

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

**Civil Writ Petition No.10447 of 2019(O&M)**

Reserved on : September 17, 2020

**Date of decision: September 22, 2020**

Satnam Singh and others

...Petitioners

Versus

Guru Nanak Dev University and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA  
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.D.V.Sharma, Senior Advocate assisted by  
Mr.Harit Sharma, Advocate for the petitioners.

Mr.M.K.Dogra, Advocate for  
respondent No.1 – University.

Ms.Monica Chhibbar Sharma, Sr. DAG  
for respondent No.2 – State of Punjab.

Mr.Sameer Sachdeva, Advocate for  
respondent No.3 - College.

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**Harinder Singh Sidhu, J. :**

This petition has been filed by the affected students against the order dated 05.04.2019 (Annexure P-7) of the respondent No.1 – Guru Nanak Dev University, Amritsar, whereby, their admission to B.P.Ed. Course in Respondent No.3 – St. Soldier College of Education, Jalandhar without counselling was not regularized and was directed to be cancelled.

The Bachelor of Physical Education (B.P. Ed.) is a professional programme meant for preparing teachers for physical education in VI-X

classes and for conducting physical education and sports activities in classes XI-XII. The B.P. Ed. Programme is two years course of four semesters. The students can complete the programme within a maximum of three years from the date of admission to the programme.

The eligibility for admission to B.P. Ed. course as provided in the Government of India Gazette Notification Appendix-7 Part III Section 4 Page 129 is as under:-

*“3.1 (a) Bachelor’s degree in any discipline with 50% marks and having at least participation in the Inter-College/Inter-Zonal/District/School competition in sports and games as recognized by the AIU/IOA/SGFI/ Govt. of India.*

*Or*

*(b) Bachelor’s degree in physical with 45% marks.*

*Or*

*(c) Bachelor’s degree in any discipline with 45% marks and studied physical education as compulsory/elective subject.*

*Or*

*(d) Bachelor’s degree with 45% marks and having participated in National/Inter University/State competitions or secured 1<sup>st</sup> 2<sup>nd</sup> or 3<sup>rd</sup> position in Inter College/Inter-Zonal/District/School competition in sports and games as recognized by the AIU/IOA/SGFI/ Govt. of India.*

*Or*

*(e) Bachelor’s degree with participation in international competitions or secured 1<sup>st</sup> 2<sup>nd</sup> or 3<sup>rd</sup> position in National/Inter University competition in sports and games as recognized by respective federations/AIU/IOA/SGFI/Govt. of India.*

*Or*

*(f) Graduation with 45% marks and at least three years of teaching experience (for deputed in-service candidates i.e. trained physical education teachers/coaches). The relaxation in the percentage of marks in the qualifying examination and in the reservation of seats for SC/ST/OBC and other categories shall be as per the rules of the Central Government/State Government, whichever is applicable.”*

Clause 3.2 provides for the admission procedure, which reads as under:-

*“Admission shall be made on merit on the basis of marks obtained in the entrance examination (written test, sports proficiency test, physical fitness test and marks obtained in the qualifying examination) or any other selection process as per the policy of the University/State Government/UT Administration.”*

The State of Punjab issued a notification dated 17.04.2018 (Annexure P-2) for holding the entrance test for admission to 1200 B.P. Ed. course seats for the year 2018-19. As per this notification the Principal Government College of Physical Education, Patiala was appointed as the authority competent to conduct the Common Entrance Test (CET) and Centralized Counselling for admission to B.P.Ed. Course for the session 2018-19 in all colleges of Physical Education affiliated to the Punjab University, Chandigarh, the Guru Nanak Dev University, Sri Amritsar and Punjabi University, Patiala.

It is stated that there are 1200 seats for admission to B.P. Ed. in the State of Punjab in various Colleges affiliated to Panjab University, Chandigarh, Punjabi University, Patiala and the Guru Nanak Dev University, Amritsar. Only 682 candidates applied for entrance test. 229 candidates qualified the entrance test. 120 students appeared in 1st counselling on 07.08.2018. 8 candidates appeared in the 2<sup>nd</sup> counselling. In view of the very low number of students who took admission through the Entrance Test in B.P. Ed. (Two Year Course) during the Session 2018-19, Panjab University, Chandigarh allowed the affiliated colleges to make admission to B.P. Ed. (Two Year Course) for the Session 2018-19 without the entrance test with a rider to give admission to the candidates strictly on merit on the basis of the qualifying examination. Punjabi University, Patiala also took a similar decision to allow to fill up the seats for the session 2018-19 in B.P. Ed. (2 year course). In this regard the letter dated 30.11.2018 (Annexure P-6) has been annexed.

