
(1995) 12 P&H CK 0063
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 14411 of 1995

Zoe Gill	Vs	APPELLANT
Chandigarh Administration and others		RESPONDENT

Date of Decision : 12-12-1995

Acts Referred:

Constitution of India, 1950 — Article 14, 16(4), 226

Citation : AIR 1996 P&H 145 : (1996) 2 RCR(Civil) 368

Hon'ble Judges : S.P. Kurdukar, C.J.;V.K. Bali, J

Bench : Division Bench

Advocate : Rajiv Atmaram and Ashok Aggarwal, for the Appellant; Jaskirat Singh, Anupam Gupta and G.S. Virdhi and H.S. Giani Sr. Advocate, for the Respondent

Judgement

V.K. Bali, J.—Miss Zoe Gill through present petition filed by her under Article 226 of the Constitution of India takes strong exception to her non-admission in the Chandigarh College of Architecture, Chandigarh, in B. Arch. course by ignoring the relevant Rules governing the admission with a view to accommodate respondent No. 6 --Ms. Anvita Bhatti daughter of Dr. S. S. Bhatti, who, in addition to being principal of the Chandigarh College of Architecture, was also member of the Joint Admission Committee. Her obvious prayer is, thus, for admission in the Chandigarh College of Architecture in B. Arch. course against the seat reserved for dependents of Military/para-military personnels and quashing the admission of Ms. Anvita Bhatti respondent No. 6 in this petition. As the reliefs asked for and, as mentioned above, depend upon one Charandeep Singh to be shifted from the Military pool to the U T Open pool, a direction to the respondents has been prayed for to shift Charandeep Singh from Military pool to the UT open pool on the basis of provisions contained in the Admission Brochure as also on the basis of his request dated September 26, 1995.

2. Brief facts, on which the reliefs spelled out, are sought to rest, reveal that a Combined Entrance Test (hereinafter to be referred to as "GET") was held by the

Punjab University, Chandigarh, for admission to the Bachelor of Engineering course at Punjab Engineering College, Chandigarh, Chandigarh College of Architecture, Chandigarh, and Department of Chemical Engineering and Technology, Punjab University, Chandigarh, for the Session 1995-96. Petitioner applied and competed along with other candidates and she was placed at CET merit No. 415 in the general merit list. As per Rules and conditions for admission, detailed in the Admission Brochure for the Session 1995-96, three separate application forms were appended with the brochure for different institutions and the candidate had to use the appropriate form to apply for admission to the institution of his/her choice. The candidates was to be considered only for the institution for which he/she had applied. Insofar as petitioner is concerned, she applied for admission to Chandigarh College of Architecture, Chandigarh for B.Arch. Course. Rule 1.2, dealing with submission of applications reads thus:--

"1.2.1:-- Three separate application forms for different institutions are appended to this brochure. The candidates must use the appropriate form to apply for admission to the institution(s) of his/her choice. The application (s) must be filled in the candidate's own handwriting and on the prescribed official application form(s) appended to this brochure. Self attested photocopies of the certificates as indicated under each institution be attached with each application form. The original certificates are required to be produced at the time of interview or submitted when called upon to do so."

3. Inasmuch as the father of petitioner was a serving defence personnel, she applied for Being considered against the reserved category of Military/para-military. The admission of candidates of different categories was to be made on the basis of merit list prepared by the respective institution. The inter se merit of the candidates for admission was to be determined on the basis of marks obtained in CET only. The last date for submission of applications was July 10, 1995. Later on it was, however, extended up to July 17, 1995. The positive case of the petitioner is that the procedure for filling up the seats under reserved categories clearly reveals that the candidates who applied for admission against the reserved categories would also be considered for admission against the seats allocated for Chandigarh/general pool to which they may belong as per their merit. Relevant Rule 2.3 reads thus:--

"2.3 Clarification of above reservations :--

2.3.1 :-- If an applicant belonging to above reserved categories is admitted to the open pool seats on the basis of his/her CET merit, then he/she will not be accounted for the reserved seats.

