

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

**CWP No.13987 of 2016
Decided on :02.12.2016**

Noor Swapan Malhi

... Petitioner

Versus

Union of India and others

... Respondents

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

Present: Mr. APS Gill, Advocate
for the petitioner.

None for respondent No.1-UOI.

Mr. Harsh Aggarwal, Advocate
for respondent No.2-CBSE.

Ms. Lavanya Paul, AAG, Punjab
for respondent No.3.

Mr. J.S. Puri, Advocate
for respondent No.4-PSEB.

G.S. Sandhawalia, J. (Oral)

The petitioner seeks direction against respondent No.2 to revamp the qualifying criteria for admission in Joint Entrance Examination (Main)-2016.

The grouse of the petitioner who had passed her 10+2 from Central Board of Secondary Education, New Delhi in the year 2016 with 93.4% marks is that the respondent-Board had arbitrarily and unjustifiably allotted 30 marks to each and every student who had appeared in the current year. It is submitted that the children who had appeared with the respondent-board had benefitted as such and the students from other boards had been put to disadvantage, while seeking admission in higher courses.

In the written statement filed by respondent No.4-Board, the stand taken is that Committee of Members of Subject Experts had been constituted who examined the different sets of papers. The issue before the Committee was (i) whether the questions are within the syllabus prescribed, (ii) Comparative difficulty/complexity levels of all the three sets, (iii) Misprint, if any in the question paper and (iv) Ambiguous/unclear question or statement. It is further submitted that the report was prepared with the approval of the competent authority for grant of credits if any. There was no uniform grant of marks to all the candidates across the board, but only to those who attempted a particular set and for which Committee has opined that credit is to be given on the basis of abovesaid four reasons.

The procedure, thus, which has been explained does not suffer from any infirmity, as admittedly, even the Apex Court in '**Kanpur University and others Vs. Samir Gupta and others'** 1983 **Supreme Court 1230**, has held that where there are incorrect answer keys, it is the responsibility of the board as such to rectify the said error.

Secondly, it has been submitted that grace marks have been given only for the purpose of passing the candidates. Therefore, the benefit of such grace marks will only be given to those students who are not making the grade and the petitioner cannot have any grouse against the same.

Lastly, it has been submitted that there is moderation process, which is exercised to compare the ratio of passed students with

the students of the earlier years and in case the ratio is less than upto 3 marks are to given to all candidates, who have failed after obtaining the grace marks. This benefit which has been adopted by the respondent-board would not affect the petitioner in any way, since, the benefit is only given to those candidates who have failed.

The petitioner as noticed above has got 93.4% marks and for competitive examination like JEE examinations etc., the students who are barely making the grade are nowhere in the zone of consideration and even if are granted the above mentioned benefit would not come within the same anyway, therefore, the arguments raised by the counsel for the petitioner are without any basis.

Accordingly, the present writ petition is dismissed.

DECEMBER 02, 2016

Naveen

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

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No