The petitioners got admission in B.P. Ed. during the session 2018-19 in Respondent No.3 College keeping in view the permission granted by the Panjab University, Chandigarh on the assumption that similar permission would be granted by the Guru Nanak Dev University, Amritsar to which respondent No.3 college is affiliated. After their admission Respondent No.3 College forwarded the Registration Fee, Student Holiday Home Fee, World University Service Fee, Sports/Development Fee, Youth Welfare Fee, CDC Fee and NSS fee to the Guru Nanak Dev University, Amritsar on behalf of the Petitioners i.e.

Rs.1330/- per student. All the original certificates of the Petitioners were also sent to the University. Later, the Petitioners came to know from Respondent No.3 College that their admission has not been approved by the University on the ground that they have not been admitted on the basis of any entrance test. This decision was communicated vide letter dated 05.04.2019 (Annexure P-7). It is this decision which has been assailed in this petition.

It is the case of the petitioners that the action of the University in declining the registration of the Petitioners is arbitrary and discriminatory as under similar circumstances, Panjab University, Chandigarh and Punjabi University, Patiala have already permitted the registration of the students to B.P. Ed. without entrance test in view of the fact that number of students who have taken admission is very less and a large number of seats are vacant.

In the written statement filed on behalf of respondent No.1 – Guru Nanak Dev University, it is stated that the challenge by the Petitioners to the order dated 05.04.2019 without challenge to the Punjab Government Notification dated 17.04.2018 based on which said order has been issued, is not maintainable. It is further stated that the challenge is not maintainable in view of the decision dated 10.08.2015 of this Court in LPA No.1267 of 2010 titled as '*State of Punjab Vs. Self Financed B.Ed. Colleges Association Punjab and others*'.

Elaborating further, it has been stated that for the purpose of admissions to B.P.Ed. courses, Government of Punjab issued Notification

dated 17.04.2018 regulating the eligibility criteria and other terms and conditions with regard to admissions to B.P.Ed. (two years) course for the session 2018-20 in accordance with NCTE Regulations 2014. In accordance therewith the written test was conducted. Then the process of counselling was initiated. However, respondent No.3 college filled 34 seats from out of the candidates, who had either not appeared in the entrance test or could not qualify therein and without conducting any counselling. Strict view of those admissions granted in an illegal manner was taken by the Government of Punjab. The Additional Chief Secretary, Department of Higher Education and Languages, Punjab vide letter dated 08.10.2018 (R-1/1) instructed the Respondent No.1 - GNDU to immediately cancel all those admissions made in B.P.Ed. Colleges in violation of the Punjab Government Notification.

On receipt of above letter the University immediately instructed respondent No.3 College vide letter dated 28.11.2018 (R-1/2) to cancel all those admissions forthwith.

It is further stated that the admission of the Petitioners in Respondent No.3 college is illegal having been granted contrary to the Notification issued by Punjab Government. Respondent No.1 University has not granted any permission to Respondent No.3 college for such admission. The University has strictly adhered to the Notification as issued by Punjab Government in regard to the admissions to the B.P.Ed. Course. The University Respondent has already issued an official communication to the Respondent No.3 college for refund of the fee paid by the Petitioners

after their admission was ordered to be cancelled way back on 28.11.2018 and subsequently on 05.04.2019. All original certificates of the Petitioners were also sent back through registered post by the University to the Respondent No.3 college.