x x x x x x x

4. Based upon the rule, quoted above, it is the case of the petitioner that the students belonging to the reserved categories were also to be considered in the general category according to their merit in the CET examination and if such

student was, on the basis of his merit, falling within the seats meant for general category, he was to be considered for admission in the open pool and not in the reserved category. The interview for the reserved category students belonging to sons/ daughters of military/para military personnel was held on August 1, 1995. Only one seat had been reserved for the candidates belonging to this category in the Chandigarh College of Architecture. One Pooja Aggarwal, who was at Sr. No. 66 in the CET merit list, was granted admission under this category"of military/ para-military personnel in the UT pool. She, however, represented that since her merit number came in the open pool, she should be granted admission in open pool instead of reserved category of defence personnel. Dr. S. S. Bhatti, who, as mentioned above, is the Principal of the Chandigarh College of Architecture, did not accede to the request of Pooja Aggarwal. It is the case of the petitioner that one of the members of the joint Admission Committee lodged protest on August 7, 1995 with Joint Admission Committee } Dr. R. C. Bansal, who was the overall incharge of the admissions to the three institutions for the said courses. It is only thereafter that Ms. Pooja Aggarwal was adjusted against the seat in open pool. Once Pooja Aggarwal was adjusted in the open category of UT pool, one seat of UT pool for reserved category became available. It is also the case of the petitioner that since Pooja Aggarwal was admitted against the seat reserved for sons/daughters of military/para-military personnel and there was only one seat in the said category, petitioner was not interviewed on August 1, 1995. The seat falling vacant on account of adjustment of Pooja Aggarwal was sought to be filled in by interviewing the candidates on September 26-27, 1995. The candidates belonging to reserved category were to be interviewed on September 26, 1995 and those of general category were interviewed on September 27, 1995. On September 26, 1995 the candidates belonging to the reserved categories were interviewed. One Charandeep Singh whose merit position in CET was 313 was granted admission in B. Arch, under the reserved category of military/para-military personnel. Since he too was making merit in the seats meant for general category, he addressed an application dated September 26, 1995 to the Principal of the Chandigarh College of Architecture -- respondent No. 4 that he should be shifted to the UT open pool after ascertaining his eligibility in the open pool. A copy of this application has been annexed with the petition as Annexure P-3. His request, like the request of Ms. Pooja Aggarwal, was not acceded to by the Principal of the College, Dr. S. S. Bhatti, Petitioner pleads that the said request of Charandeep Singh was turned down with mala-fide reasons and the sole aim of the Principal was to accommodate his own daughter. On September 27, 1995, as mentioned above, the interviews for open pool students were held. The last candidate, who has been granted admission in the UT open pool is Ms. Anvita Bhatti, whose CET merit position was 332. Petitioner pleads that it is, thus, obvious that respondent No. 5 did not allow Charandeep Singh, whose CET merit position is 313 to shift from Military pool to open pool in order to adjust his own daughter-respondent No. 6 despite the fact that Rules permitted so. Had Charandeep Singh been shifted to the open pool, he would have been the last candidate to be granted admission in the open pool and, thus, respondent No. 6

would have been deprived of admission to B. Arch. course. Further, in the eventuality of shifting of Charandeep Singh to open pool, petitioner would have got admission in military pool as there was no other candidate in the military pool higher in merit than her, who might have been present for interview on September 26-27, 1995. Petitioner addressed a letter dated September 27, 1995 to this effect that Charandeep Singh should be shifted to open pool and she should be granted admission against the reserved seat. However, she was not granted the admission, petitioner made another representation on September 30, 1995. The classes commenced w.e.f. August 7, 1995 but the students, who were granted admission on September 26-27, 1995, were permitted to start attending classes w.e.f. October, 1995. On October, 1995 itself the present petition was filed in this Court.

5. It is on these broad facts, as have been reproduced above, that the petitioner seeks admission to the course of B. Arch. in the Chandigarh College of Architecture.

