

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.19649 of 2012
Decided on :08.08.2016

Ankit Thakran

... Petitioner

Versus

State of Haryana & others

... Respondents

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

Present : Mr. Sushil Jain, Advocate, for the petitioner.

Mr. Gaurav Jindal, Addl.A.G., Haryana.

G.S. Sandhawalia, J. (Oral)

Petitioner seeks quashing of the order dated 17.09.2012 (Annexure P9) whereby his admission was cancelled in the B.Tech (Bio Technology) by the Registrar of the respondent No.3-University.

The ground for cancellation was that the petitioner had been admitted against the resident category of "Village Murthal" (ROM) for the session 2011-12. The same was passed on the verification report received from the Tehsildar, Sonapat that the petitioner was residing at Zilmil Dhaba, G.T.Road, Village Murthal and was not a resident of Village Murthal. The reply received from the petitioner, to the show cause notice dated 23.05.2012 (Annexure P5) was found to be unsatisfactory and accordingly, the admission was cancelled, which had been granted under the ROM category.

Petitioner was granted interim protection vide order dated 12.10.2012 and he was allowed to attend the classes at his own risk and responsibility. Thereafter, the writ petition was admitted on

21.12.2012, with the direction that the interim order would continue.

Counsel for the petitioner has rightly pointed out that the impugned order is absolutely non-speaking and does not take into consideration the reply to the show cause notice, which the petitioner had filed on 13.06.2012 (Annexure P6).

It is not disputed that the petitioner was served show cause notice dated 23.05.2012, asking him to explain why his admission should not be cancelled, on account of the report received from he Tehsildar, Sonapat vide which, he has been shown not to be a resident of Village Murthal. A perusal of the reply filed would go on to show that the petitioner placed material before the respondent-University to show proof of his residence by way of Ration Card bearing Sr.No.B109139 and also his Voter Card and Passport, to show that he was resident of the village. Mutation of inheritance and sale deed No.4677 dated 12.03.1978, were also part of the reply and the Haryana Residence Certificate, issued on 29.04.2010 (Annexure P4) by the Tehsildar, Sonapat.

A perusal of the verification report issued by the Tehsildar (Annexure R2) would go on to show that the petitioner was held not to be a original resident of Village Murthal and it was on that account, a show cause notice had been issued. Petitioner has, now, placed on record the revenue record dated 11.07.2011, showing that it has been verified that the petitioner's grandfather had purchased the land on 12.03.1978 in the said village. The petitioner's father, Baldeep Singh

having expired, the mutation was sanctioned in favour of the petitioner's mother and other legal heirs including the petitioner on 23.08.2001, vide rapat No.849 (Anneuxre P10 Colly.). Counsel for the petitioner, is well justified in placing reliance upon Clause 2.2 (b) (f) & (g), of the guidelines to submit that the petitioner and his parents were permanent resident of the village and owning immovable property and merely because they were not original residents, cancellation of the admission was not justified. The said clauses read as under:

“(d) Children/ward (if parents are not living) dependents of persons who have permanent home in that village and include persons who have been residing in that village for a period of not less than 15 years or who have permanent home in that village but on account of their occupation they are living outside that village.

(f) Persons who were born in that village and produce a certificate to that effect provided that the parents/guardians (if parents are not living) of person belonging to any one of the above mentioned categories are Citizen of India.

(g) Children/wards (if parents are not living) dependent of persons who have immovable property in that village but may be living in that village or other place than that village.”

The petitioner has also placed on record his birth certificate to show that he was born at Murthal (Annexure P1). Similarly, it is also not disputed that he is the resident of Village Murthal and staying at the GT road behind the Zilmil Dhaba.

Merely because he was not the original resident for the last 30 years, would not disqualify him, as such, from getting the benefit of

admission on the clause of being permanent resident, once his grandfather was having immovable property in Village Murthal and accordingly, the impugned order cannot be sustained and the same is, hereby, quashed. It is, accordingly, directed that the respondent-University shall issue the relevant certificates, in case the petitioner has passed out of the said course.

Writ petition stands allowed, in the above-said terms.

AUGUST 8th, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No