
IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.24189 of 2015

Date of decision: 27.11.2015

Rao Harlal Bohra Shiksha Samiti (Regd.) and others **...Petitioners**

Versus

State of Haryana and another **...Respondents**

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

Present: Mr. R.K.Malik, Senior Advocate with
Mr. Ramandeep Singh, Advocate for the petitioners.

Mr. Keshav Gupta, Assistant Advocate General, Haryana
for the respondents.

G.S.SANDHAWALIA, J. (Oral)

In the present writ petition, mandamus is sought to fill up vacant seats of Diploma in Education which have remained vacant on account of candidates not forthcoming from reserved categories. The said seats are to be filled up from amongst general category candidates.

Senior counsel has relied upon similar directions issued for the last academic year in **Civil Writ Petition No.23829 of 2014-Hari Singh Nalwa Trust (Regd.) Vs. State of Haryana** decided on 4.12.2014 (Annexure P/3).

Counsel for the State in response to notice of motion order has placed on record letter dated 26.11.2015 addressed by respondent no.2 to the Advocate General, Haryana. It has been admitted in the said letter that for the said course there are as many as 1815 reserved seats belonging to SC, BCA and BCB which are still lying vacant in various self financing colleges of Haryana which are running Diploma in Education Course. However, it is averred that first semester examination are going to be conducted in the month of January, 2016 and 110 study days are mandatory and the Principals of self financing colleges are to arrange extra classes for this purpose. It has also been averred that expenses to the tune of ₹ 3 lacs should be deposited by the petitioner colleges in advance so that the 11th round of counseling would be conducted. Relevant portion of the letter reads as under:-

“Even then as many as 1815 reserved seats (SC-562+ BCS-713+BCB-540 +Gen. Nil) are still lying vacant in various self financing colleges of Haryana running D.Ed. course. Moreover, it is stated that first semester examination are to be conducted in the month of January, 2016 by the Board of School Education Haryana, Bhiwani and for first semester 110 study days are mandatory as per rules for which the undersigned has requested to all the Principals of self financing colleges to arrange extra classes for this purpose. Hence one more counseling can't be conducted for this reason.

During the last session 2014-15, CWP No.23829 of 2014 was filed in this Hon'ble High Court by the various self financing colleges of Haryana running D.Ed. course for one more counseling at the cost of petitioners and this Hon'ble Court vide its order dated 4.12.2014 directed the State causes an advertisement to be issue at the cost of the petitioners for admission to D.Ed. course for the session 2014-15 before 12.12.2014 and so on.

Any how, if the same directions are given to the State during the current session 2015-16 by this Hon'ble High Court in the above writ petition, then the petitioners will have to deposit Rs.3,00,000/- in advance in the office of Director SCERT Haryana Gurgaon only then 11th round of counseling would be conducted by the undersigned because after counseling it is not feasible to collect the cost of advertisement and other counseling expenses from the petitioners on the plea that when the vacant seats are being filled in all the self financing colleges of Haryana then the cost of advertisement/counseling may be paid by them and not by the petitioners only.”

This Court in **Hari Singh Nalwa Trust's case** (supra) has observed as under:-

“5. Even the decision not to fill up the seats from the reserved category which are not filled up does not appear to be fair. Issues of policy are normally left with the State to decide and if there is a policy taken that the reserved category shall not be transferred, then if a challenge is brought, there needs to be an answer as to why such a

transfer shall not be possible or how it will affect the composition of the educational environment in the institutions. The answer cannot be merely that the policy does not allow the same. The reply begs the question of what it has to answer and does not address the true concern of the institutions to allow seats to be left vacant when they have sufficient infrastructure to handle them. After all the students' strength of every college is assessed on the availability of infrastructure and if there are additional number of students, who could be admitted with the available infrastructure, it makes little sense to completely block any entry from the seats meant for reserved category, if they are not filled up for the benefit of general candidates. I will not state that the policy itself restricting a transfer to be bad but at least in this situation where there is an admitted position that 750 reserved seats are still lying vacant, it makes no sense to support such a situation.

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7. The learned senior counsel appearing on behalf of the petitioners states that they will absorb the expenses for publication for filling up the seats within a week by newspaper advertisement and carry out admissions within the time set by the court. I would accept the proposal as meaningful and direct that the State causes an advertisement to be issued at the cost of the petitioners for admission to D.Ed. Course for the Session 2014-15 before 12.12.2014 and carry out admissions for the seats which are still vacant firstly, for the reserved category within the State and if the seats are not filled up on the 1st day, to allow for admission to all the candidates under general category without reference to restriction regarding domicile or place of birth. The admissions shall be completed within a period of one week and the State may adopt usual procedure of a common admission and allocation of candidates to various colleges in the order of merit.

8. The writ petition is disposed of as above.”

Keeping in view the fact that the State is also willing that the infrastructure be utilized and should not go waste, the present writ is disposed of subject to direction that the petitioners shall deposit a sum of ₹ 3 lacs within a

period of five days from today. Then the respondent no.2 will take necessary action for issuing concerned advertisement for the session 2015-16 for the vacant seats. The admissions shall be completed thereafter within one week by following the usual procedure of common admission and allocation of the candidates to various colleges by way of merit. The respondents shall also ensure that the mandatory 110 study days are also fulfilled by the candidates who are given admissions in all institutes by ensuring that the said institutes hold extra classes for the students who are admitted now.

November 27, 2015
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(G.S.SANDHAWALIA)
Judge