6. The cause of the petitioner has been opposed in two sets of identical written statements filed, one on behalf of respondents 1 and 4 through Dr. S. S. Bhatti, Principal of the Chandigarh College of Architecture and the other by respondent No. 5, i.e., of course, against the principal of the College himself. Respondent No. 6 too has filed separate short reply opposing the claim of the petitioner. As, in view of the petitioner, respondents 1 and 4 had mis-stated the facts, she has chosen to file replication, to which respondents 1 and 4 have filed rejoinder. By way of preliminary objection, it is pleaded that the writ is liable to be dismissed for the reason that the petitioner has not disclosed an important material fact pertaining to her absence on the date of main interview on August 1, 1995 for Army quota seats as well as seats of other reserved categories. The waiting list to fill in subsequent vacancies in the seats reserved for the quota was based on the rules and procedure in the Admission Brochure which were made known to the candidates/public through press notice from amongst those candidates who were present in person on the date of main interview on August 1, 1995. Clause 1.3.5 of the Admission Brochure for admission to firstyear of B.E. and B. Arch. Course, which is pressed into service, runs thus :--

"The waiting list consists of candidates with merit position immediately next below the last admitted candidate in a particular branch in the main interview. These candidates may have been admitted already in any of the U.T. institution or not. However, those candidates, who have not been admitted in any of the U.T. institution, must have been present and have signed the attendance to be eligible to be on the waiting list".

It is further the case of the respondents that there was no vacancy in the army quota on September 26, 1995, the date fixed for all reserved vacant seats including the army quota. There was, thus, no question of admission of any candidate belonging to reserved army quota being made on that date, petitioner was not eligible for admission as her name did not figure in the waiting list on

account of the fact that she was not present for the main interview. She did not sign the list of present candidates which was the mandatory requirement and only six candidates, who were eligible and higher in merit than the petitioner, were available. It is also the case of the respondents that a photo copy of the application of Charandeep Singh, dated September 26, 1995, was received in the College on September 28, 1995 along with petitioner's application. It was not received independently from Charandeep Singh, who was not eligible for shifting to the general pool as he had not applied in that pool. Therefore, the application of said Charandeep Singh had no validity and was of no legal consequence. It is further stated that the admissions in the College to the course in question were made in accordance with the prescribed Rules and procedure and that Charandeep Singh was already on the college rolls w.e.f. August 21, 1995 when he was admitted and he had been attending the classes ever since the date of his admission from army quota. On September 27, 1995, date fixed for the open merit candidates upto the rank of 500, the admissions were made strictly on merit determined by the CET and according to the prescribed Rules and procedure. It is also pleaded that the rank of petitioner in the CET was much lower than the last candidate admitted namely Anvita Bhatti and there were 12 more candidates between the candidate last admitted and the petitioner. Respondent No. 6, it is pleaded, was not, thus, the only candidate admitted in the UT open pool on September 27, 1995 and she was one of the six candidates admitted on the said date on the basis of their eligibility from among 32 candidates present on that date. The petitioner, thus, could not be admitted in the open pool because her CET ranking was 415 which is much lower than that of respondent No. 6. It is the case of the respondents that the admissions in the College were closed and completed on September 27, 1995 and those admitted on September 27, 1995, started attending their classes of first semester B. Arch. w.e.f. September 28, 1995. The current term of the Session 1995-96 would close on November 24, 1995 and the semester examination would start w.e.f. December 5, 1995. The ten semester B. Arch. course, it is stated, is a highly specialised discipline entailing a wide variety of theory subjects and practical exercises. The regulations of the Punjab University, to which the College is affiliated, prescribe a mandatory fulfilment of 66% attendance in lectures, tutorials, practicals etc. alongwith 50% pass marks in sessional work assignments in various subjects as prerequisite for eligibility to take the semester examination. The delay in the matter, in other words, is pressed into service to deny the petitioner admission in the course of B. Arch.

