

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

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Civil Writ Petition No.6480 of 2020

Date of Decision: March 12th, 2020

Jagjit Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sunny Singla, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the minimum cut-off marks of 35%, which have been fixed in the advertisement itself on 12.09.2016 (Annexure P-1) in the written test to be held for the candidates, who intend to participate in the selection process of appointment to the post of Tractor Driver in the Animal Husbandry Department.

2. It is the contention of learned counsel for the petitioner that the petitioner belongs to the Sportsman (SC) Category with Category Code 112. It is asserted that the petitioner is the sole candidate in this category. Assertion has been made that the requirement for filling up of the posts as far as the educational aspect is concerned is 'capable to read and right Punjabi'. As regards the professional qualification, he is required to possess Tractor Driving Licence. 210 posts in all were advertised, out of which one was reserved for the Sports (SC) Category. Petitioner applied in pursuance to the said advertisement and participated in the selection process as well as participated in the written test, which was held by the respondents and has scored 17.25 marks. Counsel for the petitioner has referred to the paper which was prepared and the candidates were required to answer in the

written test which was held on 16.09.2018 (Annexure P-5) to contend that the questions, which have been asked are of such high technical aspect, which no person, who is only capable of reading and writing Punjabi, would be in a position to reply. He, on this basis, asserts that fixation of 35% cut-off marks in the written test for being qualified for the driving test, is totally arbitrary. He accordingly contends that the condition as put in the selection criteria in the advertisement in this regard fixation of the 35% of the minimum qualifying marks in the written test deserves to be set aside. Another contention which has been raised by the counsel for the petitioner is that the merit of the candidates, as far as the Sports Category is concerned, should be determined by the Department of Sports and it should not be determined upon the marks which have been obtained by a candidate in the written test.

3. I have considered the submissions made by the counsel for the petitioner and with his assistance, have gone through the pleadings and the records.

4. The selection criteria as laid down in the advertisement dated 12.09.2016 (Annexure P-1) reads as follows:-

“12. Selection Criteria:-

a) To fill up the above said posts, first written test will be held and the candidates, who will obtain minimum 35% marks will be qualified for Driving test. Final list of candidates qualified the driving test will be prepared on the basis marks obtained in the written test. This written test will be concerned about the Driving Skill, Traffic Rules and Repair and mechanic of Transport Vehicles.”

5. Perusal of the above criteria, as laid down, would show that all

candidates were required to participate in the written test. This written test will be relatable to the driving skills, traffic rules and repair and mechanic of the transport vehicles. It is not, therefore, correct on the part of the counsel for the petitioner to contend that there was no syllabus or criteria laid down for the nature of the questions, which are likely to be asked in the written test. The question paper (Annexure P-5) with the writ petition relate to these topics only. Petitioner appears to have proceeded on the assumption that his merit will be determined on the basis of the merit he would secure in the Sports Category and, therefore, was least concerned and bothered about the written test, that is probably the reason that the petitioner has not earlier approached this Court challenging the selection criteria. Had the petitioner being aggrieved by the said criteria, which has been laid down and advertised, he should have agitated the same at that relevant time. Having participated in the selection process, he may not now be allowed to challenge the process of selection and the criteria laid down therein. Petitioner has proceeded on the assumption as if he belongs to the Sports Category and that to the Scheduled Castes Category would have his separate merit list to be prepared by the department of Sports but this was based upon total wrong assumption as it was clearly mentioned in the criteria itself that a candidate, who obtains minimum 35% marks in the written test, will qualify for the driving test. Petitioner having failed to pass the written test, obviously had not qualified for the driving test.

6. It may be added here that the final list of candidates was to be prepared after the driving test, which would include the marks in the driving test as well as the written test. Petitioner, therefore, having

approached this Court at this stage when he has not qualified the written test, cannot be permitted to challenge the selection criteria at this stage having participated in the selection. The challenge, therefore, to this criteria by the petitioner, in the light of the judgment of the Hon'ble Supreme Court in *Shankarsasn Dash Versus Union of India* 1991 (3) SCC 47, is unsustainable.

7. Otherwise also, there is no merit in the present writ petition. The writ petition, therefore, stands dismissed.

March 12th, 2020
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No