

(1995) 03 P&H CK 0067

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11106 of 1994

Shri Puneet Bassi

APPELLANT

Vs

Punjab University

RESPONDENT

Date of Decision : 28-03-1995

Acts Referred:

Constitution of India, 1950 — Article 14
Punjab University Act, 1947 — Section 31

Citation : AIR 1996 P&H 23 : (1995) 2 ILR (P&H) 351

Hon'ble Judges : G.S. Singhvi, J

Bench : Single Bench

Advocate : Shri Ved Bassi, for the Appellant; Shri Ashok Aggarwal, Senior Advocate and Shri Vinod Gupta, for the Respondent

Judgement

1. In this petition, a direction has been sought by the petitioner for his admission to three years LL.B. Course against the sportsman quota.

2. Petitioner passed B.Com. examination from Punjab University in 1994 with 53.75 per cent, marks. He has claimed himself to be a sportsman with following achievements in the field of sports (Basket Ball) and (Fencing) :--

a) Third Position In State Tournament organised by the Education Department from 5-12-1985 to 6-12-1985.

b) Participated in Mini National School Games from 27-2-1986 to 3-3-1986.

c) Second Position In State Tournament Organised by the Education Department, Chandigarh from 1-10-1988 to 4-10-1988.

d) Second Position In State Tournament organised by Education Department, Chandigarh from 21-11-1988 to 24-11-1988.

e) First Position In State Championship (Fencing) in December, 1991.

f) Participation in National Championship (Fencing) in January, 1992.

3. Petitioner applied for admission to LL.B. course starting from 1994-95. He claimed benefit of reservation of 5% seats for sports persons and asserted that on the basis of his achievements in the field of sports, he has a right to be admitted to three years LL.B. Course. As the respondents did not accord admission to the petitioner, he filed this petition and made the prayer as aforementioned . Petitioner has claimed that denial of admission to him is contrary to the University Act and Statutes as also the provisions contained in the Prospectus because he fulfils all the conditions for admission in the quota of sportsman and yet the respondents have arbitrarily ignored his candidature. Petitioner has pleaded that Fencing is an important international game, which has been included in the list of games approved by the Indian Olympic Association vide An-nexure P-10 and this fact is also proved by the certificate issued by the Secretary General, Fencing Association of India, a body affiliated with the Indian Olympic Association (Annexure P-11). The petitioner has also challenged the action of the Law Department in including Best Physique, Cross-country Race and Yoga in the list of games disciplines (Annexure P-2) and simultaneous exclusion of the game of Fencing which stands approved by the international sports body as well as the Indian Olympic Association.

4. Respondents have questioned the right of the petitioner to seek admission to the LL.B. course against the seats reserved for sports persons on the ground that the certificates (Annexures P-4 to P-7) do not relate to the period of three years immediately preceding the year of admission and, therefore, the petitioner cannot take advantage of his participation in the game of Basket Ball. Regarding the game of Fencing, the respondents have pleaded that said game is not included in the list of the approved games issued by the University and it is the sole prerogative of the University to recognise a particular game for the purpose of admission. Respondents have relied on para 4(1) of the general guidelines for admissions to the Teaching Departments of the University (year 1994) and have pleaded that the petitioner does not fulfil the condition of eligibility laid down in the General Guidelines.

5. Learned counsel for the petitioner advanced following contentions :--

1) Prospectus (1994-95) of the Department of Laws does not contain any requirement that a student seeking admission in the reserved category of sports shall be eligible only if his achievement in sports relates to his activities in any of the three years preceding the year of admission and, therefore, the University authorities have acted illegally in ignoring the achievements of the petitioner in the game of Basket Ball.

2) Exclusion of the achievements made at the school level games is wholly arbitrary and capricious as it seeks to create a discrimination between achievements made by a candidate at the school level and at other levels.

3) General Guidelines issued by the University for admission for 1994-95 were issued much after the publication of the Prospectus for the Department of Laws

and, therefore, those guidelines could not have been applied for admissions in the year 1994-95.

4) The guidelines have not been published in the Official Gazette and, therefore, they cannot be enforced by the University.

5) The University has not incorporated the guidelines for admission to the reserved category of sports in the Prospectus meant for the Department of Laws as was done for admissions of 1991-92 and this by itself is conclusive of the intention of the University authorities not to insist on the requirement of achievements in preceding three years for admissions during 1994-95.

6) In any case, the University should have considered the candidature of the petitioner in the exceptional category in terms of para 10 of the General Guidelines.

