

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

CWP No.29137 of 2018

Date of decision:-10.01.2019

Hari Krishan

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Nakul Sharma, Advocate for the petitioner.

Mr. Sahil Sharma, DAG, Punjab.

TEJINDER SINGH DHINDSA, J.(ORAL)

Instant writ petition raises a challenge to the order dated 26.07.2018 (Annexure P-17) in terms of which request of the petitioner seeking a certificate from the Deputy Commissioner, Gurdaspur that his son Nikhil Mahajn, is the grand son of Varinder Kumar a terrorist affected victim, has been declined.

Counsel for the parties have been heard and the pleadings on record have been perused.

Apparently, son of the petitioner namely Nikhil Mahajan, had applied for admission to the MBBS Course for the Session 2018 in pursuance to an admission process initiated by the Baba Farid University of Health Sciences, Faridkot. As per prospectus issued by the University appended at Annexure P-3 a reservation for State quota seats in Government Medical/Dental Colleges is envisaged and one percent

reservation is provided for children/grandchildren of terrorist affected persons. The prayer of the petitioner for issuance of the certificate in favour of the son was to avail of such reservation quota. As per the prospectus itself to avail of such reservation a certificate was to be produced in respect of children/grand children of terrorist affected/displaced persons to be issued by the Deputy Commissioner/G.A. to Deputy Commissioner of the respective District.

Perusal of the impugned order dated 26.07.2018, passed by the Deputy Commissioner, Gurdaspur, reveals the basis for declining the request of the petitioner. It has been stated in the impugned order that as per policy instructions issued by the State Government "Red Cards" are issued to family members of general public killed during terrorist incidents but no Red Card is being issued to family members of Government/Police Officials killed during terrorist incidents.

In the considered view of this Court the impugned order dated 26.07.2018 (Annexure P-17), passed by the Deputy Commissioner, Gurdaspur, suffers from the basic infirmity of non-application of mind.

The request and prayer of the petitioner was not for issuance of Red Card. The request was only for son of the petitioner to be certified as the grandson of Varinder Kumar and who in turn was killed by terrorists on 22.02.1980. Such aspect has been completely overlooked by the Deputy Commissioner, Gurdaspur while rejecting the prayer of the petitioner.

With regard to the factual position it has gone undisputed that Sh.Varinder Kumar, father of the petitioner herein was killed by terrorists on 25.01.1988, while performing duties in the capacity of a head Teacher posted at Government Primary School, Rangilpur, Tehsil Batala, District

Gurdaspur. There is also no dispute that Nikhil Mahajan is the son of the present petitioner.

The Baba Farid University of Health Sciences, Faridkot, has been assigned the onerous task to undertake the admission process to MBBS/BDS Courses in the Government Medical Colleges/Dental Colleges for the Session 2018 in pursuance to a decision taken by the State Government itself. Under the prospectus issued by the University (Annexure P-3) the reservation to the extent of one per cent has been made for admission against State quota seats to Government Medical/Dental Colleges. To avail of such reservation, a grandchild of a terrorist affected person has to furnish a certificate, certifying so, by the Deputy Commissioner of the concerned District.

In the impugned order dated 26.07.2018 (Annexure P-17), it has been recited that the report from the Sub Divisional Magistrate, Batala, had been called for and in such report it had been verified that Varinder Kumar, was killed by terrorists and that Nikhil Mahajan son of Hari Krishan i.e. present petitioner, is the real grandson of the deceased.

Under such circumstances, the decision taken by the Deputy Commissioner, Gurdaspur, dated 26.07.2018 (Annexure P-17) can only be termed as wholly inappropriate and unjustified. It virtually tantamounts to denying to the grandson of an Ex-government employee and who was killed by the terrorists in the Year 1988, the benefit of reservation under such category for purpose of admission to a medical college and which reservation otherwise is recognized by the State Government itself.

For the reasons recorded above, the present petition is allowed. Impugned order dated 26.07.2018 (Annexure P-17) is set aside.

Respondent No.2 is directed to issue forthwith a certificate,

certifying that Nikhil Mahajan is the grandson of Varinder Kumar and who is a terrorist affected person.

Petition is allowed.

(TEJINDER SINGH DHINDSA)
JUDGE

10.01.2019

shweta

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No