

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.27609 of 2013

Date of Decision.11.02.2015

Jashan Preet Singh

.....Petitioner

Versus

Baba Farid University of Health Sciences and othersRespondents

Present: Mr.Tasleen Singh, Advocate
for the petitioner.

Mr. Ranbir Singh Pathania, DAG, Punjab.

Mr. Ashish Rawal, Advocate
for respondent Nos.1 and 2.

Mr. S.S. Brar, Advocate
for respondent No.3.

Mr. A.K. Khunger, Advocate
for respondent No.4.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. The petitioner who was granted admission to a private medical college on the basis of merit in a private institute had a grievance that in the order of merit, he must have been admitted in a reserved quota as a backward class candidate in a Government college itself and the denial of admission to the Government college on a plea that he could not be considered under BC quota since the income criteria was not satisfied. The petitioner's contention is that he had produced a BC certificate in the pro forma prescribed in the prospectus

and if the petitioner's status as a backward class candidate was found to be genuine, the denial of admission in a Government college under BC quota was not tenable.

2. The issue that the petitioner belongs to the Backward Class is contested by the University on a plea that as per the specification in the prospectus, the definition of person belonging to backward class shall have "Backward Class certificate must be as per the latest instructions of the Government of Punjab in that the annual income of the family is specifically certified." The pro forma and the certificate which was produced referred to a detail as follows:-

"This is also certified that he/she does not belong to any category of persons/sections mentioned in column number 3 of the schedule of Punjab Government, Government of Welfare letter No.1/41/93-RC 1/1597, dated 17.08.2005 and number 1/41/93-RC1-209 dated 24/02/2009 for BC."

The certification which showed that she did not belong to the category as mentioned in column No.3 of the Schedule was required to be only, therefore, in the context of what the Schedule contained in column 3. The Government of Punjab Schedule prescribes as under:-

Category	Description of category	To whom the rule of exclusion will apply
V	Income/Wealth Tax	Son(s) and daughter(s) of a) persons having gross annual income of ₹ 4.5 lakh or above or possessing wealth above the exemption limit as prescribed in Wealth Tax Act for period of three consecutive years. b) persons in category I, II, III and VA who are not disentitled to benefit of reservation but have income from other sources of wealth which will bring them within the income/wealth criteria mentioned in (a) above. Explanation: Income from salaries or agricultural land shall not be clubbed.

3. The column 3 would indicate, therefore, that a person having gross income of ₹ 4.5 lacs or above must be treated as a ward of the parents whose income was more than ₹ 4.5 lacs and could not, therefore, be taken as person falling within the category of Backward Class as per column No.3. The explanation makes it clear that income from salary or agricultural land shall not be clubbed. The income certificate which the petitioner had appended along with his own application showed that his father was drawing a salary of ₹ 51,156/- per month as CDPO at Kapurthala and his mother was drawing monthly salary of ₹ 42,560/- as Lecturer in Maths in a school at Urban Estate Phase II. Their aggregate annual income was close to ₹ 12 lacs and as per the notification of the Government, they did not fall within the backward class community at all. The certificate which was issued by the Government in the pro forma that the petitioner did not belong to the category as mentioned was clearly wrong and it has been issued by the Tehsildar without referring to the documents correctly.

4. The petitioner makes a wrong status for himself by securing an information through an alleged Government approved response that the annual family income must be taken as "excluding salaries and income from agricultural land." This response obtained in RTI against the annual income above only shows that the Tehsildar has performed his duty imperfectly and that has given rise to whole controversy. Even now, the State Counsel is prepared to vouch for the alleged correctness of the certificate which I reject as untenable. The genuineness, if the State is prepared to vouch must only be taken as the vouching that the Tehsildar has issued the certificate and not the correctness of the

particulars contained in the certificate. The denial of admission to the petitioner as candidate belonging to the Backward Class category was under the circumstances perfectly justified and I find no cause for interference. The State shall take appropriate action against the Tehsildar Jallandhar for having issued the certificate without having the income status of the parents and certifying that the person did not belong to the excluded category of persons. The action shall be taken by the Deputy Commissioner of the Jallandhar Division against the particular Tehsildar who had issued the certificate on 05.07.2013 to Narender Singh son of Sant Singh. The copy of the order be communicated to the Deputy Commissioner, Jallandhar for carrying out the directions given by the Court.

5. The writ petition is dismissed on the above terms.

(K. KANNAN)
JUDGE

February 11, 2015
Pankaj*