

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

CWP No.15738 of 2018 (O&M)

Date of Decision: 13.08.2018

Aditya Singh Barget (minor) through his father-Vikram Singh

....Petitioner

Versus

Union of India and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU**

Present: Mr. Amar Vivek, Advocate for the applicant/petitioner.

Mr. Vinod Sharma, Senior Panel Counsel for respondent No.1/UOI.

Mr. Ashwani Talwar, Advocate and
Mr. Akshay Bansal, Advocate for respondent No.2/P.E.C.

Mr. Amit Jhanji, Advocate for respondent No.3/Chd. Administration.

MAHESH GROVER, J. (Oral)

CM No.10802 of 2018

Allowed as prayed for.

Annexure P-18 (colly.) is taken on record.

MAIN CASE

Present writ petition has been filed praying for issuance of a writ in the nature of mandamus directing the respondents to implement the Central Educational Institutions (Reservation in Admission) Act, 2006 (hereinafter to be referred as 'the Act') for the purpose of providing reservation for the Category of Other Backward Classes, to which the petitioner belongs, in admission to the Bachelor of Engineering (B.E.) Courses (hereinafter to be referred as 'the Course') in the Punjab Engineering College, a deemed University.

It is not in dispute that the Punjab Engineering College is a deemed University.

The petitioner refers to the Act in particular Section 2(d)(iii); Section 3 sub clause (iii) and Sections 4 & 5 of the Act. These provisions referred to while advancing arguments before us are extracted hereinbelow for ready reference:-

“ Section 2 (d) “ Central Educational Institution” means-

- i. xxxxxxx
- ii. xxxxxxx
- iii. *an institution, declared as a deemed University under section 3 of the University Grants Commission Act, 1956, and maintained by or receiving aid from the Central Government;*
- iv. xxxxxxx
- v. xxxxxxx

Section 3. Reservation of seats in Central Educational Institutions. –

The reservation of seats in admission and its extent in a Central Educational Institution shall be provided in the following manner, namely:-

- i. *out of the annual permitted strength in each branch of study or faculty, fifteen per cent. seats shall be reserved for the Scheduled Castes;*
- ii. *out of the annual permitted strength in each branch of study or faculty, seven and one-half per cent. seats shall be reserved for the Scheduled Tribes;*
- iii. *out of the annual permitted strength in each branch of study or faculty, twenty-seven per cent. seats shall be reserved for the Other Backward Classes.*

Section 4. Act not to apply in certain cases.-

The provisions of section 3 of this Act shall not apply to-

- (a) *a Central Educational Institution established in the tribal areas referred to in the Sixth Schedule to the Constitution;*
- (b) *the institutions of excellence, research institutions, institutions of national and strategic importance specified in the Schedule to this Act;*

Provided that the Central Government may, as and when considered necessary, by notification in the Official Gazette, amend the Schedule;

- (c) *a Minority Educational Institution as defined in this Act;*

(d) a course or programme at high levels of specialisation, including at the post-doctoral level, within any branch of study or faculty, which the Central Government may, in consultation with the appropriate authority, specify.

Section 5. Mandatory increase of seats. –

(1) Notwithstanding anything contained in clause (iii) of section 3 and in any other law for the time being in force, every Central Educational Institution shall, with the prior approval of the appropriate authority, increase the number of seats in a branch of study or faculty over and above its annual permitted strength so that the number of seats, excluding those reserved for the persons belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes, is not less than the number of such seats available for the academic session immediately preceding the date of the coming into force of this Act.

(2) Where, on a representation by any Central Educational Institution, the Central Government, in consultation with the appropriate authority, is satisfied that for reasons of financial, physical or academic limitations or in order to maintain the standards of education, the annual permitted strength in any branch of study or faculty of such institution cannot be increased for the academic session following the commencement of this Act, it may permit by notification in the Official Gazette, such institution to increase the annual permitted strength over a maximum period of three years beginning with the academic session following the commencement of this Act; and then, the extent of reservation for the Other Backward Classes as provided in clause (iii) of section 3 shall be limited for that academic session in such manner that the number of seats available to the Other Backward Classes for each academic session are commensurate with the increase in the permitted strength for each year. ”

Learned Counsel for the petitioner contends that a Central Educational Institution under the Central Educational Institutions Act, 2006 (Annexure P-5) would mean an Institution, declared as a deemed University under Section 2(d)(iii) of the University Grants Commission Act, 1956 and “*maintained by or receiving aid from the Central Government*”. It is argued before us that the Punjab Engineering College is concededly a deemed University and receiving aid from the Central Government, which would bind it to the requirement of 27% reservation of seats for Other Backward Classes.

