
(1993) 05 RAJ CK 0020

In the Rajasthan High Court

Case No : Civil Writ Petition No. 4021 of 1992

Vijay Singh Meena

APPELLANT

Vs

Jai Narain Vyas University and Others

RESPONDENT

Date of Decision : 10-05-1993

Acts Referred:

Citation : (1993) WLN 81

Hon'ble Judges : A.K. Mathur, J

Bench : Single Bench

Judgement

A.K. Mathur, J.—The petitioner by this writ petition has prayed that the respondent University may be directed first to give admission to the petitioner and the respondents No. 2 and 3 may exercise his choice afresh after he has been informed of his changed position.

2. The petitioner took his Pre Engineering Test (for short "PET"), 1992 and in which he has secured 110, 121 and 124 marks out of 900 in Physics, Chemistry and Mathematics respectively. The total marks obtained by him work out to 355. The petitioner obtained 33% marks in each subject in the PET Examination. It is alleged that the petitioner is not likely to get admission unless the provision is correctly interpreted. It is submitted that one of the candidates Manoj Kumar bearing Roll No. 7488 secured 92, 88 and 175 marks in Physics, Chemistry and Mathematics respectively and has thus failed as he has not secured 33% marks in Physics and Chemistry. However, he has been interviewed by the respondent University on 9.8.1992 and was placed at S. No. 1 in the waiting list. He was given admission in Engineering College, Rourkela in Civil Engineering Branch. It is also submitted that another person Chhuttan Lal bearing Roll No. 6209 secured 96, 148 and 82 marks in Physics, Chemistry and Mathematics respectively. Though he failed as he did not secure 33% marks in Physics yet he was interviewed and was placed at S. No. 29 in the merit list. It is submitted that Chhulan Lal has not joined the course as he has joined I.T.I. It is submitted that besides these two persons a number of persons belonging, to Scheduled Caste to

which the petitioner belongs, have been interviewed and thereafter admitted in the engineering course in various colleges of Rajasthan in the similar manner. It is submitted that the petitioner was also called for interview on 9.8.1992 and he was given admission in the Agricultural Engineering in the College of Technical and Agriculture Engineering, Udaipur. But it is alleged that the petitioner if succeeds in this writ petition his merit is likely to alter and he is entitled to admission in other specialities as per his merit.

3. Clause (c), Para (a) II of the Instructions for Guidance of Candidates Intending to Appear at Pre Engineering Test, 1992 (for short "Instructions") reads as under:

He/She shall have to obtain atleast 33% marks in Physics, Chemistry and Mathematics each at the Pre Engineering Test to qualify for admission to the B.E./ B. Tech/B. Sc. (Eng.)/B. Arch. of course subject to availability of seats. However, in case of SC and ST candidates this condition of 33% in each paper will be relaxed by 5% in each paper, if adequate number of SC and ST candidates are not available. If even after this relaxation, SC/ST vacancies exist, they will be left unfilled except for REC's for which separate rules exist to fill these vacancies.

4. The contention of the petitioner is that as per the above Instructions the candidate is required to have atleast 33% marks in each paper i.e. Physics, Chemistry and Mathematics at the Pre-Engineering Test to qualify for admission to the B.E. of course subject to availability of seats. But for SC/ST candidates the condition of 33% marks in each paper has been relaxed by 5%, if the SC/ST candidates are not available. Even after the above relaxation still SC/ST candidates are not available then vacancies will be left unfilled except for REC's for which separate rules exist to fill up these vacancies. The main emphasis of the learned Counsel for the petitioner was that if any candidate who has obtained 33% marks in all 3 subjects i.e. Physics, Chemistry and Mathematics at the Pre-Engineering Test is available then he will be entitled to be first admitted against the SC/ST quota subject to availability of vacancies. According to the learned Counsel the petitioner has secured 33% marks in all 3 subjects, therefore, he is entitled to admission to the course. It is submitted the some of the candidates who did not secure 33% marks in each, of the subjects though their aggregate marks were more than that of the petitioner still 5% relaxation has been given to such candidates in the subjects they have failed and they have been admitted over the petitioner, whereas this relaxation should have been given if there are vacancies available after admitting candidates who have secured 33% marks in each paper. But this was not done, therefore, the whole process stands vitiated.

