

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

CWP No.22041 of 2019

Date of Decision: 17.10.2019

Arsh Garg

....Petitioner

Versus

Panjab University, Chandigarh and others

....Respondents

***CORAM :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL***

Present:- Mr. Nishant Maini, Advocate
and Mr. Manwatan Pal Singh, Advocate
for the petitioner.

Mr. Suman Jain, Advocate
for respondents No.1 to 3.

Mr. K.C. Rajput, Advocate
for respondent No.5.

DAYA CHAUDHARY, J.

Petitioner-Arsh Garg has filed the present petition with a prayer to allot a seat to him in Bachelor of Engineering (Computer Science and Engineering) under Rural Area sub category by shifting one candidate, namely, Tushar Arora (respondent No.5), who has been given admission in Rural Area category, to the category of Border Area. Said Tushar Arora is at Serial no.1 in the merit of Border Area category. One Aarish Khanna (respondent No.4) has been allotted seat in the Border Area Category, whereas, his rank is much lower than that of the petitioner as well as Tushar Arora.

As per case of the petitioner, he has passed 10+2 examination from Rural School, which does not fall in the area of Municipal Corporation/Municipal Committee/Small Town/Notified Area/Cantonment Area. On the basis of his qualification, he appeared in the Joint Entrance Examination (Main), 2019 conducted by the National Testing Agency and secured rank 48971 in Common Rank List. The Joint Admission Committee – 2019 published the Information Brochure JAC-2019 providing the seat information and the relevant guidelines. As per said information, the petitioner locked choices for Round 4 for B.E. in Chemical Engineering in Dr. S.S. Bhatnagar University Institute of Chemical Engineering and Technology, Panjab University, Chandigarh. His first preference was for Academic Programme B.E. in Computer Science and Engineering. He was allotted Choice No.2. Respondent no.5-Tushar Arora applied for Academic Programme “B.E. in Computer Science and Engineering” under sub category “Border Area” and sub category “Rural area” as he was eligible in both the categories. Only one seat was there under Border Area category and two seats were there under Rural Area category. The another candidate who was higher in merit than Tushar Arora with Rank 40300 took admission under ‘Border Area’ sub category and accordingly, one seat of Border Area sub category was filled up. Since there were two seats under Rural Area sub category and Tushar Arora occupied second seat in sub category “Rural Area”. Accordingly, both the seats were filled up in “Rural Area” category. The petitioner did not get a seat in academic programme “B.E. in Computer Science and Engineering” and he was allotted seat under open category in academic programme “B.E. in Electronics and Communication Engineering” in University Institute of Engineering and

Technology, P.U., Chandigarh. In SPOT round counselling which was scheduled for 14.08.2019, the candidate, who was allotted seat in Border Area sub category in first counselling, left the seat and said seat fell vacant. Said vacant seat was to be filled up by the candidate next in merit i.e respondent No.5 as his rank was 45651. Respondent no.4, whose rank was 60421 was comparatively much lower than the rank of the petitioner and respondent No.5 whose rank is 45651 should have been allotted seat under Border Area sub category.

Learned counsel for the petitioner submits that the petitioner being next in merit in sub category i.e Rural Area would have become eligible for the seat vacated by one Tushar Arora in sub category Rural Area but in spite of making submissions, he has not been allotted that seat. Learned counsel also submits that it is a case of career of a student and request of the petitioner should have been accepted but his claim has been rejected, whereas, it was not in his interest but was in the interest of respondent No.5. Learned counsel also submits that no harm could have been caused to respondent No.5 by changing his category as he was to be in the same stream but by changing his category, the petitioner could have been adjusted. At the end, learned counsel for the petitioner submits that the act of respondent authority is not only unjust but arbitrary as well.

Learned counsel for respondent No.5 by opposing the submissions made by learned counsel for the petitioner submits that the petitioner has given up his right himself to any vacant seat of B.E. Computer Science and Engineering and moreover, he has obtained the seat in B.E. Electronics and Communication Engineering. The petitioner has no legal right to ask for reversal of the admission process which has been

completed and to claim shifting the other candidate from Rural category to Border category just to make room for him as conditions of the prospectus/brochure cannot be changed. Learned counsel also submits that the relief which has been claimed by the petitioner against respondent No.4 is only on the ground that his merit is more than respondent No.4 and respondent No.4 is not entitled to occupy the Border area seat. No prejudice has been caused to the petitioner. At the end, learned counsel for respondent No.5 submits that the maintenance of categories of seats in the academic courses in the Punjab University was upto third round of the counselling and left out seats after becoming vacant go to open process.

