission to the course was violative of the provisions of the Constitution and secondly that the petitioner was not associated in any enquiry with regard to the genuineness or otherwise of the certificate produced by the petitioner. The stand of the University is that there had been a practice by the students to produce fake certificates and seek admission. There have been several cases earlier also and it takes some time for the University to verify the correctness of the certificates. In the present case on enquiry made from the Magistrate concerned, it transpired that the certificate produced by the petitioner was fake and the Principal of the Government College of Education, Bhiwandi was informed about it, as the petitioner had taken admission in the College. This information was communicated in May 1990 and the writ petition was filed after a considerable delay i.e. in July, 1991.

2. After hearing counsel for the parties and going through the pleadings, we find that actually reservation was not made on the basis of any domicile certificate as such, 15% seats were reserved for the students who had passed the qualifying test from the University situated outside Haryana and the remaining seats were to be filled from the students who had passed the qualifying test from the University situated in Haryana. From that, it cannot be spelled out that the admission was on the basis of domicile. A person who may be resident of any State of India but if he had passed the qualifying examination from any University situated in the State of Haryana could certainly seek admission under the second category mentioned above. The petitioner had qualified graduation from Rajasthan and ordinarily he was to seek admission in 15% quota. However, he got admission in the remaining quota because probably on merit he could not seek admission in 15% quota. It is in this context that the question has arisen that though he had qualified graduation from Rajasthan but he being a resident of Haryana could seek admission in the second category.

3. Assuming for the sake of arguments that the petitioner was admitted in the B.Ed. course on production of fake certificate, it was expected of the University to promptly scrutinise the same and cancel the admission at the earliest. This having not been done and the petitioner allowed to complete the academic year and further allowed to take the examination, it was too late to raise the objection that admission was obtained fraudulently and to cancel the result. Reference has been made to the decision of N.K. Sodhi, J. in Civil Writ Petition No. 13591 of 1990 decided on July 16, 1991. No doubt this decision helps the University. In almost similar circumstances, the result of some of the candidates was cancelled and the petition was dismissed. However, earlier there was decision of the Division Bench in Jai Pal Singh v. Maharishi Dayanand University, Civil Writ Petition No. 7202 of 1990 decided on August 22, 1990 which was not brought to the notice of N.K. Sodhi, J. The Division Bench ultimately declared that the provisional result declared by the University would be treated as final as in that case provisional result declared showed the petitioner in that case as "pass". It was being cancelled subsequently on the ground that the petitioner had produced a fake certificate of domicile of the State of Haryana while seeking admission to the B.Ed. course. It was observed as under:--

"We have not been able to appreciate the conduct of the University in allowing a student to take provisional admission, provisional examination and then to declare the result provisionally and then to cancel the same. At the threshold all concerned authorities must look into whether the certificates are genuine or not and if there is doubt that matter should be concluded without delay.

It is admitted case that the petitioner was allowed to appear in the examination and his provisional result was also declared. It is only at the stage of the declaration of his final result that the University raised the objection to his so-called ineligibility. Once the petitioner has undergone the course and has passed out, it will be wrong to withhold the result or cancel his candidature and that too

without affording opportunity of hearing to him."

4. In the present case, as already observed above, after the petitioner was allowed to take the examination, it was too late for the University to cancel his result. We make no comment at this stage with regard to the registration of the criminal case against the petitioner for producing forged certificate. That matter will independently be dealt with by the Court concerned. However, we find that the petitioner who had completed one year of academic education career should not suffer when he had finally appeared in the examination. We accordingly direct the University to declare the result of the petitioner forthwith. It may further be stated that the petitioner was not afforded any opportunity in the enquiry, if any, or thereafter regarding the genuineness of the certificate produced by him. Disposed of with the directions as above with no order as to costs.

5. Petition allowed.