

CWP no. 22364 of 2018 (O&M) 1

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

CWP no. 22364 of 2018 (O&M)

Date of Decision : 15.11.2018

Himanshu Sharma

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE ARUN MONGA**

Present : Mr. P.R.Yadav, Advocate for the petitioner(s)

Mr. Samarth Sagar, Addl. AG, Haryana

Mr. Nilesh Bhardwaj, Advocate for respondent

Mr. Ramesh Hooda, Advocate for respondent No.16

MAHESH GROVER, J.(ORAL)

The petitioner before us is seeking admission to the M.B.B.S course in the BC-A category which was denied to him solely on the ground that income certificate that would supplement his claim to the said category was issued by the Tehsildar of Delhi.

From the pleadings of all the parties and the arguments advanced before us our attention was drawn to the Haryana Backward Classes (Reservation in Services and Admission in Educational Institutions) Act, where in Rule 8 it has been provided as under:-

“8. (1) The Government may, by notification, appoint any officer to be the competent authority for the purposes of carrying out the provisions

of this Act.”

A notification dated 18.11.2016 has been issued empowering certain officers/category of officers to carry out the provisions of the aforesaid Act. The same are extracted herebelow:-

“In exercise of the powers conferred by sub-section (1) of Section 8 of Haryana Backward Classes (Reservation in Services and Admission in Educational Institute) Act 2016 (15 of 2015), the Governor of Haryana hereby appoints the following officers to be the competent authority for the purpose of carrying out the provisions of the said Act, namely:-

- (i) Sub Division Officer (Civil) City Magistrate and Tehsildar
- (ii) Head of Department or Head of Office, in the case of Government employee or his dependent.
- (iii) Head of the Government educational institutional (school, industrial training institute, polytechnic or college in the case of students).”

Evidently, Sub Divisional Magistrate (Civil), City Magistrate, Tehsildar are competent to issue certificates.

The respondents placed heavy reliance on this to contend that Tehsildar would imply that he has to be from the State of Haryana alone considering that the provisions of the State Act have to be implemented.

To our minds the notification dated 18.11.2016 is vague as it does not specify that a certificate has to be from a Tehsildar of Haryana.

They cannot blame the petitioner of obtaining a certificate from Tehsildar of

Delhi. The stand of the respondents therefore is unjustified. It is not in dispute that the petitioner was indeed in merit having secured 504 marks and rank of 94 and ordinarily he would have been given admission in the said category but for the stand of the respondents who have negated the certificate of income issued by the Tehsildar of Delhi.

Although in the reply the respondents have taken a stand of the petitioner not being a resident of Haryana but during the course of arguments this objection was given up and the issue was confined only to the issuance of certificate by a competent authority.

We have already observed that the stand of the respondents is unjust in view of the ambiguity employed in the language of the notification considering that the provisions of Haryana Act were to be carried out by certain set of officials, natural flow of the language in the notification should have specified that Tehsildar of the State of Haryana or a particular area.

Despite this we are unable to grant any relief to the petitioner in view of the specific mandate of the Hon'ble Supreme Court given in case bearing Civil Appeal No. 10353 of 2018 titled as **'Parmod vs. UOI and others'** decided on 9.10.2018 that once the seats are filled the appellants be considered for admission in the next year. Relevant portion of the directions of the Hon'ble Supreme Court are extracted herebelow:-

“In the aforesaid facts and circumstances of the case, though appellants were entitled for admission in the MBBS course, but now as all the seats have been filled, the appellants have been illegally deprived of the admission. As such, we direct that the appellants be admitted in the next year, in MBBS course and in a

government medical college as the seats of handicapped have been handed over to the general category, the seats of that category shall be reduced for the next academic session 2019-2020.”

Consequently, we direct that the petitioner be considered for admission for the next academic session in Government Medical College in the State of Haryana, if permissible in law.

Disposed of.

(Mahesh Grover)
Judge

15.11.2018

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Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

(Arun Monga)
Judge