7. As mentioned above, petitioner has filed replication to the written statement filed on behalf of respondents 1 and 4. It is pleaded therein that respondent No. 6 is daughter of respondent No. 5 -- Dr. S. S. Bhatti, who was one of the members of the Joint Admission Committee and once the daughter of respondent No. 5 was not of the candidates desirous of seeking admission to the Architecture course, it was incumbent upon the said respondent to have disassociated himself from the admission process. Insofar as Charandeep Singh is concerned, it is

stated that he was granted admission in military pool and on account of his merit position being at No. 313, he should have been shifted to general pool. However, respondent No. 5 knew that on account of shifting of Charandeep Singh from the military pool to the general pool, his daughter would not get admission at all as her merit position was at No. 332 and, therefore, he did not shift Charandeep Singh to the general pool. The petitioner also takes strong exception to the written statements that have been filed, first written statement on behalf of respondent No. 4 through Dr. S. S. Bhatti and the other written statement also by the same very respondent. It is stated that Dr. Bhatti has wilfully given a false affidavit in this Court and has, thus, committed perjury and should be punished accordingly. In both the written statements filed by him it is stated that no protest was lodged by any member of the Joint Admission Committee which is totally false and contrary to the facts of the case and the official records. Since various irregularities were committed by respondent No. 5 in conducting admission to the Engineering/ Architecture courses, two protests were lodged by Mr. I. J. S. Bakshi, who was the member of the Joint Admission Committee. The first protest was lodged on August 1, 1995. A copy of the same has been annexed as Annexure P-6. The other protest was lodged on September 29, 1995, copy of which has been annexed with the replication as Annexure P-7. It is the case of the petitioner that the protests of Mr. Bakshi were ignored by Dr. Bhatti, thus, constraining him to file a complaint to the Home Secretary, U.T. Chandigarh, on October 18, 1995, copy of which too is annexed as Annexure P-8. On the complaint, Annexure P-6, the Punjab University took action and called meeting on August 9, 1995 and on August 10, 1995 Dr. Bhatti himself addressed a letter to Shri Bakshi with regard to his complaint. This correspondence too has been placed on records of the case. Shri Bakshi replied to Shri Bhatti's letter on August, 10, 1995, copy of which is also annexed as Annexure P-11 with the replication. On the basis of these facts and documents, as have been detailed above, it is pleaded that Dr. Bhatti has deliberately made false statement simply with a view to protect the admission granted to his own daughter and he is, thus, guilty of committing perjury and should be adequately punished. On the question as to whether the petitioner was present and had signed the attendance register on the first date of interview, it is the case of the petitioner that even respondent No. 6 did not sign and was not present on August 1, 1995 when interview of the general category candidates was held. However, insofar as petitioner is concerned, she was present on August 1, 1995 at the place of interview. Since her merit was far below, she could not sign her attendance. Even otherwise, it is stated, as per clause 1.3.5, the candidate desirous of seeking admission against the vacant seat has to be personally present on the respective dates of admission for the vacancies. The petitioner was fully eligible for being granted admission against the UT military quota seat and was present on September 26, 1995 when the same arose. Accordingly, it was incumbent upon the respondents to have interviewed the petitioner on the said date by shifting Charandeep Singh from the military pool to general pool. The stand of the respondents that there was no seat available in the army quota

on September 26, 1995, has also been refuted. On that count, it is pleaded that Charandeep Singh was granted admission in the military quota and as per the provisions of the admission brochure, he was entitled to be shifted to the general pool as the last candidate, who was granted admission in the general pool, was lower in merit than the said Charandeep Singh. Insofar as the contention of the respondents with regard to Charandeep Singh to shift him from military pool to general pool is concerned, it is stated by the petitioner in the replication that the applicant belonging to the reserved category has automatically to be considered against the general pool if he could be granted admission in the general pool on his merit. Thus, the factum of the application of Charandeep Singh being received late i.e. on September 28, 1995, would be of no consequence. Even otherwise the University had fixed September 29, 1995 as the last date for admission, and once the seats in the general category became available, it was incumbent upon the respondents transfer Charandeep Singh from the military pool to the general pool. The other pleas raised in the written statement have also been sought to be controverted by the petitioner in the replication filed by her. As mentioned above, respondents 1 and 4 have also filed rejoinder. Since it is only reiteration of their earlier stand as has been reflected in the written statement, there is no need to make a detailed reference thereof in this judgment.

