

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20107 of 2017 (O&M)

Date of Decision: 14.12.2017

Harjot Singh

... Petitioner

VS.

Baba Farid University of Health Sciences & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Sukhdev S Kanwal, Advocate for the petitioner
Mr. Manish Dadwal, Advocate for respondent No.1
Mr. Rajesh Bhardwaj, Sr.DAG Punjab

SURYA KANT, J. (Oral)

(1) The question which falls for consideration in this case is whether the petitioner – a reserved category candidate of UT Chandigarh is entitled to seek admission to MBBS Course against a seat reserved for Scheduled Caste category in the State of Punjab?

(2) The undisputed facts are that the petitioner is born and brought up in the Union Territory of Chandigarh. He belongs to “Scheduled Caste category” and a certificate bearing No.257 dated 11.07.2013 has been issued in his favour by Sub Divisional Magistrate (South), UT Chandigarh (P5). The petitioner admittedly studied and passed his 10+2 examination from a school located in the Union Territory of Chandigarh (P8).

(3) It is also undeniable that the petitioner’s mother Smt. Santokh Kaur is an employee of Education Department, Government of Punjab since 1997.

(4) The petitioner appeared in the National Eligibility-cum-Entrance Test, 2017 (in short, ‘NEET-2017’) and as per the certificate (P4), he got 401 marks and his all India rank is 78676. In the Scheduled Caste category, his rank

(5) Baba Farid University of Health Sciences – respondent No.1 is the nodal agency notified by the State of Punjab for admission to MBBS/BDS Course-2017 in Government and private medical/dental colleges in the State of Punjab. The University issued a public notice dated 19.08.2017 (P1) inviting afresh online applications on All India Basis from NEET-2017 qualified candidates to fill up MBBS/BDS courses (15%) on All India quota seat(s) which were surrendered by Director General, Health Services, New Delhi. The applications were to be submitted upto 24.08.2017 and the candidates who had already applied for ‘State quota seats’ were also required to apply afresh for these surrendered ‘All India quota seats’.

(6) The petitioner applied in response to the above-stated public notice, staking his claim against a seat reserved for Scheduled Caste category. The University, however, declined to grant him benefit of reservation as a result of which, the petitioner could not get admission against the reserved seat. As far as the open merit is concerned, the last candidate who got admission has scored 537 marks as against 401 marks scored by petitioner.

(7) In the Scheduled Caste reserved category, there are three candidates Mehak Bala, Jaskaran Bhatti and Sandeep Kaur whose marks in NEET-2017 are 400, 399 and 397, respectively they are thus lower in merit than the petitioner. They have got admission in the Scheduled Caste category. It is in this factual backdrop that the question posed by us at the outset arises for consideration.

(8) It will be useful at this stage to refer to the plea taken by the University for denying benefit of reservation to the petitioner. Para 5&6 of the written statement dated 29.09.2017 in this regard read as follows:-

“5. That respondent University vide letter
No.03/BFUHS/Asstt.II/Admn/2017/21115 dated

03.08.2017 wrote to the Director, SC/BC Welfare Department, Punjab, Chandigarh by sending the SC certificate of petitioner along with other documents viz. 10+1, 10+2 (DMC's), SC category certificate (Petitioner), SC category certificate of Mr. Sukhdev Singh (Father of Petitioner), SC Category Certificate of Ms. Santokh Kaur (Mother of Petitioner), Certificate issued by the Head of the Department of Ms. Santokh Kaur (Mother of Petitioner), Exemption Certificate issued to Ms. Santokh Kaur (Mother of Petitioner) by her Department, to verify the claim of petitioner for getting seat under SC category in MBBS/BDS Courses.

6. That the Director SC/BC Welfare Department, Chandigarh vide memo no.26/28009 dated 02.08.2017 informed that the benefit of reservation in State of Punjab will be given to those SC category candidates who are residents of Punjab only. In this regard, Punjab Govt. Letter No.1/52/95-RS1/713 dated 17.01.1996 regarding instructions was forwarded by the said department, which is annexed as Annexure-R1 and relevant portion of the letter is reproduced as under:-

“It is, however, clarified that the scheduled caste/scheduled tribe person on migration from the state of his origin to another state will not lose his status as scheduled caste/scheduled tribe but he will be entitled to the concessions/benefits admissible to the scheduled castes/scheduled tribes from the state of his origin and not from the state where he has migrated.”

(emphasis applied)

(9) It may thus be seen that the petitioner's claim to grant benefit of reservation on the plea that his mother is an employee of Punjab Government hence he should be taken to be Scheduled Caste of Punjab State, has not been

Scheduled Caste/Backward Class Welfare Department, Government of Punjab.

Further, the policy formulated by Punjab State explicitly postulates that the benefit of the concessions admissible to Scheduled Castes shall be admissible only in the State of his origin.

(10) The petitioner admittedly belongs to Union Territory, Chandigarh. He is not a Scheduled Caste belonging to Punjab State. In our considered view, the State of Punjab is well within its right to restrict the benefit of reservation in favour of those candidates alone who belong to State of Punjab. The policy decision to this effect, in any case, is not under challenge in this case.

(11) Faced with this, learned counsel of the petitioner contends that the admissions pursuant to the notice dated 19.08.2017 (P1) pertain to 'All India quota seats' hence the respondents cannot insist that the petitioner should be a Scheduled Caste of Punjab State. In other words, the petitioner being Scheduled Caste is entitled to the benefit of reservation irrespective of the place of his origin. He places reliance on the following paragraph of the order dated 06.10.2016 passed by Hon'ble Supreme Court in a bunch of applications/petitions including in **WP(C) No.76/2015 [Ashish Ranjan & Ors. vs. Union of India & Ors.]**:-

“At this juncture, it is submitted by Mr. Gaurav Sharma, that this Court has granted extension of time to the States of Kerala, Karnataka, Madhya Pradesh and Uttar Pradesh to fill up their State Quota seats. Needless to say, the State quota also includes the seats that have been reverted from All India Quota. The rest of the seats which find mention in the chart not belonging to the four States shall be filled up by the concerned States by adopting a transparent procedure, regard being had to the criteria followed for filling up All India Quota seats. We may hasten to clarify, the States shall not treat them as seats

which have been reverted to the State quota from All India Quota but fill them up by taking the merits in All India Quota. Needless to say the whole thing shall be completed by 07.10.2016.”

(emphasis by us)

(12) On a plain reading of the above paragraph, it appears to us that the directions contained therein cannot be construed to mean that a candidate who is Scheduled Caste of a State other than Punjab State will be entitled to take benefit of reservation in the State of Punjab. Their Lordships have held that the All India quota seats which have been reverted to the State quota shall be filled by taking the merit in All India quota. This direction has been faithfully complied with by the University as no candidate lower in merit in All India quota has been admitted in Open category in which the petitioner's candidature has been considered. Three Scheduled Caste candidates who are lower in merit and have got admission belong to State of Punjab and are thus entitled to the benefit of reservation under the State Government policy. The petitioner cannot claim parity with those three candidates.

(13) For the reasons afore-stated, we do not find any merit in this writ petition and the same is accordingly dismissed.

(Surya Kant)
Judge

14.12.2017
vishal shonkar

(Sudhir Mittal)
Judge

1. Whether speaking/reasoned?
2. Whether reportable?

Yes
Yes