

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

**CWP No.27399 of 2015
Decided on : 10.11.2016**

Manmohan Sharma

... Petitioner

Versus

Dr.B.R.Ambedkar National Institute of Technology & others

... Respondents

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

Present: Mr.Sandeep Arora, Advocate, for the petitioner.

Mr.Vivek Singla, Advocate, for respondents No.1 to 5.

G.S. Sandhawal, J. (Oral)

Prayer in the present writ petition is for directing the official-respondents to admit the petitioner to Ph.D. (Full Time Course) in Computer Science and Engineering with stipend or in the Part Time Course in respondent No.1-Institute for academic session 2014-15, on the basis of the entrance test conducted in June, 2014. Further prayer has been made for quashing the result declared by the Admission Committee (Annexure P13) and restraining the official-respondents from admitting any other person in the Ph.D. (Faculty) full time/part time course, till the decision of the present case.

A perusal of the pleadings would go on to show that the petitioner is a handicapped candidate who has been trying to seek admission in the Ph.D. Computer Science and Engineering Full Time/Part Time Course for the last 3 years with the respondent-Institute, which would be clear from the reply filed by the respondent-Institute. It is not disputed that as per the eligibility criteria of the advertisement (Annexure P5), the candidates who qualify the entrance test were to be called for the

interview and the merit-list was to be prepared whereby 80% weightage was to be given for the written entrance test and 20% for the interview. The petitioner was in the merit-list and had qualified for the interview, which would be clear from Annexure P6 whereby his name figured at Sr.No.17 for full-time candidates and at Sr.No.10 for part-time candidates. On account of not being recommended, as per Annexure P13, he had approached this Court initially by filing CWP-15999-2014, which was withdrawn on 28.08.2014, by granting liberty to file a fresh one (Annexure P16). Thereafter, under the Right to Information Act, 2005, the petitioner took information that no Ph.D. handicapped candidate had been admitted for the last 3 years in the respondent-Institute. Resultantly, the present writ petition has been filed on the said ground.

While issuing notice of motion on 24.12.2015, the Court noticed the contentions of counsel for the petitioner.

In the written statement, now filed, the objection taken is that the petitioner had only secured 36 marks out of 80 marks in the written examination and obtained only 7 marks out of 20 marks in the interview, whereas the selected candidates have got more marks as compared to the petitioner, for the session 2014-15. It is the grouse of the respondent-Institute that even for the subsequent year, he had appeared but had only secured 12 marks out of 60 and stood at 34th position out of 42 from the General Category and 57th position overall. Similarly, for 2013-14, he had secured only 20 marks out of 60 and failed to qualify in the entrance test. It was, accordingly, pleaded that the seats, if any, which had gone

vacant, had lapsed, the claim of the petitioner could not be granted. The Committee consisting of Professors/Associate Professors having Ph.D degree were responsible to take the interview of the candidates who qualified the written examination. However, since the petitioner had failed to perform well to the entire satisfaction of the Admission Committee and keeping in view his poor performance, his name had not been recommended by the Committee. Furthermore, there were other candidates who had qualified the entrance test for admission to the Ph.D and appeared in the interview but were not selected due to their performance.

It is not disputed that as per the prospectus, the reservation rules had to be followed as per Government of India guidelines prevailing at the time of admission. Relevant clause reads as under:

“Reservation: The reservation rules had to be followed as per Government of India guidelines prevailing at the time of admission.”

To get over the right of the petitioner to get admission against the reserved quota of a handicapped candidate, the defence taken is that there are only 31 seats for Ph.D. and only 16 seats are reserved for General Category. Out of the 16 seats for General Category, 3% comes to 0.48 which is to be distributed amongst 14 departments of the institute. Therefore, departmental distribution is done as per the available number of scholarships and availability of eligible and desirous supervisors. Plea taken is that mere advertisement of such seats does not grant any right to claim admission. The fact remains, to which there is no dispute, is that over the last 3 years, no Ph.D. handicapped candidate has been admitted in

the respondent-Institute in that quota, which would be clear from the information obtained on 08.07.2015 (Annexure P18), which reads as under:

Sr. No.	Contents	Reply
1	How many candidates belonging to physically handicapped category have been admitted to the Ph.D (Full time /Part time/ sponsored) for the last three years. Also give me the names and addresses of all the candidates under physically handicapped category who had been admitted to Ph.D (Full time / Part time/ sponsored courses for the last three years.	There is no Ph.D handicapped student admitted from last three years in this institute.
2.	What is the policy of your institution for the candidates belonging to physically handicapped category for admission in Ph.D.	

Even if the fraction of the handicapped quota is carried forward to the next year, the candidates would be entitled for admission against the same. As noticed above, it is not disputed that the vacancy, as such, was available with the respondent-Institute and the petitioner had duly qualified in his written examination and had only got 7 marks out of 20 marks in the interview also. Resultantly, the action of the official-respondents in not recommending his case for the admission is not justified. Nothing was placed on record to show that the Admission Committee, as such, had adversely commended upon the candidature of the petitioner, to that extent which would not entitle him for admission. Even otherwise, the official-respondents are bound by their selection procedure prescribed in the Handbook, which reads as under:

“B) Selection Procedure:

1. The admission to Ph.D. programme (Full Time, Part Time and Sponsored) in all disciplines shall be made through an entrance test to be conducted by the respective department. Only those candidates who qualify the entrance test shall be called for

interview. To prepare merit list, 80% weightage shall be given; to the entrance test score and 20% to the interview.”

Resultantly, keeping in view the above facts, this Court is of the opinion that the present writ petition is liable to be allowed as the petitioner has been consistently trying to get admission in the said Institute on the basis of the disability which he suffers from. The respondent-Institute, instead of furthering the reservation policy for handicapped candidates, is frustrating it by resorting to technical objections and by distributing those seats over all the faculties. Thus, a pedantic approach has been taken, which cannot be appreciated, in any manner. Merely because the admission is sought for the session 2014-15, will not hinder the petitioner from seeking the relief. As noticed, he was before this Court on an earlier occasion and the information was supplied to him, thereafter, in July, 2015 and thereafter, he had approached this Court. It is a Ph.D. Course and therefore, it is not that he has to be studying with a particular batch. In the peculiar facts and circumstances, the said objection for the academic year will not be applicable.

Accordingly, in view of the above discussion, the present writ petition is allowed and the respondent-Institute is directed to admit the petitioner in the Ph.D. Computer Science and Engineering Full Time Course, on deposit of usual charges, within a week.

NOVEMBER 10th, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No