
(2008) 08 P&H CK 0123
In the Punjab And Haryana At Chandigarh

Vandana Rathour

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 27-08-2008

Acts Referred:

Citation : (2008) 152 PLR 521 : (2009) 1 SLR 636

Hon'ble Judges : Kanwaljit Singh Ahluwalia, J; Hemant Gupta, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Hemant Gupta, J.—The petitioner has invoked the extra-ordinary writ jurisdiction of this Court to claim a writ of mandamus directing the respondents to admit the petitioner in MBBS course, against seats meant for the reserved category of Tsunami victims.

2. It is the case of the petitioner that the grandfather of the petitioner, Shri Joginder Singh was serving in the Indian Army and he retired in the year 1961. The Government of India framed a Scheme for rehabilitation of Ex-Army personnel in Nicobar Island. In such process, the grandfather of the petitioner was allotted 14 acres of land in Joginder Nagar, Campbell Bay, Great Nicobar Island and since then the grandfather of the petitioner is settled there. The parents of the petitioner suffered huge losses during Tsunami waves in the year 2004 and their entire land and the house were also submerged in the sea water. Certificate issued by the competent authorities to this effect are annexed with the writ petition as Annexures P.1 to P.4. It is pointed out that the petitioner is born and brought up in Joginder Nagar, Campbell Bay, Great Nicobar Island. In fact, a perusal of the certificate Annexure P.5 shows that the petitioner has studied upto Class 8th at Nicobar Island.

3. In pursuance of the notification issued by the State Government, the University has published a Prospectus, for admission to MBBS Course, 2008, contemplating the entrance test. Part-II of the Prospectus contains reservation

for the victims of Tsunami. The relevant clause of the Prospectus, reads as under:

(x) Tsunami Victims :1%

Note: The reservation under Tsunami victims category shall be available only to the wards/children of Ex-servicemen settlers of Campbell Bay Island in Andaman & Nicobar.

4. The petitioner qualified the entrance test, but was not granted benefit of reservation against the seats meant for the Tsunami victims, presumably on the ground that the petitioner is not the daughter of an ex-servicemen, who has settled in Campbell Bay Island in Andaman & Nicobar.

5. The petitioner has relied upon a judgment in *Simran K. Gill v. State of Punjab* and Ors. C.W.P. No. 13257 of 2007 decided on 31.8.2007, wherein a Division Bench of this Court has held that a granddaughter is entitled to benefit of reservation meant for Tsunami victims. However, that was a case pertaining to the previous year i.e. 2007.

6. In reply, the respondent-State has pointed out that in fact, it was the maternal grandfather of the petitioner, who was settled in Campbell Bay, Great Nicobar Island and that a clarification has been issued on 23.7.2008 (Annexure R.1), clarifying that ex-serviceman will mean father only. Thus, it is pointed out that the petitioner is not entitled to reservation.

7. Shri Dindsa, learned Counsel appearing for the respondent-University has pointed out that the clarification Annexure P.1 Dated 23.7.2008, has since been withdrawn on 12.8.2008. A photocopy of the said letter has been produced in Court, which is permitted to be taken on record.

8. Having heard learned Counsel for the parties, we do not find any substance in the stand of the respondents. A perusal of the facts pleaded in the writ petition would show that in fact, the petitioner was born and brought up at Campbell Bay Island in Andaman & Nicobar. Besides, the petitioner has studied upto 8th Class at Campbell Bay Island in Andaman & Nicobar, and it was only thereafter, on account of Tsunami, she shifted to Punjab. The judgment of this Court in *Simran K. Gill's* case (*supra*), has clarified that the grand children are entitled to benefit of reservation meant for Tsunami victims.

9. Following the aforesaid judgment, we are of the opinion that the denial of admission to the petitioner against the seat meant for Tsunami victims, is unfair and not tenable in law.

10. Consequently, we allow the present writ petition and direct the respondents to admit the petitioner against the seat meant for Tsunami victims.

11. Copy of the order be given Dasti on payment of usual charges.