Learned counsel for respondents No.1 to 3-University submits that the petitioner has no *locus standi* to file the present petition. The brochure/prospectus has a force of law and there cannot be interchange or transfer of the seat contrary to the provisions of prospectus. He also submits that the seat of one category cannot be shifted/transfer to other category.

Heard the arguments of learned counsel for the parties and we have also perused the documents available on the file.

After hearing the arguments of learned counsel for the parties, it appears that the facts of the case with regard to qualification, eligibility and the categories opted by them are not disputed.

Admittedly, respondent No.5 has been given admission in Rural Area category as he opted both the categories i.e “Rural Area” as well as “Border Area”. He was at serial No.1 of the merit list in the “Border Area” category. The claim of the petitioner in the present petition is that in case, respondent No.5 (Mr. Tushar Arora) is shifted from Rural Area category to Border Area category, his claim can be considered in Rural Area

category and he could have get admission in Rural Area category and no loss is caused to respondent No.5. Respondent no.5-Tushar Arora is having rank at Serial No.1 and higher in merit under 'Border Area' sub category and petitioner is stated to be next in merit in Rural Area category can be granted admission, in case, said Tushar Arora (respondent No.5) goes to Border Area category.

Admittedly, petitioner as well as respondents No.4 and 5 applied in General category, wherein, the sub category of petitioner was 'Rural Area' and sub category of respondent No.4 was 'Border Area'. Respondent no.5 was eligible under sub category of Rural Area as well as Border Area.

As per the CAS (Joint Admission Committee, JAC-2019)- 'Stakeholder Requirement Specification' Clause 4.2.12 deals with the seat allotment, whereas, 4.2.12.3 deals with the seat allotment sequence and serial number shows the sequence of general category for sub-category. Under the general category, seat from the rural area are to be considered first and thereafter, it was to be offered to border area candidates. It is an admitted fact that under rural area, first seat was filled up by candidate of Roll No.190310396714 and then second seat was allotted to respondent No.5 as he was in the higher merit list. As far as the allotment of the seat under sub-category of border area is concerned, since respondent No.5 got admission under the rural area sub-category, therefore, he cannot be considered under border area category. Under the border area sub-category, admission was offered to respondent No.4 as per the seat allotment sequence as defined in Clause 4.2.12.3 and the petitioner has no right to claim that seat which was meant for border area sub-category. Respondent

no.5 cannot be shifted to sub-category border area as in the seat allotment sequence, he has a first right in rural area sub-category seat. The seat allotments have been done as per provisions of the brochure and there cannot be the shifting of seats from one category to the other category.

Same issue was there before Bombay High Court in case ***Bahujan Samaj Education and Cultural Forum and another vs State of Goa and others 2014(8) R.C.R. (Civil) 829***. In said case, the plea of the petitioner was that meritorious candidates from reserved category should be given admission first to open category. As per provisions of the prospectus, the reserved category candidates have options to get selected either in general category as per their own merit or in their respective reserved category quota. It was held that when reserved category candidates take admission in their quota and the meritorious candidates from reserves category opted to be admitted in reserved category, they cannot be shifted to open category without having their consent.

Similar issue was also there before the Full Bench of this Court in case ***Indu Gupta vs Director of Sports, Punjab 1999(4) S.C.T. 113***, wherein, it was held that the terms and conditions of brochure cannot be changed/alterd and the same are treated to be as mandatory.

Similarly, another Full Bench of this Court in case ***Raj Singh vs Maharshi Dayanand University 1994(4) Recent Services Judgments 289*** also disapproved the liberal construction of the terms and conditions of the brochure and specified the need or their strict adherence to avoid unnecessary prejudice caused to the candidate or the authority during the course of admission. It was further held that the eligibility for admission to a course has to be seen according to the prospectus issued before the

entrance test examination and that the admission has to be made on the basis of the instructions given in the prospectus which is having the force of law.

A view was taken in another Full Bench of this Court in case ***Rahul Prabhakar vs Punjab Technical University, Jalandhar and others*** **1997(3) RSJ 475** that the prospectus has force of law and it is not open to alteration.

In view of facts as well as law position as discussed above, the category of any candidate cannot be shifted from one to another for adjusting any candidate. Accordingly, there is no merit in the contention raised by learned counsel for the petitioner and the present petition, being devoid of any merit, is hereby dismissed.

(DAYA CHAUDHARY)
JUDGE

(SUDHIR MITTAL)
JUDGE

17.10.2019

gurpreet

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No