This, in short, is the controversy and to bring home the point, learned Counsel for the petitioner strenuously makes a reference to the

information that he has received under the Right to Information Act from the Union Territory, Chandigarh and the Government of India. For the purpose of ready reference, the relevant part of the application, where the petitioner solicited information and the response received is extracted hereinbelow:-

“ I am directed to refer to your RTI application dated 14th October, 2017 seeking amount of aid received by Punjab Engineering College, Chandigarh for the years 2016-17 & 2017-18 and to say that as far as Ministry of Home Affairs is concerned, the details of the budgetary provision in r/o Punjab Engineering College, under Grant No.50-Chandigarh, is as follows:-

(Rupees in thousand)

Head of Account	BE 2016-17	BE 2017-18
2203-Technical Education		
112-Engineering/Technical College and Institutes		
06-Punjab Engineering College		
06.00.31-Grant-in-aid (General)	126500	126500
06.00.35-Grants for creation of Capital Assets	0	0
06.00.36-Grant-in-aid (Salaries)	255000	275000
Total- Punjab Engineering College	381500	481500

With reference to your application dated 15.03.2018, the required information is being supplied as under:-

Sr. No.	Information Sought	Information Supplied
1	Kindly intimate the amount of aid received from Central Government for Punjab Engineering College, Sector 12, Chandigarh during the financial years 2015-16, 2016-17 and 2017-18 as approved by Parliament.	Aid received from Central Government is as follows:- Year Amount (Lacs) 2015-16 3447.50 2016-17 3815.00 2017-18 4815.00

Both the Punjab Engineering College and the Union Territory, Chandigarh filed their response and pleaded that the Punjab Engineering College though a deemed University is also autonomous and does not follow

the Act, since it has not received any grant-in-aid from the Central Government. The U.T., Chandigarh goes on further to state with reference to certain communications where a specific query was raised in the year 2008 resulting in a clarification that the Punjab Engineering College would continue to be a deemed University, not funded directly by the Central Government and, therefore, not falling within Section 2(d)(iii) of the Act. Rather it further states that the College would continue to be fully funded autonomous body of the Chandigarh Administration. The Punjab Engineering College has filed a supplementary reply in response to the application submitted by the petitioner, giving the details of the heads against which, funds are received from the Central Government for the purposes of Technical Education and for funding the Punjab Engineering College. Annexure R-2/2, appended to the affidavit of Sh. Sushant Samir, Registrar, PEC University of Technology, Sector 12, Chandigarh would deserve a mention:-

1. xxxxxx

2. *That it has further being pointed out that the respondent no.2 received grant from the Government of India, Ministry of Home Affairs to the extent of Rs.3447.50 lacs, Rs.3815 Lacs and Rs.4815 lacs in the years 2015-16, 2016-17 and 2017-18.*

In this regard, it is clarified that the Chandigarh Administration, Finance Department releases the funds for Technical Education and for the year 2015-16, the funds as received under the head 06 Punjab Engineering College was Rs.1147.50 Lacs towards Plan and Rs.2300.00 Lacs towards Non Plan expenditure. Similarly, the details for the year 2016-17 and 2017-18 are also attached and the documents are Annexed as Annexure R-2/2 to R-2/4/colly. respective years.

3. xxxxxx

After hearing learned Counsel for the parties and on perusing the record, we are clearly of the opinion that the petitioner has failed to show that the Punjab Engineering College would come under the definition of the Education Institution as Section 2(d) (iii) of the Act, it clearly, being a deemed University, has been granted an autonomous status with no direct funding from the Central Government. Indeed, the UT, Chandigarh receives funds for Technical Education as it does for other project also from the Central Government to distribute it for the intended purpose. The Punjab Engineering College likewise gets its grant from the Administration after the funds have been received under a particular head from the Central Government. There is nothing on record to show that the Punjab Engineering College is funded directly by the Central Government to bring it with the ambit of the Act. Since the petitioner has failed to establish the plea raised before us, we dismiss the present petition.

(MAHESH GROVER)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

August 13, 2018
Gagan

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