

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

**Civil Writ Petition No. 16578 of 2021 (O&M)
Date of Decision: 10.09.2021**

Suraj Dahiya

..... Petitioner

Versus

Maharishi Dayanand University, Rohtak and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH**

Present: Mr. Anshul Baghla, Advocate
for the petitioner.

JASWANT SINGH, J.

Petitioner – *Suraj Dahiya* has filed the instant writ petition praying for setting aside of the admission granted to private respondent No. 3 – Khush Dev by respondent No. 1 – Maharishi Dayanand University, Rohtak (in short “**University**”) in Ph.D (Physical Education) course under the Haryana Open General Category (for short “**HOGC**”).

Learned counsel for the petitioner has argued that respondent No. 1 – University has wrongly granted admission to private respondent No. 3 under HOGC by completely overlooking the fact that he had applied under the EWS Category. Therefore, it is submitted that granting of admission to private respondent under the HOGC is incorrect. It is further argued that a bare perusal of the manner in which marks have been awarded to the selected candidates in interview would show that they have been unduly favored as there is clear cut overwriting in the marks awarded to them. Thus, it is argued that the entire selection process is a mere eye wash, and therefore, is liable to be set aside.

We have heard the learned counsel for petitioner at length and scrutinized the paper book with his assistance.

A perusal of the prospectus (**Annexure P-5**) would show that a total of six seats were available for students to pursue their Ph.D course in physical education. Out of these six seats, only two seats were earmarked for HOGC. It is further evident that in the prospectus itself, under the Heading “Guidelines for Reservation” at point 7 (Page 64 of paper-book), it was clearly mentioned that a candidate who applies for a reserved category or for both reserved and general categories will be considered first in General Category. In case, he is not selected in general category, he will be considered for reserved category. Clause 7 of the prospectus is reproduced as under:-

“7. A candidate who applies for a reserved category or for both reserved and general categories will be considered first in general category. In case, he is not selected in general category, he will be considered for reserved category.

The Scheduled Castes / Backward Classes candidates who get selected / admitted in Educational / Professional / Technical Institutions and Universities in open competition on the basis of their own merit, will not be counted against the quota reserved for scheduled caste / backward classes, rather they will be treated as open competition candidates. However, such candidates shall fulfill condition of eligibility regarding age etc. as are meant for general category candidates (Memo No. 13864-75 dated 24.8.2012 received from the Principal Secretary to Govt. of Haryana, Welfare of Scheduled Caste and Backward Classes, Department, Chandigarh.). ”

It is thus clear that the respondent-University had clarified in its prospectus and rightly so, that reserved category candidates will be

considered first under the General Category and then in their reserved

category. Admittedly, in General Category, the petitioner had secured 5th rank, whereas the private respondent had secured 3rd rank overall, and therefore, private respondent was more meritorious than the petitioner. Hence, private respondent was rightly given preference over petitioner for the course in question. Consequently, the first argument raised by petitioner that the respondent-University has wrongly granted admission to private respondent in HOGC (which is a General Category), is misconceived, and therefore, rejected.

As far as the second argument regarding *mala fides* is concerned, we are of the view that the same is also without any merit. Although *mala fides* have been alleged against the selection committee as well as the selected candidates, but none of those candidates have been impleaded in this petition as a party. Further, material particulars of fraud / *mala fides* alleged by the petitioner are clearly absent. Neither any reason for favoring candidates by selection committee has been shown nor any *prima facie* proof has been produced before us, which would make us believe that candidates have favoured for extraneous reasons. Given the method of selection viz. interview, the manner in which interview was conducted and the method adopted by the committee to assess the *inter se* merit of candidates cannot be gone into by this court by becoming a “super selector”. This work is best left to the interview committee, who are experts in their fields. It is quite possible that the interview committee, while assessing the candidates first felt that they are required to be given lesser / more marks but then they changed their mind immediately. There can be endless eventualities / probabilities as to why there are over-writings, which

cannot be adjudicated by us while exercising writ jurisdiction. Hence, the second argument as raised by petitioner is also rejected.

Another factor that weighed on our mind is the fact that when we calculated the marks secured by petitioner and compared them with the marks secured by the private respondent by discounting the over-writing and believing the marks as stated by petitioner were originally granted to private respondent by the expert, still, the petitioner's marks were much less than that of private respondent. Hence, either ways, the petitioner cannot claim a better right than private respondent. Further, it is apparent from the record that under this very selection process, the petitioner has been given admission in M.Phil Course (Page 97 of paper-book) as petitioner had applied for Ph.D / M.Phil Course. Once that is so, the petitioner is also a "selected candidate" and he is estopped from challenging the same selection process under which he has himself been offered admission to another course.

In view of the above, finding no merit, instant **petition** is hereby ordered to be **dismissed**.

(JASWANT SINGH)
JUDGE

September 10, 2021

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(SANT PARKASH)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>