In the reply filed on behalf of the State of Punjab- respondent No.2 it has been stated that the Self Financed B.Ed. Colleges in the State of Punjab filed a Civil Writ Petition No.10091 of 2009 for making admissions at their own level. The writ petition was allowed vide order dated 1-7-2010. However, the State of Punjab assailed the said order dated 1-7-2010 in LPA No.1267 of 2010. The said LPA was allowed vide order dated 10-08-2015. The order of the Ld. Single Judge in CWP No.10091 of 2009 was set aside. It was directed that the State should hold a Common Entrance Test for admissions to the colleges of education. It was further held that the Self Financed B.Ed. Colleges do not have any absolute right to remain outside the CET to be conducted by the State. Operative part of the judgment and order dated 10-08-2015 reads as under:-

*“34. Accordingly, in our opinion, a direction is liable to be issued to the State of Punjab that the State should hold a Common Entrance Test as per its policy for the B.Ed. Course before the start of every academic year for admission to the College of Educations situated in the State which are recognized and affiliated. The admission shall be made upon the merit obtained in the test conducted in accordance with the laid down norms and to the extent of the intake capacity prescribed by the Council. The said exercise should be carried out two months in advance before the start of the academic session so that the students are not left in suspense and can*

*apply for admission on the basis of the result so declared.*

35. *Consequently, the issues arising in these appeals are answered against the association and it is held that they do not have any absolute right to remain out of the CET to be conducted by the State even though they are unaided and recognized institutes, in the absence of any challenge to the regulations issued under NCTE Act.*

36. *It is also held that by holding CET, Article 19(1)(g) of the Constitution of India is not violated as the paramount consideration being merit and the State having the authority under the Statute can hold the test and it only amounts to a regulatory measure on the admission process and does not impinge on the autonomy of the unaided institutes to run and administer the same.*

37. *As a upshot of the above discussion, the present appeals are allowed. The judgment of the Learned Single Judge dated 01.07.2010 passed in CWP No.10091 of 2009 is set aside and the writ petitions are dismissed. However, the State shall remain bound by directions hereinbefore made and shall comply with the same for the next academic session, i.e., 2016 onwards as the admission for the year 2015-16 is under process. It is further clarified that any admissions, made in pursuance of the judgment of the Learned Single Judge and in view of the examinations conducted by the Association, will not stand affected by the present judgment, directions of which are to operate from the academic session 2016-17.”*

Another Writ Petition No.3964 of 2011 titled as '*Mata Gurdev Kaur Memorial Shahi Sports College of Physical Education Vs. State of Punjab*' was filed with a prayer to allow the Physical Education Colleges to fill the B.P.Ed. seats at their own level. That petition was dismissed by this Court,

vide order dated 10-8-2015 which reads as under:-

*“Counsel for the petitioners agrees that in view of the judgment dated 10.08.2015, passed in LPA No.1267 of 2010 titled State of Punjab Vs. Self Financed B.Ed. Colleges Association, Punjab (Regd.) & another, pronounced today, the present writ petition, whereby the petitioners seek the relief to conduct the admission process at their own level, for filling up the seats, is to be dismissed.”*

It is the case of the respondent - State that in compliance with the above judgments it issued the notification for conducting of the Common Entrance Test for the admission in the B.P.Ed. Colleges from the academic session 2016-17 on the analogy of B.Ed. Admissions.

On the contention of the petitioners that Punjab University and Punjabi University had permitted their affiliated colleges to admit students without qualifying in the entrance test, it is stated that in response to letter dated 7-9-2018 of the Dean Development Council, Punjabi University, Patiala, the Government of Punjab vide letter dated 17-9-2018 clearly disallowed the request of the University to allow it to fill the remaining vacant seats in B.P.Ed. Colleges on the basis of merit in qualifying exam at their own level. Similarly, the Department of Higher Education vide another letter dated 17-9-2018 asked the Panjab University, Chandigarh to withdraw its letter dated 30-8-2018 whereby the University had given permission to the B.P.Ed. Colleges to fill the remaining vacant seats on basis of merit in qualifying exam. Similarly vide Demi- Official letter dated

08-10-2018, the Additional Chief Secretary Higher Education Punjab directed the respondent - Guru Nanak Dev University, Amritsar to cancel all the admissions made by the colleges at their own level on the basis of merit in qualifying exam. Thereafter, the Panjab University had withdrawn its letter dated 30-08-2018 through subsequent letter dated 30-11-2018. Similarly, the Guru Nanak Dev University had also decided to cancel the admissions of the 34 students of Saint Soldier College of Education, Jalandhar.

