

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.16389 of 2015

Date of decision: 1.9.2015

Surinder Pal

...Petitioner

Versus

Dr. B.R.Ambedkar, National Institute of Technology and others

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Sandeep Arora, Advocate for the petitioner.

Mr. Vivek Singla, Advocate for the respondents

G.S.SANDHAWALIA, J. (Oral)

The present writ petition has been filed for issuance of a writ in the nature of Mandamus directing the respondents to admit the petitioner to Ph.D. Industrial and Production Engineering full time Course for the academic session 2015-16 on the basis of entrance test conducted in June, 2015.

It is not disputed that in pursuance of the advertisement, the petitioner had applied for admission regarding the said course and was amongst the list of successful candidates which mentions as many as 28 persons as per merit list prepared in Annexure P/3. In pursuance of the said result whereby the petitioner secured 44 marks out of 60, he along with other candidates appeared for the purpose of interview. Similarly for other courses, list of selected candidates were put up but for the said course notice was put up that no candidate was recommended by the Departmental Admission Committee. Resultantly, the petitioner approached this Court taking the plea that once the applications were invited and students had taken their chance in the combined entrance test, the institute could not act on its whims and fancies in not granting the admissions to the course which had been duly advertised.

The defence of the Institute is that neither the Departmental Admission Committee has recommended the name of the petitioner nor any suitable candidate for admission to the said course was found. As per terms of the advertisement, the criteria for the selection procedure was that admission was to be made through an entrance test to be conducted by the

respective departments and the candidates who qualify the entrance test were to be called for interview. The minimum qualifying marks would be 40% i.e. 24 out of 60 marks whereas for SC/ST candidates qualifying marks were to be 21 out of 60. For the purpose of preparing the merit list, the weightage of 80% was to be given to the entrance test score and 20% to the interview. The selection criteria reads as under:-

“C) Selection Procedure

The admission to the Ph.D. Programme (Full Time) in all disciplines shall be made through an entrance test to be conducted by the respective department. Only those candidates who qualify the entrance test shall be called for interview. The minimum qualifying marks in the entrance test for general category students shall be 40% i.e. 24 marks out of 60. For SC/ST/OBC candidates, the minimum qualifying marks shall be taken as 21 out of 60. To prepare merit list, 80% weightage shall be given to the entrance test score and 20% to the interview.”

It is not being denied that the said process has not been carried out as such. In the reply filed, the only defence as noticed is that Departmental Admission Committee was not satisfied. There is not even a whisper as to the factum of awarding marks as per requirement of selection process.

On an earlier occasion also, this Court had to deal with the similar controversy to the course of Ph.D. Mathematics Full Time in respect of the same Institute for the academic session 2013-14 in **Civil Writ Petition No.2424 of 2014-Isha Garg Vs. Dr. B.R.Ambedkar National Institute of Technology & others** decided on 21.4.2014. In that case also, the said Institute took the plea that recommendation of the Admission Committee was not unanimous and admission was not granted. The said writ petition was allowed with the following directions:-

“Accordingly, the present writ petition is allowed, the petitioner-Institute is directed to make admissions for the Ph.D (Mathematics) full time course. In the peculiar facts and circumstances of the present case, it is further directed that the University shall also issue notice to all the persons who were selected and inform them that it is open for them to appear and deposit fee for the course they had applied for and in case they wish to do so, the said persons shall also be entitled to admission in the said course. Writ petition stands disposed of with the abovesaid directions.”

Reliance was also placed upon the Division Bench judgment of this Court in **Association of Education Colleges Vs. Haryana State 2009 (1) SCT 157** to note that infrastructural requirement are a valuable

resource and should not be allowed to go waste. Relevant portion of the judgment reads as under:-

“14. The next question then is whether this Court should permit admissions or let the available seats go waste, Which out of the two options would serve the ends of justice is the only question that detained us. If one were to adopt a pedantic and hyper technical approach, one could say that admissions need not be made at this stage as the University's apprehension of dilution of academic standards and disturbance of academic calendar should not be disregarded. The wisdom behind that approach however, appears out- weighed by the compelling need to avoid the wastage of seats and denial of an opportunity to eligible students to get admitted against the same. It is true that academic standard needs to be maintained and academic decisions by expert bodies respected as far as possible, but it is equally true that when admissions are delayed, a certain amount of adjustment can and ought to be made by the Institutions as also the affiliating University. These adjustments do not, however, necessarily dilute the academic standard as is apprehended by the University in the instant case. The Institutions are ready and capable of making up the requisite number of working days by holding special classes for the students, who have joined late. The admission granted at this stage will not also require the University to compromise on the 40 days practice teaching or the percentage of lectures, which a student must have for being declared eligible for taking the examination. It is noteworthy that candidates admitted to a session has to perform by the same standard as is required of the other candidates in order to be declared successful in the examination. If a student, otherwise admitted late, is unable to come up to the standard of the University, he/she will be declared unsuccessful. Super-added to the above is the fact that the number of students, who may even now seek admissions, may not be very large to require holding of any test to determine their inter-se merit for grant of admission. The argument advanced by Mr. Gupta that the Colleges may have to hold independent CET for granting admissions, which may delay the completion of admission process, is in our opinion, misplaced. Such a situation could arise only where the number of students applying is more than the number of seats available in the Institutions. That, however, is not the position in the instant case. Even so, the apprehension that lesser merited students may be admitted while ignoring meritorious students, can be allayed by directing that the Institutions shall grant admissions

strictly in accordance with the merit in the qualifying examination, which is one of the recognized norms for granting such admissions.”

Accordingly, the present writ petition is allowed. The respondent-Institute is directed to admit the petitioner to Ph.D. Industrial and Production Engineering full time Course. The respondent-Institute shall also issue notice to all the persons who had applied for and duly qualified as per merit list prepared and inform them to appear and deposit fee for the Course they had applied for and in case they wish to do so, the said persons shall be entitled to admission in the said course.

Keeping in view the track record of the respondent-Institute, costs of ₹ 25,000/- is imposed upon the Institute which shall be paid to the Mediation and Conciliation Centre of this Court within four weeks. However, it is open to the institute to recover the said cost from the defaulting officials.

September 01, 2015
Pka

(G.S.SANDHAWALIA)
Judge