
(1985) 12 P&H CK 0021
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 4334 of 1985

Somvir

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 10-12-1985

Acts Referred:

Citation : AIR 1986 P&H 327

Hon'ble Judges : Surinder Singh, J;D.S. Tewatia, J

Bench : Division Bench

Judgement

Surinder Singh, J.—The point involved in this Writ Petition filed by Somvir against the State of Haryana and others, is akin to the one which has been discussed and adjudicated upon in Civil Writ Petition No. 4301 of 1985, disposed of separately today. As in the case of the Punjab Government, the Haryana Government also issued Letter No. 5441-2 G.S.-1-72/28901,dt. Oct. 18, 1972 (Copy Annexure R-1), in regard to Reservation of Seats for outstanding Sportsmen in Technical/Medical Institutions and in service of the State Government. The impugned part of these Instructions runs as follows:

"Moreover it was also decided that some difference between major and minor games be made for a man (player) and that a player of major game be preferred to a player of minor game. For this the following games in which the competitions are minimum, be treated as Minor Games.

1. Kho Kho
2. Soft Ball
3. Base Ball
4. Kabaddi".

2. The sole contention by the learned counsel for the petitioners is that the division of games in two categories, i.e. Major Games and Minor Games as

noticed above, is arbitrary and unreasonable apart from the fact that it creates anomalies and entails injustice to better Sportsmen. By way of elucidation, it is contended that if the above mentioned grouping is given effect to, a Sportsman who may have merely participated in any of the "Major" games and without having attained any distinction at all, would get preference over a Sportsman who may have brought laurels to the country in an international competition of the so-called "Minor" games. There is indeed substance in this argument. In the first place, there is no criterion on the basis of which it can be said as to whether a game is Major or Minor. If public enthusiasm can be a test for judging the popularity of the game, some of the Minor games may steal a march over the Major games. Furthermore, the popularity of a game may vary from place to place within the same region. Apart from this consideration, the choice of a game is very personal matter of the Sportsman concerned and if the idea of sport is to enhance and maintain physical and mental health of the participant, his choice cannot and should not be circumscribed by limitations of grouping, with the mere aim of getting preference for admission in an Educational Institution or even in the service of the State Government. We are, thus, of the opinion that the grouping of Games into Major and Minor Games apart from being arbitrary, has no nexus with the object sought to be achieved by the impugned Instructions. Of course, it would be open to the State Government to prescribe a list of games which would be recognised for the purpose of determining whether a Sportsman would be eligible for being considered for the seats reserved for Sportsmen, but there would be no justification for sub-dividing the games into further categories as done in the impugned Instructions. It may be observed here that the other classifications contained in the Instructions have not been impugned before us. In any case, these classifications are otherwise quite reasonable.

3. There being no other point canvassed in this Writ Petition, the question now arises as to whether it would be appropriate to disturb the admissions of the private respondent made in the Government Polytechnic College on the basis of the impugned Instructions, at this stage. We feel that it would indeed incur great hardship upon the selected candidates i.e. Respondents 3 and 4, who must have by now gone through a substantial part of their curriculum. However, we issue Mandamus to the Respondent-State Government not to sub-divide the games in future, into separate categories as done in the impugned Instructions and treat all the prescribed games at par with each other, nor shall the State Government give precedence to Sportsman of any particular game over those of another game, except of course, on the basis of Grading contained in the impugned Instructions.

4. It is stated at the bar by the learned counsel for the petitioners that certain vacancies have occurred in the quota reserved for Sportsmen and the prayer is that the petitioners may be accommodated in one of these vacancies. We are unable to issue any such direction. If indeed, there are vacancies as stated, the State Government may consider the feasibility of filling up the seats from the Waiting List in accordance with the Rules, Regulations and Instructions as

interpreted now by this Court.

5. The Writ Petition stands disposed of accordingly, with no order as to costs.

D.S. Tewatia, J.

6. I agree.

7. Order accordingly.