

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.15775 of 2017.

Date of Decision: July 25, 2017

Avinash Kaur

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDHIR MITTAL.

Present: Mr.D.S.Patwalia, Senior Advocate with

Mr.Sehaj Bir Singh, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The question which falls for consideration is whether the petitioner is a *bonafide* resident of Punjab State and if so, whether she fulfills the eligibility criteria as prescribed in the Government notification dated 02.06.2017 for admission to MBBS/BDS Degree Course in the Medical/Dental Institutes in the State of Punjab for the Session 2017 against a State quota seat?

[2] The admitted facts are that the father of petitioner is employed with Hindustan Petroleum Corporation and is presently posted at Aurangabad (Maharashtra). He never remained posted in the Punjab State. The father of the petitioner, however, owns some immovable property in the State of Punjab and on that basis a certificate of being *bonafide* resident of the State of Punjab has been issued in his favour. Based upon such certificate, the petitioner seeks her eligibility for admission against the State quota seats in the State of Punjab.

[3] The eligibility conditions are prescribed in the Punjab Government notification dated 02.06.2017. Its clause 11 alongwith sub-clause (i) and (ii) reads as follows:-

“...11. The candidate should be a bonafide resident of Punjab. The resident status of Punjab State shall be taken in terms of Punjab Government, Department of Personnel and Administrative Reforms (PP-II Branch) letter No.1/3/95-3 PP II/9619, dated 6th June, 1996, ID No.1/2/96-3PP-2/8976, dated 7th July, 1998 and ID No.1/3/95-3PP/II/81, dated 1st January, 1999 and any further instructions issued by the Department of Personnel, if any, and the same shall be adhered to. Candidate must have passed 10+1 and 10+2 examination from Punjab. Candidate who passed his/her 10+1 and 10+2 examination or other equivalent examination from a recognized School/ Institution situated in Chandigarh (Union Territory), who is bonafide resident of Punjab, shall also be eligible.

The following categories shall be exempted from this condition:-

- (i) Children/Wards/dependents (whose parents are not alive) of all those regular Punjab Government employees, members of All India Services borne on Punjab cadre, Serving Judges and the employees of the Hon'ble Punjab and Haryana High Court, employees of Boards/Corporations/Statutory Bodies established by an Act of the State of Punjab who have been holding post outside Punjab on or before 1st January of the year of passing 10+2 examination and their children/wards/dependents were compelled to do class XI and/or XII outside Punjab.**
- (ii) Children/wards/dependents (whose parents are**

not alive) of all those regular Central Government employees, employees of Boards/Corporations/ Statutory Bodies of the Central Government who have remained posted inside Punjab for at least two years out of the three years preceding year of passing 10+2 examination but were posted outside Punjab for some time during these three years due to which their children/wards/dependents were compelled to do class XI and/or XII or equivalent qualifying examination outside Punjab. However, those who remained posted in Punjab continuously for these three years shall not be entitled to be exempted as they are equally placed with other Punjab Government employees posted in Punjab...”

[4] It can be seen that a candidate should not only be a *bonafide* resident of Punjab State in terms of the Punjab Government letter dated 06.06.1996, such candidate must have passed 10+1 and 10+2 examination also from the Punjab State. The only concession given is to those candidates who have passed their 10+1 and 10+2 examination from a school situated in Chandigarh (U.T.) and who are otherwise *bonafide* residents of Punjab.

[5] The petitioner admittedly passed her matriculation from Mumbai and 10+1 & 10+2 examinations from a School at Aurangabad (Maharashtra). She thus does not fulfill one of the mandatory condition of having passed 10+1 and 10+2 examination either from Punjab and/or a School/Institution situated in Chandigarh (UT). The petitioner is thus ineligible in terms of clause 11 of the Government notification dated 02.06.2017.

[6] Having held so, we fall back on sub-Clause (ii) according to which the children/wards of the employees of Boards/Corporations/ Statutory Bodies of the Central Government who remained posted inside Punjab for at least two years out of the three years preceding the year of passing 10+2 examination, are also eligible. Unfortunately, the petitioner does not fulfill the said eligibility condition also, for her father has never remained posted in Punjab State.

[7] Faced with this, learned senior counsel for the petitioner questions the very legality of clause-11 to the extent it imposes the second condition of passing 10+1 and 10+2 examination from a school/institute situated in the State of Punjab and/or Chandigarh (UT). He contends that all those candidates who are residents of Punjab State constitute one homogenous class and deserve to be treated at par, without any further classification based upon the School/Institution from where they have passed 10+1 and 10+2 examination. He contends that sub-clause (ii) be read down to mean that if an employee of the Board/ Corporation/Statutory Bodies of Central Government is posted outside the Punjab State not by option but as a part of condition of service, his children/wards shall be eligible for admission against the State quota seats in terms of the Punjab Government letter dated 06.06.1996, clause-v whereof provides that the children/wards of the persons who have held immovable property in the State of Punjab for a period of five years, are eligible to be categorized as *bonafide* residents of the State of Punjab.

[8] We have pondered over the submissions but do not find any substance therein. It is true that the status of a person whether or not he is *bonafide* resident of the State of Punjab has to be determined as per the

Punjab Government letter dated 06.06.1996. The said letter provides various categories/eventualities which would determine the status of a person as a resident of Punjab State. Clause-v of it provides that children/wards of persons who have held immovable property in Punjab for a period of five years are also to be treated *bonafide* residents of the Punjab State.

[9] However, the eligibility for admission to MBBS/BDS Degree Course in the Medical/Dental Institutes in the State of Punjab, has to be seen as per the Government notification dated 2.06.2017, which requires something more than mere a *bonafide* resident of State of Punjab. Clause-11 of the notification dated 02.06.2017 has to be read in its entirety and cannot be cut into pieces to earn eligibility. Under the said clause, not only a candidate should be *bonafide* resident of the Punjab State but he/she must have passed 10+1 and 10+2 examination from the Punjab State and/or Chandigarh (U.T.). Both these conditions are mandatory and will have to be read together. Sub-clauses (i) and (ii) though liberalize the eligibility conditions as prescribed in the principal clause, but the petitioner unfortunately does not fall in sub-clause (ii) as well.

[10] The policy decision applies to all and one uniformly. The object of Clause-11 is to give preference to such residents of the State of Punjab whose children/wards have studied in the Schools of Punjab and/or its Capital Headquarter, U.T. Chandigarh. The exception has been carved out in favour of those children/wards alone who by virtue of conditions of service or compulsion are posted out of Punjab State and not by their choice.

[11] We do not find any clause in the policy decision offending to Article 14 of the Constitution. The eligibility criteria is fair, just and

equitable. No case to interfere with the action in not treating the petitioner eligible for admission qua Punjab quota seat is made out.

[12] Dismissed.

[SURYA KANT]
JUDGE

July 25, 2017
mohinder

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No