8. The respondents, on various dates, when the case was adjourned, were asked to make to the Court the records of the admission available at the time of arguments. In pursuance of the aforesaid directions, Mr. Ashok Aggarwal, learned Senior Counsel appearing on behalf of U.T. Administration, has made the records available.

9. We have heard learned counsel for the parties at great length, even though at motion stage and have also perused the pleadings of the parties and records. We are of the considered view that the cause of petitioner is meritorious and, therefore, this petition must succeed. The contention of Mr. Rajiv Atma Ram, learned counsel for the petitioner, that as per the Rules governing the admission spelled out in the Admission Brochure if a reserved category candidate was entitled to be admitted within the seats allotted to the general category candidates, as per his merit, he could not be considered for admission in the reserved category and had to be treated as belonging to general category, could not be disputed either by the counsel representing the U.T. Chandigarh or even by the counsel representing Dr. Bhatti. Clause 2.3.1, referred to above, which pertains to reservation of all kinds i.e. be it Scheduled Caste, Scheduled Tribe or others, in no unambiguous terms talks of admission to such candidates in the open seats on the basis of their merit, and that in that eventuality they shall not be counter for the reserved seats. It is in recognition of this clause alone that Pooja Aggarwal, whose CET merit was 66 and who belonged to the reserved category of Military/para-military, was shifted to the category of U.T. open pool even though after protest was lodged on that behalf by one of the members of the Joint Admission Committee. De hors the rules as well, the position in law is

also the same. It is by now settled proposition of law that reservations under Article 16(4) do not operate like communal reservations. Suffice at this stage to reproduce the observations of the Supreme Court in *Indra Sawhney v. Union of India* 1993 (1) RSJ 1 which read thus :--

"It may well happen that some members belonging to, say, Scheduled Castes get selected in the open competition field in the basis of their own merit; they will not be counted against the quota reserved for Scheduled Caste; they will be treated as open competition candidates."

That being the conceded position of law, the only defence projected in the written statement that the petitioner had not signed the attendance register, when prior in point of time, the interview for reserved category candidates was held and was, thus, not entitled to admission even after the reserved category candidate admitted on the said day had been shifted to the general Category, requires to be discussed and adjudicated upon. It is positive case of the petitioner that she was present on the date when the interview for reserved category candidates was held and inasmuch as there were quite a few candidates in the said reserved category above her, who had to be preferred over her, there was no point in her signing the attendance register. A perusal of the attendance register, shown to the Court, would reveal that even though there were about 33 candidates in the concerned reserved category, only eight had signed the attendance register. Petitioner's signatures are not available on the attendance register and it is not even her case that she had actually signed the attendance register. As mentioned above, her case is that there was no necessity of signing the attendance register as there were number of candidates above her. On the pleadings of the parties, as have been reflected above, we would first like to deal with the larger aspect of the case and would then delve, if necessity might arise, upon the issue of non-signing the attendance register by the petitioner and its effect. The larger issue, in our view, is the procedure of first interviewing the reserved category candidates and thereafter the general category candidates. Mr. Rajiv Atma Ram, learned counsel for the petitioner, vehemently contends that such a procedure is violative of Article 14 of the Constitution of India as this would mean that a candidate belonging to the reserved category is not allowed to seek admission in the seats meant for general category and, therefore, the reservation instead of working to the benefit of the reserved categories would work to their detriment. For his aforesaid contention, learned counsel relies upon a Division Bench judgment of this Court in *Jaskaran Singh v. State of Punjab* 1995 (1) RSJ 510. The facts of the aforesaid case reveal that admissions to the M.B.B.S./B.D.S./B.A.M.S. courses for the academic session 1994-95 in all the three State Medical Colleges, two State Dental Colleges and Government Ayurvedic College, Patiala, were made by holding a Common Entrance Examination. Admission to various reserved categories was also provided under the prospectus. Petitioners 1 to 4 in the said case, were of the reserved category of children/grand children of political sufferers whereas petitioner No. 5 applied for the reserved seat for sportsmen/sportswomen. Similarly, petitioner No. 6 had