It has further been stated that *CWP No.24479 of 2018 Malwa College of Physical Education and ors Vs. State of Punjab and ors* was filed for permitting the Colleges to fill up the vacant seats in B.P.Ed. Course on the basis of merit as per qualifying examination. A Division Bench of this Court disposed of the writ petition vide order dated 25-9-2018:

*“Learned counsel for the petitioners states that there are 1190 seats and only 128 admissions have been made on the strength of entrance examination which means that the remaining seats would go waste.*

*Although arguments have been addressed at length, but since the learned counsel for the petitioners after doing so has restricted his claim in the petition to a mandamus to the official respondents to consider his grievance raised in the representations, we would without commenting on the merits of the case, deem it appropriate to direct the official respondents to consider the grievance of the petitioners as contained in representations Annexures P-7 and P-8 and take a decision thereon expeditiously.*

*Petition stands disposed of.”*

The State of Punjab, vide notification dated 16-10-2018, decided to conduct another CET for filling up of the remaining vacant seats in B.P.Ed. Colleges. The second CET was conducted by the nodal college i.e. the Government College of Physical Education, Patiala from 26-10-2018 to 30-10-2018. However, after the second CET some seats still remained vacant. Thereafter, the Government of Punjab vide letter dated 29-11-2018, wrote to the Vice Chancellors of all the three State Universities to decide, at their own level, as to filling up of the still remaining vacant seats, in consonance with the above referred court orders.

It has been emphatically asserted that the Government of Punjab has not allowed or given permission to any University or B.P.Ed. College to make admission against the vacant seats at their own level on the basis of merit in the qualifying exams. Moreover, diluting the concept of CET would be against the policy framework of the Government as well as against the court orders in LPA No.1267 of 2010.

We have heard Ld. Counsel for the parties and perused the record.

It is clear that this Court in LPA No. 1267 of 2010 '*State of Punjab Vs. Self Financed B.ed. Colleges Association Punjab and others*' on consideration of the NCTE Act and the regulations framed thereunder namely the National Council for Teachers Education (Recognition Norms & Procedure) Regulations, 2009 issued direction to the State of Punjab to hold a Common Entrance Test as per its policy for the B.Ed. Course before the start of every academic year for admission to the Colleges of Education

situated in the State which were recognized and affiliated. The admission were directed to be made upon the merit obtained in the test conducted in accordance with the laid down norms and to the extent of the intake capacity prescribed by the Councils.

CWP No.3964 of 2011 titled as '*Mata Gurdev Kaur Memorial Shahi Sports College of Physical Education Vs. State of Punjab*' praying to allow the Physical Education Colleges to fill the B.P.Ed. seats at their own level was dismissed by this Court, vide order dated 10-8-2015 in view of the judgment in LPA No.1267 of 2010.

For admission to B.P.Ed. Course for the session 2017-18 in all colleges of Physical Education affiliated to the Punjab University, Chandigarh, Guru Nanak Dev University, Sri Amritsar and Punjabi University, Patiala, the State issued notification dated 17.4.2018. The Principal, Government College of Physical Education, Patiala was appointed as the authority competent to conduct the Common Entrance Test (CET) and Centralized Counselling for this admission.

The petitioners have taken admission in respondent No.3 college without having qualified in the CET and through Centralized Counselling as per the notification. It is the positive case of the State of Punjab that it has not allowed or given permission to any University or B.P.Ed. College to make admission against the vacant seats at their own level on the basis of merit in the qualifying exams. It is their case that diluting the concept of CET would be against the policy framework of the Government as well as against the court orders in LPA No.1267 of 2010. It

is the stand of respondent No.1 University that it has not granted any permission to Respondent No.3 college for the admission and that the University has strictly adhered to the Notification as issued by Punjab Government in regard to the admissions to the B.P.Ed. Course.

In view thereof the admission of the petitioners was rightly not regularized and directed to be cancelled by respondent No.1 – University on the directive of the State Government. It is significant that the petitioners have not challenged the Government Notification dated 17.04.2018. The impugned order (Annexure P-7) is merely consequential to the notification dated 17.04.2018.

Accordingly, there is no merit in the petition and the same is dismissed.

**( RAJIV SHARMA )**  
**JUDGE**

**( HARINDER SINGH SIDHU )**  
**JUDGE**

**September 22, 2020**

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| Whether Speaking / Reasoned | Yes      |
| Whether Reportable          | Yes / No |