

(1987) 11 P&H CK 0036
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 6316 of 1987

Sofia Dahiya

APPELLANT

Vs

Maharishi Dayanand University and Others

RESPONDENT

Date of Decision : 06-11-1987

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : AIR 1988 P&H 188

Hon'ble Judges : M.R. Agnihotri, J

Bench : Single Bench

Judgement

1. Miss Sofia Dahiya, has approached this Court by way of writ petition under Arts. 226 and 227 of the Constitution praying for the issuance of a writ of mandamus directing Maharishi Dayanand University, Rohtak, and the Director Principal, Medical College, Rohtak, respondents 1 and 2, to admit her to the M.B.B.S./B.D.S. Course, by granting 2 per cent weightage in the qualifying examination on the basis of her participation in sports during her all India Senior School Certificate Examination.

2. The petitioner passed her 10+2 Examination obtaining 85 per cent marks in the aggregate from Motilal Nehru School of Sports, Rai district Sonapat. She participated in the Haryana State Swimming Championships held at Kunjpura in 1982, at Karnal during 1983, and at the XXIX National Schools Games held in Oct. 1983. She participated.. in the Haryana State Championships in Volleyball at Gurgaon in 1984 and at Karnal in 1985.

3. In August, 1987, the petitioner appeared in the P.M.T. Entrance Examination for M.B.B.S. held by Maharishi Dayanand University. While applying for the Entrance Examination, the petitioner attached a copy of the Certificate issued by the Director of Sports Department Haryana, declaring her B1 grade sports girl for her participation in Swimming. She secured 1711/2 marks on the basis of her performance on the academic side but 5 per cent weightage for her participation in sports/Athletics was not added as prescribed in para (E), page 12, of the

prospectus of M.B.B.S./B.D.S. Entrance Examination of 1987, issued by Maharishi Dayanand University, which reads as under :--

"(E) No seats are reserved for candidates who have distinguished themselves in sports. However, such candidates who are otherwise eligible for admission to M.B.B.S./B.D.S. Entrance Examination on the basis of marks secured in the qualifying examination, will be given up to 5 per cent weightage on a graded scale as given below, for participation in sports/athletics during and after Part II of the Higher Secondary rep (sic) and the Pre-Medical Class, as per recommendations of the Medical Council of India. Candidates claiming such weightage should submit certificates issued by the Director Spats of the State stating grade. Certificates from any other source will not be accepted.

Grade Weightage of Marks

A-1 5%

A-2 4%

B-1 3%

B-2 2.5%

C-1 2%

C-2 1%

D 0%

This weightage shall be given on the marks obtained by the students and not on the maximum marks. Such marks will be indicated separately in the merit list by the University."

4. When the petitioner came to know that the weightage of 2 per cent for the sports participation was not added to the marks secured by her in the qualifying examination for the reason, that the certificate did not relate to the second stage of the 10+2 course (equivalent to Part II of the Higher Secondary/Prep and Pre-Medical Class), her guardian requested the respondents on 31st Aug. 1987, that it the weightage for participation in the sports could not be given on the basis of the Sports Certificates already attached, then the other Certificate issued by the Director of Sports, Haryana, in August, 1987, for her participation in the Haryana State Winter Meet School Tournament held at Karnal in 1985, should be taken into consideration for granting the necessary weightage for participation in sports. If 2 per cent weightage permissible to the recipient of C-1 grade certificate was added to the qualifying marks of the petitioner, she was entitled to the admission according to the merit list issued by the University; ;Annexure P-1. Thereafter, the petitioner was interviewed on 9th Sept, 1987. At the interview, the petitioner produced the original certificates issued by the Directorate of Sports, Haryana, which was to the following effect :--

SPORT DEPARTMENT, HARYANA

Seal,

This is to certify that Shrimati Sofia Dahiya daughter of Shri 1. S. Dahiya and a student/Member of Motilal Nehru Sports School, Rai, has been declared as "C-1" Grade Sportswoman in Volley Ball.

Verified particulars of achievements are given on the reverse.

Sd/- Deputy Director, Sports Department, Haryana, CHANDIGARH.

(reverse)

Sr. No. Game/Sport/ Event Name of School/ College/Inst; etc.

1 2 3

1. Volley Ball M. N. SS. Rai

2. --do-- --do--

No. of times represented & names of Tournaments/meets/Competition in which represented with year Position secured:

4. 5.

1. Once participated in 19th Haryana State High/Hr. S. School Sports tournament Ist held at Gurgaon from 1984-85. Ist

2. Once participated in 20th Haryana State Winter-Meet School Sports tournament held at Karnal from 20 to 24 Nov., 1985. Ist

Game/Sport/Event in which distinction achieved Details of Record held if any Any other information etc.