applied under the category of children of serving/ex-servicemen. They were successful in the examination as they had obtained more than the minimum marks required but were not given admission as they were lower in merit than those who had been admitted in those categories. It was common case of the parties that some of the candidates who had been admitted against the reserved seats had secured more marks in the PMT examination than the candidates admitted in the general category. The grievance of the petitioners was that the candidates belonging to the reserved categories who had been selected and had obtained more marks than the candidates in the unreserved categories should be admitted against the seats meant for the unreserved candidates. According to the petitioners, if that was to be done, some of the candidates admitted against the reserved seats would have been given admission against the open seats and the seats meant for the reserved categories would become vacant and the petitioners would have had a chance for being admitted against those seats. The admission made on the result of PMT examination held by the University, were sought to be justified on the basis of the government instructions circulated as per letter dated 19-10-1983 according to which admissions were first made against the reserved seats and after filling those seats, the open merit seats or the un-reserved seats were filled up. This is the precise position available in the present case as would be evident from the Admission Brochure and the pleadings of the parties.

10. While considering the effect of the instructions, referred to above, the Court observed that "a perusal of the aforequoted instructions would make it clear that prior to their issuance the method adopted for admitting students against open category seats and the reserved seats was that from the merit list of all the students including the reserved and unreserved categories admission was given to them on merit and after filling up the open category seats, the remaining candidates belonging to different reserved categories were offered admission against the reserved seats. This system was given a go-bye by the instructions and the State Medical Colleges were directed to do otherwise. In our opinion, the instructions as they now stand are unreasonable and frustrate the very purpose for which reservations are intended to be made. The object of any reservation is to give some benefit by reserving a few seats for that class for whom reservation is made." It was further held that "the implementation of the present policy of the State Government would mean that a candidate belonging to the reserved category is not allowed to seek admission against the seats meant for general categories and the reservation instead of working to the benefit of the reserved categories would work to their detriment. The effect of such instructions would be that students falling in the reserved categories can only claim the reserved seats and if they fair better than others in the open competition, they will not be allowed to occupy any unreserved seat. In other words, it means that only such number of candidates from reserved category would be allowed admission as are equal to the number of reserved seats even though larger number from that class may have secured more marks than the candidates in the general category.

This, in our opinion, is arbitrary and violative of Article 14 of the Constitution". The Bench for its view, as has been mentioned above, relied upon observations of the Bombay High Court in *Dr. Ravindra Sahadeo Sonawane Vs. The Dean, Grant Medical College, Bombay and Others*, , and of Gujarat High Court in *Sida Nitinkumar Laxman Kumar Laxmanbhai v. Gujarat University* AIR 1991 Guj 43, as also the observations of the Supreme Court in *Indra Sawhney v. Union of India* 1993 (1) RSJ 1. That being the settled position, the instructions/rules in the present case of first interviewing the reserved category candidates have also be held violative of Article 14 of the Constitution. We may only add that providing reservations either in admissions or in public appointments to various jobs, is in itself a contentions issue and there have always been arguments for and against the same but as long as the reservations, which may be called concessions have protective umbrella of the Constitution, these have to be fully adhered to, After holding so, there hardly remains anything else to be determined in this writ but since the parties have addressed arguments on the basis of clause 1.3.5 dealing with the presence and signatures of the candidates on the attendance register, we might as well deal with the same. Clause 1.3.5, only a part whereof has been reproduced in the written statement, when taken from the brochure, reads thus :--

"The allotment of branch at the time of admission will be made on the basis of the seats available in a particular branch at that time, the order of preference for various branches given by the candidate and his/her merit. However, if any seats fall vacant due to some of the students leaving the institutions before the last date of admission prescribed by Panjab University, the same will be filled up from wailing list as per merit. The waiting list consists of candidates with merit position immediately next below the last admitted candidate in a particular branch in the main interview. These candidates may have been admitted already in any of the UT institution or not. However, those candidates who have not been admitted in any of the U.T. institution, must have been present and have signed the attendance to be eligible to be on the waiting list. Those candidates who refused admission in a particular branch in a UT institution in the main interview shall not be considered for a admission against the resultant vacant seat in that branch. The candidates desirous of seeking admission against the vacant seat will have to be personally present along with the original certificates on the respective date of admission for the vacant seats".