7) The University has arbitrarily excluded the game of Fencing from the list of sports/ games whereas other minor and insignificant sports have been included in the list and this action of the University is arbitrary and discriminatory. Learned counsel also submitted that during the pendency of the writ petition provisional admission has been granted to the petitioner to the First Semester of LL.B. course and he has been given C-II grade at the sports trial. In support of this assertion, learned counsel has produced before the Court a letter dated 1-2-1995 written by the Chairman, Department of Laws, Punjab University, Chandigarh. He has also placed reliance on the decision of the Supreme Court in Harla Vs. The State of Rajasthan, and a decision of this Court in Ms. Anju Jain v. Punjab University 1991 (6) SLR 725, in support of his argument that the General Guidelines issued by the respondent-University cannot have retrospective applicability.

6. Shri Ashok Aggarwal, learned counsel for the respondent-University, argued that in terms of note given in para 3 of the Prospectus issued by the University for admission in the Department of Laws during 1994-95, that Prospectus is subject to the provisions contained in Regulations, Rules and Resolutions of the Syndicate/Senate and, therefore, the General Guidelines approved by the Syndicate on 30-6-1994 had to be followed for admissions during 1994-95 and as per these guidelines achievements in sports in relation to the activities in any of three years preceding the year of admission were to be considered by the respondents and thus the petitioner's achievements during school games are of no significance. Shri Aggarwal pointed out that these guidelines had been approved much prior to the commencement of admission and, therefore, the petitioner is not entitled to claim that the guidelines should have been overlooked in his case. Shri Aggarwal argued that the object of admitting students against the reserved category of Sportsmen is to strengthen the University's representation in inter-College and inter-University tournaments and, therefore, the provision relating to consideration of achievements in sports in any of three years immediately preceding the admission is rational and

justified. Shri Aggarwal also argued that the University has absolute discretion in specifying particular games and disciplines with reference to which an achievement by a candidate can give him a right to be considered for admission against the reserved seats. While admitting that the petitioner has been given admission in the First Semester under interim direction given by the Court, Shri Aggarwal argued that a number of other candidates have right to be considered as sports persons fulfilling the conditions of eligibility laid down by the University and, therefore, the petitioner cannot have any precedence over them and in any event he cannot claim equity on the basis of provisional admission which he got on his own risk in terms of the order passed by this Court on 12-12-1994.

7. Every year the Panjab University publishes Hand Book of Informations for admission to various courses in the Teaching Departments of the University. As per the prevailing practice, a Hand Book of Informations was published for admissions during 1994-95. This Handbook contains informations regarding various faculties. For the Faculty of Laws information is printed on pages 74 to 76. On the first page of this Handbook following note has been incorporated :--

"The rules incorporated in this Handbook are subject to the overriding effect of the relevant Regulations and Rules contained in the P. U. Calendars as also the resolutions adopted by the Syndicate. In case of any inconsistency between what is said in Handbook of Information and that in the Regulations and Rules etc., the latter shall prevail."

Similarly at page 74, following foot note has been incorporated:--

"The rules incorporated in this hand book are subject to the..... For details regarding admission rules and eligibility requirements, consult the Prospectus of the Department of Laws, for the year 1994-95."

There is a separate publication titled as Punjab University, Chandigarh, Department of Laws -- Prospectus 1994-95. This Prospectus was printed at the Punjab University Press on 6-7-1994. At page 3 of this Prospectus also a note has been incorporated, which read as:--

"N.B. Information provided here is subject to relevant Regulations and Rules contained in the Punjab University Calendars as also the the resolutions of Syndicate/Senate. In case of any inconsistency between what is stated in the Prospectus and that in the Regulations, Rules etc., the latter shall prevail."

Rules contained in the Handbook of Information issued by the University in so far as they are applicable to the Department of Laws will be treated as part of this Prospectus.

8. At pages 7 and 8 of the Prospectus under the heading of "Important Information," Para III specifies Reservation/Open Seats. Sub-clause (e) lays down that 5 per cent of the seats will be "filled on the basis of achievements in sports. Para IV speaks of weightage to be given for various achievements in order to determine the merit of the candidates for admission. Clauses (a) and (b)

of Para IV read thus:--

"(a) 10% of the marks obtained in the aggregate marks of the qualifying examination passed from the Punjab University.

(b) Up to a maximum of 4% of the marks obtained in the qualifying exams, for distinction in any or all the following co-curricular activities, achieved in any of the 3 years preceding the year of admission. The maximum of 1% weightage shall be given for each of these categories:

(i) N.C.C. (B or C certificate)

(ii) N.S.S. (O, A* or B grades or certificate of merit for winning first or second position) (for details of credit for participation in Adult Education, see Appendix "A" attached).

"The certificate awarded to the students under the seal of the Punjab University/ DIP/ DEO regarding participation in the N.S.S. Camp sponsored by the Government of India, may be considered equivalent to Grade "A".