6. 7. 8.

1. Volley Ball -- --

2. Volley Ball -- --

Director, Sports Department. Sd/- - Deputy Director, Sports Department, Haryana, Chandigaarh

5. Despite all this the petitioner was not admitted though, according to her, if the requisite weightage of 2 per cent was added to her score of qualifying marks of 1711/2, she would have certainly secured admission according to the merit list, as out of 71 seats filled for M.B.B.S./B.D.S., she would have stolen a march over at least a dozen candidates, including respondents 3, 4, 5 and 6. The petitioner has challenged the decision of the University in not granting weightage. for her sports participation which has been contested by the University as well as by Miss Mona Duggal, respondent 3

6. According that he written statement filed by Maharishi Dayanand University, respondent 3, the weightage was denied to the petitioner because-

(1) the certificate produced by her for her participation in the Volley Ball was not for "during and after Part II of the Higher Secondary/Prep and the Pre-Medical Class";

(2) the certificate was signed by the Deputy Director and not by the Director of Sports, Haryana; and

(3) the certificate was not Filed with the admission form but was produced later on.

7. Respondent 3 has filed a separate written statement in which almost the same pleas have been taken and nothing new been Staled.

8. Mr. R.P. Dahiya, learned counsel for the petitioner, has vehemently contended that the petitioner was fully eligible for the grant of prescribed weightage for her participation in the field of sports and the action of the University was wholly arbitrary. Firstly, according to the learned counsel, even though the certificate issued to the petitioner was signed by the Deputy Director, yet it was issued by the Director from the Directorate of Sports, Haryana. It is a matter of common knowledge that the Director of Sports is the head of the Department and even in the certificate issued to the petitioner, the word "director" (Sports, Haryana) is printed thereon immediately below the words "Deputy, Director" against which the Deputy Director has signed. Therefore, it is a mere hypertechnicality on the part of the University which has been resorted to for rejecting the certificate issued in favour of the petitioner.

9. Secondly, the certificate issued in favour of the petitioner was in fact for her participation in 1984-85 as well as for her participation in the Sport tournament held at Karnal from 20th to 24th Nov. 1985. This obviously meant that the participation was in the session 1985-86 when the petitioner was studying in her 10+2 course (equivalent to Higher Secondary/Prep and the Pre-Medical class). Therefore, the certificate fully answers the description provided id para (E) of the Prospectus wherein the requirement is "for participation in sports/athletics during and after Part II of the Higher Secondary/Prep and the Pre-Medical Class".

10. Thirdly, when the certificate itself was issued in August, 1987, itself, there was no occasion to produce she same earlier, more ; to when there was no such requirement either in the prospectus or in the admission notice. On the other hand; the interview letter issued by the university on 27th Aug. 1987(Annexure P-4), specifically permitted the candidates to bring the certificates with them at the time of interview in the following words:

"You were to attach the requisite documents which your application. In case any of the documents have not been attached with your application a were incomplete, are not in the prescribed form, you must bring them with you to be shown at the time of interview: You must also bring all the certificates, in original, with you Nothing should be sent by post, at this stage."

Therefore, when the petitioner appeared for interview on 5th Sept. 1987, in

response to the aforesaid interview letter and showed the necessary certificates, in original, it was a sufficient compliance of the requirement laid down by the University.

11. Mr. J.L.. Gupta, learned Senior Advocate, appearing on behalf of the University, sought to justify the action of the University with great vehemence, but could not advance any cogent or convincing reason in support of the same. The action of the University is wholly indefensible and the necessary weightage should have been granted, to the petitioner for her participation in sports to which she was fully entitled.

12. After going through the pleadings of the parties and having heard their counsel, I am of the considered view that respondents 1 and 2 have not considered the candidature of the petitioner with due care and caution and the denial of the weightage of 2 per cent to her is wholly arbitrary.

13. Consequently, this petition is allowed and a writ of Mandamus is issued commanding Maharishi Dayanand University, Rohtak, and the Director-Principal, Medical College, Rohtak, respondents Nos. 1 and 2, respectively, to grant to the petitioner the 2 per cent weightage for her participation in sports and after adding the same to the marks obtained by her, that is 1711/2 marks, in the qualifying examination,. to admit her to the M.B.B.S./B.D.S. course of the University for the current session, strictly according to her merit. While doing so, if any candidate possessing lesser merit than the petitioner, who has already been granted admission, has to make room for her; the petitioner shall be admitted even by cancelling the admission of such a candidate. The petitioner shall also be entitled to the costs of this petition recoverable from respondents 1 and 2, which are M.V. Mahalinga Aiyar Vs. The Union Bank, Limited, quantified at Rs. 1,000/- .

14. Petition allowed.