The clause aforesaid, as has been reproduced in the written statement, starts with the sentence "the waiting list consists of candidates". When read as a whole, in considered view of this Court, clause 1.3.5 of the Admission Brochure does not take of presence of reserved category candidates on the first date of interview. It rather talks of seats falling vacant due to some of the students leaving the institution before the last date of admission prescribed by the Punjab University. The said seats have to be filled up from the waiting list as per merit. The candidates, who are on the waiting list, might have been already admitted in any of the U.T. institution or not but those who have not been admitted in any of

the U.T. institution, must have been present and have signed the attendance to be eligible to be on the waiting list. The clause, referred to above, thus, cannot be faulted on any ground but, as referred to above, in our view, it does not deal with the reserved category candidates and their first date of interview. That being the situation and no other clause of the Admission Brochure having been pointed out to us dealing with the situation in the present case, the petitioner cannot be blamed for not having signed the attendance register when the respondents had fixed first date of inter-veiw for reserved category candidates. As mentioned above, she could not possibly be admitted on that date as the respondents had actually admitted a candidate far above her in the merit and admittedly there was only one seat reserved in the category to which the petitioner belongs. As per clause 1.3.5, even if the same might pertain to reserved category candidates in our view, their presence may be essential on the date when on merit they might fall in the zone of consideration for admission. The basic ground pressed into service by the respondents, thus, pleading that the petitioner is not entitled to the relief asked for by her, is repelled.

11. Before we part with this judgment, we may only add that the stand of the respondents that Charandeep Singh was not eligible for being shifted to general pool as he did not apply in time, has not been found to be correct from the records as also that his asking to shift him to the open pool was of no meaning and consequence, even though it is proved on records that he had made such prayer. We would also like to add that one of the members of the Joint Admission Committee had lodged very strong protest, as is clear from the perusal of Annexure P-6 and had even quoted Rules in his detailed letter of protest. Dr. Bhatti, on an earlier protest lodged by the same very member of the Committee, had agreed for shifting Pooja Aggarwal to the general category pool but when the case of Charandeep Singh for shifting him from reserved category to open pool came for consideration, he did not follow the Rules. We only observe that respondent No. 5-Dr. Bhatti was not justified in not adhering to the Rules and leave the matter there. We may also observe that Dr. Bhatti was not justified in not admitting in clear terms and protests lodged by Mr. U.S. Bakshi, in the written statement, mention whereof has been made in the earlier part of this judgment and leave this matter also there alone.

12. In view of the discussions made above, the respondents are directed to admit the petitioner in B. Arch. course forthwith subject to verification that all above her in the category she applied have since been admitted or accommodated elsewhere. It requires to be mentioned that Mr. Rajiv Atmaram counsel representing the petitioner has informed the Court that all candidates who have better merit than the petitioner in the concerned category have since been admitted. On verification if that be not found to be correct, the admission in the concerned category would be given to the candidate as per his/her merit. We are quite conscious that admission of the petitioner might be at the cost of respondent No. 6 and that in so far as she is concerned, she was not at all at fault and it is for the doings of her father because of not following the rules of

admission that she was admitted to the course of B. Arch. at the cost of the petitioner. She has already put in about six months in the course of B. Arch. Mr, Ashok Aggarwal, learned senior counsel appearing on behalf of the U.T. Admmistra-tion, informs us that there is still one seat vacant, even though the same is in the category of nominations. If that be possible, for the respondents to accommodate respondent No. 6 in the said seat or any other seat, the Court desires that she may be allowed to continue but if that be not possible and with a view to admit the petitioner it might become necessary to cancel the admission granted to respondent No. 6, then that has to be done and we order accordingly. In that event, we can only sympathise with respondent No. 6 and do nothing more.

13. This petition is allowed in the manner indicated above leaving, however, the parties to bear their own costs.

14. Petition allowed.