

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 25855 of 2013
Decided on : 02.09.2015**

Deepak Rani

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present : Mr. Raje Ram Kaushik, Advocate
for the petitioner.

Mr. Saurabh Girdhar, AAG, Haryana
for respondents No.1 and 2.

Mr. Tribhuvan Dahiya, Advocate
for respondent No.3.

Mr. Ashish Rawal, Advocate
for respondents No.4 and 5-NCTE.

G.S. Sandhawalia , J. (Oral)

The challenge in the present writ petition is for issuance of a writ in the nature of mandamus to the respondents to admit the just cause of the petitioner and grant her 5% marks in Haryana Teacher Eligibility Test (HTET) and declare her as qualified.

The case of the petitioner is that she is a backward class candidate and had appeared in Haryana Teacher Eligibility Test 2012-2013 conducted on 01/02.06.2013 by the respondent No.3. She score 87 marks out of total 150 marks and, therefore, as per the result she has not qualified, in view of the fact that she had to score 60% (90 marks).

Counsel for the petitioner on behalf of the petitioner submits that as per Clause 9 (a) of the notification dated 11.02.2011 (Annexure P-3) issued by the National Council of Teachers Education, State was to consider giving concessions to persons belonging to SC/ST, OBC, differently abled persons etc.

It is submitted that the benefit has been given to SC/ST and physically handicapped persons, but has been declined to the petitioner who belongs to the OBC category and, therefore, the writ petition in the nature of mandamus is sought. The petitioner would qualify, if 5% benefit is granted as she has 87 marks.

The said argument cannot be accepted, in view of the fact that admittedly in pursuance of the information/bulletin (Annexure P-4) which was issued by the Board, it was specifically mentioned that for all categories except Scheduled Castes and Differently abled/Physically Challenged the qualifying marks would be 60% (90 Marks), whereas, for Scheduled Castes and Differently abled/Physically Challenged qualifying marks would be 55% (83 Marks). The petitioner knowing the terms of the information/bulletin took a chance and sat in the examination. Her result was declared on 17.07.2013, whereby she failed to make the cut-off. She had accepted the terms of the bulletin and at no stage had opted to that point of time to approach this Court to seek a mandate that the said benefit be also given to OBC candidates. Once she has taken a calculated chance in the examination and failed to be

successful, as per the terms and conditions she cannot now turn around and contend that benefit should have also been given to the backward class candidates. The notification dated 03.10.2012 (Annexure R-3/1) was published by the State, wherein the persons belonging to the Scheduled Castes and Differently abled persons were given the concession of 5% and at that stage in pursuance of the said notification the information/bulletin had been published. The principle of estoppel would thus come in the way of the petitioner and she has no locus-standi now to contend that she was also entitled for the benefit of 5% concession. The challenge had never been raised at the initial stage and cannot now be raised on being unsuccessful. It has time and again been held by six Full Bench decisions of this Court that admission brochure or the prospectus has a force of law which is to be strictly followed. Reference can be made to Amardeep Singh Sahota Vs. State of Punjab 1993(4) S.C.T. 328, Raj Singh Vs. Maharishi Dayanand University 1994(2) S.C.T. 766, Sachin Gaur Vs. Punjabi University 1996(1) S.C.T. 837, Rahul Prabhakar Vs. Punjab Technical University, Jalandhar 1997(3) S.C.T. 526, Indu Gupta Vs. Director of Sports, Punjab 1999(4) S.C.T. 113 and Rupinder Singh and others Vs. The Punjab State Board of Technical Education & Industrial Training, Chandigarh and others 2001(2) S.C.T. 726. The relevant observations made in **Rahul Prabhakar's** case (supra) read as under:-

“7. A Full Bench of this Court in Amardeep Singh Sahota v. State of Punjab, (1993) 4 SLR 673 : 1993(4) SCT 328 (P&H) (FB) had to consider the scope and binding force of the provisions contained in the prospectus. The Bench took the view that the prospectus issued for admission to a course, has the force of law and it was not open to alteration. In Raj Singh v. Maharshi Dayanand University, 1994 (4) RSJ 289 : 1994(2) SCT 766 (P&H) (FB) another Full Bench of this Court took the view that a candidate will have to be taken to be bound by the information supplied in the admission form and cannot be allowed to take a stand that suits him at a given time. The Full Bench approved the view expressed in earlier Full Bench that eligibility for admission to a Course has to be seen according to the prospectus issued before the Entrance Examination and that the admission has to be made on the basis of instructions given in the prospectus, having the force of law. Again Full Bench of this Court in Sachin Gaur v. Punjabi University, 1996 (1) RSJ 1 : 1996 (1) SCT 837 (P&H) (FB) took the view that there has to be a cut off date provided for admission and the same cannot be changed afterwards. These views expressed by earlier Full Benches have been followed in CWP No. 6756 of 1996 by the three of us constituting another Full Bench. Thus, it is settled law that the provisions contained in the information brochure for the Common Entrance Test 1997 have the force of law and have to be strictly complied with. No modification can be made by the Court in exercise of powers under Article 226 of the Constitution of India.”

Apart from the fact that principle of estoppel would also apply to the petitioner and therefore, having participated in the said process without any demur she cannot now turn around and challenge the qualifying criteria itself. Reference can be made to the judgment of the Apex Court in **Dhananjay Malik and others**

Vs. State of Uttaranchal & others 2008(3) RSJ 223 wherein it was held that a candidate having taken calculated chance cannot turn round and contend that the process was unfair. Advertisement and the selection process had to be challenged without participating in the selection process. Similarly a Division Bench of this Court in **Yoginder Singh Yadav Vs. State of Haryana 2002(2) S.C.T. 281** also held to the same effect.

In such circumstances and keeping in view the settled principle of law, there is no scope for interference in the present writ petition and the same is dismissed accordingly.

Needless to say, it is always open to the petitioner to seek a mandamus for necessary relief for subsequent examination, if tenable.

SEPTEMBER 02, 2015

Naveen

**(G.S. SANDHAWALIA)
JUDGE**