5. A reply has been submitted by respondent and it is submitted that the interpretation put by the petitioner of Clause (c), para (a) II of the Instructions is not correct and it is submitted that adequate number of SC/ST candidates were not available therefore, the condition of 33% of marks in each paper was relaxed by 5% marks in each paper. It is further alleged that from the very beginning it came to the notice of the Centralised Admission Committee that all the seats reserved for SC/ST candidates would not be filled of the condition of 33% marks

is adhered to and hence in the fitness of things the list of candidates upto 28% marks in each paper in the PET examination was prepared and the merit list was notified as per number of seats. It is alleged that in the year 1985 this question came up for consideration and the Centralised Admission Committee on 8.7.1985 decided that taking into account all aspects, the Committee decided that all SC/ST seats on the basis of PET 1985 be filled first from the eligible SC/ST candidates on the basis of 28% marks in each subject. So also in the previous year i.e. 1991 the marks upto 28% in each paper as the past practice. Thus, the interpretation put by the respondents on the aforesaid cause is that they have power to relax the condition of 33% marks for SC/ST candidates from the very beginning and prepared the merit list of the candidates who have obtained minimum 28% marks in each paper and then prepared the merit list on the basis of aggregate marks. It has not been disputed that when a candidate gets 33% marks in each subject then he qualifies himself for admission as per his/her merit. It is submitted that it is true that respondent Manoj Kumar though secured 92, 88, and 175 marks in Physics, Chemistry and Mathematics respectively having aggregate of 355 marks and has failed to secure 33% marks in each paper still he was admitted to the course over the petitioner because of the decision of the Centralised Admission Committee to grant relaxation from beginning of marks upto 28%. Manoj Kumar was admitted in the Regional Engineering College, Rourkela and he has joined the same. It has also been admitted that Chhuttan Lal was also called for interview but he did not appear for interview hence his case was not considered for admission. But his name has been mentioned at S. No. 29 in the merit list.

6. I have considered this interpretation put by the Centralised Admission Committee and I am of the opinion that the Centralised Admission Committee has totally misconstrued the aforesaid clause. The condition of relaxation of 5% marks only comes when sufficient number of candidates from SC/ST category are not available. They have put the cart before the horse and reversed the order. They have decided to relax 5% marks in each paper right from the beginning which is not correct. Clause (c) Para (a) II of the Instructions as reproduced above clearly reads that the first condition is that the candidate should obtain 33% marks in each paper i.e. Physics, Chemistry and Mathematics in the PET. Therefore, this is the first premise on which they have to proceed and admit the candidate who have secured 33% marks in each paper and if they find that sufficient number of SC/ST candidates are not available then they have to proceed by relaxing 5% marks in each paper. If they get one or two candidates who have secured 33% marks in each paper in PET then they will have to be given admission first. After that if sufficient number of candidates are not available and if vacancies are still there they may give relaxation of 5% marks in that paper. The construction put by the Centralised Admission Committee to give 5% relaxation to all the SC/ST candidate without examining that if there are candidates who have secured 33% of marks in each paper is not correct. The Committee has gone totally wrong. It should be very clearly understood that the

question of relaxation of 5% marks will only arise if the total number of vacancies of SC/ST candidates are not filled in, of the candidates who have secured 33% marks, in each paper at the PET then they have a power of relaxation to the extent of 5% marks in that paper to give admission to the SC/ST candidates to the extent of the availability of the vacancies against this quota. Therefore, the construction put by the Centralised Admission Committee is totally wrong and deserves to be quashed. It has been pointed out by the respondent University in its reply that most of the Colleges started functioning and admissions have been closed on 31.8.1992. Therefore, I need not disturb the admissions already granted to the candidates as it is going to disturb the whole set-up. But as it is admitted in the reply that one candidate namely, Chhuttan Lal has not joined against the vacancy and an affidavit has also been filed in which it has been pointed out that two candidates have not joined, therefore, without disturbing any one, the petitioner's merit may be re-drawn as he has secured the minimum 33% marks in each paper and on that basis if his merit comes higher than the other candidates then he should be given preference in the matter of admission in the speciality asked for by him and he should be adjusted in any other College according to his preference, if possible in this session or in the next session as the present academic session is said to be coming to close.

7. In the result, the writ petition is accordingly allowed.