(iii) Youth Welfare activities (youth training camps, hiking trekking, rock climbing etc.) (O, A or B grades or certificates of merit for winning first or second position).

(iv) Cultural activities at Zonal/ Regional/ University/Inter-University level (Standing 1st, 2nd or 3rd in debating, declamation contests, musical events, dramatics, histrionics etc.)

"Note: The original certificates for proficiency in extra curricular activities, etc. must be issued by the Principal/Head of the Institution mentioning specifically the distinctions achieved."

Appendix-7 of the Prospectus relating to Department of Laws speaks of grading for sports persons. This Appendix begins with the following note:--

"Note: Tournaments/ Championships other than Inter-University/ Inter-College/ Inter-School will be considered for gradation provided they are recognised by the International Olympic Committee/Indian Olympic Association/ Respective National Federations/State Olympic Association."

Appendix-B specifies the games/disciplines on the basis of achievement in which claims to admission in the category of reserved seats for sports can be considered. While Basketball finds mention at Serial No. 3 of Appendix-8, Fencing does not find any place in the list of 21 games/disciplines.

9. A set of General Guidelines for Admission 1994 has also been issued by the respondent-University. These guidelines govern admissions to all Teaching Departments of the University, including those which offer professional courses (viz. Department of Chemical Engineering and Technology, Commerce and Business Management, Indian Theatre, Laws, Library and Information Science, Mass Communication, Pharmaceutical Sciences, Physical Education, Centre for

Computer Science and Applications and Centre for Biotechnology). Para 3 of these guidelines specifies Reservations/ Open Seats. Clause (b)(v) contemplates 5% reservation on the basis of achievement in sports. Separate guidelines for admission to the reserved category of sports have been incorporated at pages 16 to 25 of this publication. Paras 3,4 and 10 of these/guidelines read as under:--

"GUIDELINES FOR ADMISSIONS TO THE CATEGORY OF SPORTS

3. Students seeking admission under this category will be considered for admission only in the games and disciplines in which the Punjab University sends its teams for participation in the Inter-University Tournaments. (For the inclusion of such games and disciplines, see Annexure-II).

4. In order to give benefit of reservation only to the active* sports persons so as to strengthen the Campus and University teams, students seeking admission in this category will be considered if:

(i) their achievements in sports relate to their activities in any of three years immediately preceding the year of admission; and

(ii) if they are otherwise also eligible for participation in Inter-College and Inter-University Tournaments, as per Association of Indian Universities rules (for eligibility rule see Annexure-II)

means a person attending the grounds regularly so as to prepare himself for participation in the Inter-College and. Inter-University Tournaments.

10. The cases of sports persons with achievements in games/disciplines not included in Annexure-II but *excelling at National/International level may be considered by the Vice-Chancellor for admission to a particular course by creating additional seats to the extent of 2% seats in that course. These seats shall be treated as being in addition to the approved strength of the course in that year only.

*excelling at National/ International level means securing only first position at national level in the junior and senior tournaments conducted by respective national federation which is recognised by the Indian Olympic Association and representing the country in the international junior/senior tournament recognised by the International Olympic Committee."

10. Annexure-I to these guidelines deals with grading for sports persons. They are similar to the Appendix-7 contained in the Prospectus of the Department of Laws. Annexure-II to these guidelines is similar to Appendix-8 of the Prospectus of the Department of Laws.

11. It is clear from what has been said above that the respondent-University had explicitly made it clear to the candidates who sought admission in various Teaching Departments of the University, including the Department of Laws (Faculty of Laws) in the year 1994-95 that the Rules contained in the Handbook and the Prospectus of the Department of Laws are subject to the Regulations and

Rules contained in the Punjab University Calendars as well as the Resolutions adopted by the Syndicate/ Senate and if there was any inconsistency between the provisions contained in the Handbook of Information or the Prospectus of the Department of Laws on the one hand and the Regulations and Rules as well as the Resolutions on the other hand, the Regulations, Rules and Resolutions would prevail. The General Guidelines for Admission 1994 are contained in para 71 of the Resolution which was approved by the Syndicate on 30-6-1994. These guidelines have been made applicable for admissions to all the Teaching Departments of the University, including the Department of Laws. Therefore, these guidelines had to be followed for admission to three years LL. B. course commencing in 1994-95. A cumulative reading of Appendix-7 and Appendix-8 together with the guidelines for admission to the reserved category of sports as contained in the booklet of General Guidelines clearly shows that there is no inconsistency between the two. By virtue of the Note appearing at page 3 of the Prospectus of the Department of Laws and the Note incorporated on the first page of the Handbook of Information 1994 as also the footnote contained at page 74 of the said Handbook it is clear that the detailed guidelines regarding admission to the reserved category of sports as contained in the resolution approved by the Syndicate were made applicable to all the admissions and the mere non-incorporation of these guidelines in the Prospectus of the Department of Laws did not have the effect of excluding the General Guidelines. A look at pages 36 to 41 of the Prospectus of Department of Laws (1991-92) shows that the only difference in the Prospectus and the Prospectus of 1994-95 is that the guidelines for admission to the reserved category of sports were incorporated in the Prospectus of 1991-92 itself and in 1994-95 they have been separately issued in the form of booklet titled as "General Guidelines for Admission 1994." The petitioner, in my opinion, cannot derive any benefit from the fact that the guidelines for admission to the reserved category of sports have not been made as a part the Prospectus of 1994-95.

