

(1974) 01 SHI CK 0002
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 192 of 1973

Shashi Pal Singh

APPELLANT

Vs

The State of Himachal Pradesh etc.

RESPONDENT

Date of Decision : 09-01-1974

Acts Referred:

Citation : (1974) 3 ILR HP 45

Hon'ble Judges : R.S. Pathak, C.J

Bench : Single Bench

Advocate : H.S. Thakur, for the Appellant; B. Sita Ram, General, for the Respondent

Final Decision : Allowed

Judgement

R.S. Pathak, C.J.—The Petitioner is a candidate for admission to the Himachal Pradesh Medical College, Simla. After passing the Pre-Medical examination from the Himachal Pradesh University in 1973 he applied to the University for appearing in the examination held for admission to the M.B.B.S. Course of the Medical College. In his application the Petitioner mentioned that for the purpose of admission he desired to be considered in the "category of reserved seats for political sufferers". The Petitioner, however, was allowed to sit for the examination on the basis that he would be considered for admission against what are described as "un-reserved seats". The Petitioner has not been admitted to the Medical College. He requested the University for information as to the reasons for his being denied admission, and on November 23/24, 1973, the University intimated:

You were not found eligible to compete in the said examination against Group I (reserved) category (e) because the certificate in respect of political sufferer was not found to have been given by the appropriate authority and also there was no outstanding social background of your ward as required by the Prospectus of the Himachal Pradesh Medical College, Simla. You were, however, found eligible to compete against the seats meant for Group II (unreserved) and accordingly you

were allowed to take up the examination which you duly did. (ii) You have secured 155 marks in aggregate in the said Competitive Examination, and have not been able to obtain in requisite merit for admission in the College.

The Petitioner prays for relief against the decision of the University denying him admission to the Medical College.

2. There are 60 seats in the Himachal Pradesh Medical College. According to the Prospectus they are divided into two groups for the purpose of admission. Group I consists of 22 reserved seats which are divided into a number of categories. Under category (e) two seats are reserved for "wards of political sufferers and persons with outstanding social background hailing from Himachal Pradesh". Group II consists of 38 seats which are treated as unreserved.

3. The Petitioner contends that on a proper appreciation of the terms of category (e) of Group I he is entitled to be considered for admission on the basis that he is the ward of a, political sufferer. The case of the Respondents is that in order to fall within category (e) a candidate must be the ward of a political sufferer who is also a person "with an outstanding social background" to his credit. It is not sufficient, it is said, that the parent or guardian of the candidate should be a political sufferer; he must at the same time be a person who has performed outstanding social service. It is urged that the intention was to constitute a single class within category (e), that is to say, the wards of political sufferers who had performed outstanding social service. Political sufferers, it is said, were handicapped in educating their children because of the trials and adversities suffered by them during the struggle for independence of the country. It was not intended, it is urged, that all political sufferers should be benefited as regards the admission of their wards to the Medical College, but only those who besides having suffered in the struggle for freedom had at the same time maintained a high record of social service. It seems to me that if that was the intention of those who framed the provisions of category (e), their attempt must be considered a failure. On a plain reading of the entry in category (e), it is clear that two classes of persons are envisaged as falling within the category. One class consists of the wards of political sufferers and the other class consists of the wards of persons with "outstanding social background". In order to give effect to the intention alleged by the Respondents, category (e) should have read "wards of political sufferers with outstanding social service hailing from Himachal Pradesh". The phrasing of category (e) points to two clear and distinct classes.

4. The submission of the Respondents that category (e) contemplates a single class of candidates, namely wards of political sufferers who have performed outstanding social service, proceeds on the basis that if the wards of political sufferers were considered as a class by themselves without the need of their parent or guardian being "persons with outstanding social background" the category would let in a candidate whose parent or guardian was not necessarily a desirable person. The Respondents point out that it was not intended to benefit a political sufferer who after the struggle for freedom had turned to a questionable

way of living; and, therefore, it was decided that the political sufferers should also be such as have performed outstanding social service. It is necessary to observe that the benefit is not intended for the political sufferers, it is intended for their wards. Moreover for the contention of the Respondents to succeed it is necessary in the first place to hold that the expression "persons with outstanding social background" necessarily refers to persons with outstanding social service. A person with outstanding social background need not have performed any social service at all. He may have had nothing to do with social service. It is not possible to give a particular meaning to a phrase as vague as "persons with outstanding social background" merely for the purpose of giving an integrated meaning to the classification made in category (e). It is then urged by the Respondents that each category includes one class of candidates only, and if it was proposed to treat wards of political sufferers and wards of persons "with outstanding social background" as two distinct classes they would have been set out in two distinct categories and not in a single category (e) alone. If regard be had to other categories, it will be apparent that more than one class is represented in a single category. For example, category (f) refers to (i) Sportsmen who have represented India in sports or games (ii) Sportsmen who have represented the State in sports or games and (iii) Sportsmen who have represented the University in sports or games. It is difficult to accept that category (f) refers to a single class of sportsmen, namely those who have represented India as well as the State and also the University in sports or games.

5. I am of the opinion that category (e) consists of two classes, wards of political sufferers and wards of "persons with outstanding social background", whatever that might mean. The Petitioner was, therefore, entitled to be considered for admission on that footing. The position taken by the Respondents is not correct that his parent or guardian should also have been a "person of outstanding social background".

6. The other reason given by the University for not considering the Petitioner for admission is that the certificate in proof of his parent or guardian being a political sufferer was not given by "the appropriate authority". It has not been shown by the Respondents that the Prospectus prescribes that proof of the fact that the parent or guardian of a candidate is a political sufferer is to be furnished by a certificate granted by a particular authority. In the absence of any provision to that effect it is open to the Petitioner to adduce whatever material he may in support of the contention that his parent or guardian is a political sufferer. Upon such material being adduced, it will be for the University to decide whether the material is sufficient to prove the fact. In the mistaken belief that a candidate is bound to produce evidence of a particular kind the University has not applied its mind to the question whether in point of fact the parent or guardian of the Petitioner is a political sufferer.

7. It appears, therefore, that the petition must succeed.

8. The petition is allowed. The decision of the Respondents denying admission to

the Petitioner is quashed. The Respondents are directed to consider the Petitioner afresh for admission to the Himachal Pradesh Medical College for the year 1973-74 in accordance with law on the basis of the Admission Examination in which the Petitioner has already appeared. The Petitioner is entitled to his costs from the Respondents which I assess at Rs. 150.