12. Argument of the learned counsel for the petitioner that the General Guidelines were printed after the publication of Prospectus and, therefore, the General Guidelines cannot be applied to the Department of Laws, is based on a misconceived assumption that publication of the resolution of Syndicate is a condition precedent to its enforceability. The fact that the guidelines for admission to the reserved category of sports were incorporated even in the Prospectus of Department of Laws in the year 1991-92 shows that such guidelines were in existence much prior to the publication of the Prospectus for Department of Laws for admission during 1994-95. Moreover, once the Syndicate approved the resolution on 30-6-1994, the same had to be followed by the concerned authorities while making admission in the Department of Laws which commenced on July 25, 1994.

13. Argument of the learned counsel that the guidelines contained in the resolution of the Syndicate cannot have retrospective application and, therefore they cannot be applied retrospectively, is without any substance. The resolution

passed by the Syndicate has been applied to the admissions of 1994-95 only and not to any of the early year. Therefore fact that the booklet titled "General Guidelines for Admissions 1994" may have been published after 5-7-1994 cannot in any manner effect the applicability of the resolution passed by the Syndicate. The principle of law laid down by the Supreme Court in *Harla Vs. The State of Rajasthan*, requiring publication of law as a condition precedent has no bearing on the issue raised in this petition. Similarly, the judgment of this Court in *Manju Jain v. Punjab University* 1991 (6) SLR 725 (supra) regarding the enforcement of regulation and the amendment made therein, has no relevance in the context of the controversy raised in this case. Provisions contained in Regulations 24 and 25 enumerated in Chapter II(A)(i) of the Punjab University Calendar Vol. I, do not apply to the case of a resolution approved by the Syndicate because such resolution does not have the effect of amending any existing regulation or framing a new regulation and, therefore, mere absence of publication of the resolution in the Gazette cannot dilute its effectiveness in the matter of admissions.

14. The petitioner's plea that condition of achievement in sports in any of the three years immediately preceding the year of admission is arbitrary and unconstitutional and should not, therefore, be enforced against him, is also without substance. Reservation in favour of sports persons is not backed by any constitutional mandate. It is a sort of concession given to a particular class of persons, who have made some achievement in the field of sports. The object of this reservation is to admit some students who are likely to excel in various games and disciplines and who may represent the University in various tournaments in future. The University has in its wisdom thought it proper to confine the benefit of reservation in favour of only those who have made some achievement within past three years calculated with reference to the year of admission. A candidate seeking admission in LL.B. course is required to pass a degree of Bachelor of Arts, Bachelor of Science or Bachelor of Commerce. Therefore, his achievement in a period beyond three years has been considered to be of little value to the University. This evaluation of the University in the context of the object with which reservation for sports persons has been provided cannot be termed as arbitrary or irrational. The University had the right to prescribe achievement in any three years immediately preceding the year of admission and the petitioner or anybody else cannot claim a right to be admitted unless he fulfills this condition.

15. Grievance of the petitioner, namely, that the exclusion of Fencing from the list of games/disciplines on the basis of achievement in which claim to admission in the category of reserved seats for sports can be considered is arbitrary and unjust, also merits rejection. Though the game of Fencing (sic) University is not bound by their recognition. It is for the University to decide as to in which game it should make its representation in various tournaments. If Fencing has not been considered to be a popular game at the University level tournaments or the respondent-University not thought it proper to include that game in the list, its

decision cannot be termed as arbitrary. It is not for the Court to decide as to which sports should be classified for the purpose of grant of benefit of reservation. The Court is wholly ill-equipped to determine as to what game should be included in the list of games/disciplines and what should not be.

16. In view of the above, I find no substance in the writ petition and the same deserves to be dismissed. Ordered accordingly. The fact that the petitioner was given admission in pursuance of the interim direction given by the Court will not enure to his benefit and the University shall be free to give admission to most meritorious person, included in the list of sports persons selected by it for admission. Parties are left to bear their own costs.

17. Petition dismissed.