

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

CWP-22466-2021 (O&M)

Date of decision: 07.02.2022

Beerjot Singh

... Petitioner

Versus

Panjab University, Sector-14, Chandigarh, and others ... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Sandeep Suri, Advocate,
for the petitioner.

Mr. Indresh Goel, Advocate,
for the respondent-University.

Mr. Avinit Avasthi, Assistant Advocate General, Punjab.

The petitioner prays for a writ in the nature of Certiorari, to quash Rule 3.1(B)(vii) of the Rules of admission for the courses offered by University Teaching Departments/Centres/Institutes, to an extent it excludes/deprives the grandchildren of the persons killed/incapacitated in November, 1984 riots or in terrorist violence in Punjab and Chandigarh of the 2% reservation, whereas the said benefit is extended to the sons/daughters/husband/wife/brothers/sisters of such persons.

In brief, the case set out by the petitioner is that his grandfather (Malkiat Singh) was killed by the terrorists on 4.1.1990. In terms of the impugned Rule, 2% of the total 180 seats, that were to be filled in the B.A. LL.B. (Hons.) 5 years Integrated Course, offered by Panjab University, were reserved in the Riot/Terrorist Victim Category. The petitioner being fully eligible, competed for admission in the said Category. He appeared in the

written examination conducted by the University on 20.8.2021. In the tentative merit list published on 6.10.2021, his name was reflected at Sr. No.2. However, name of the petitioner was removed from the list of selected candidates for provisional admission. Upon making the necessary enquiries from the office, he was informed that his candidature was rejected, for in terms of the impugned Rule, 2% reservation was provided only for the sons/daughters/husband/wife/brothers/sisters of persons killed/incapacitated in November, 1984 riots or in terrorist violence in Punjab and Chandigarh. Whereas, the petitioner was a grandson of the victim, and thus, ineligible to seek admission in the said category.

Learned counsel for the petitioner submits that the impugned Rule is apparently obsolete and repugnant to the object for providing reservation to 1984 riots/terrorist victims, as all the first blood relations of 1984 riot victims would be, at least, 37 years of age, even if they were born in 1984 itself. Which is why, he asserts, that every year almost all the seats in the said category remain unfilled, defeating the very purpose of reservation. In any case, he submits that even the father of the petitioner was a victim of terrorist activities, as on 15.1.2014, he was shot by an unidentified person, and as a result, his right leg had to be amputated. In reference to the reservation policy being adhered to by Punjabi University, Patiala, he submits that even the grandchildren of the terrorist affected persons were entitled to 1% reservation, and therefore, the impugned Rule that deprived the grandchildren of such reservation, was irrational and arbitrary.

We have heard learned counsel for the parties and perused the records.

In context of the limited issue that arises for consideration, we find it expedient to refer to the impugned Rule, which reads as thus:-

3.1(B)(vii): 2% for Sons/Daughters/Husband/Wife/Brothers/Sisters of persons killed/incapacitated in November, 1984 riots and of persons killed/incapacitated in Terrorist Violence in Punjab and Chandigarh. A Certificate from the District Magistrate to this effect must be submitted by the candidate. Migrant Card alone is not enough.

Ex facie, in terms of the Rule, extracted above, the petitioner, being a grandson of late Malkiat Singh, was ineligible to claim admission in the category of victims of terrorist violence. But, he still chose to stake his claim and participate in the selection process. It was only when the authorities, upon scrutiny of the documents, unravelled that petitioner, being a grandson of the victim, was ineligible to claim admission and rejected his candidature, he, vide this petition, questioned the validity of the impugned Rule. Thus, it appears that petitioner consciously took a chance despite being ineligible, if he could still derive the benefit of reservation and somehow secure admission.

As regards the submission that impugned Rule is repugnant to the object for providing reservation to the 1984 riot victims, as all the first blood relations, even if they were born in 1984 itself, would be above 37 years of age; suffice it to say, the argument is palpably erroneous. Firstly, the petitioner never sought admission being a victim of 1984 riots, but as a grandson of a person killed in terrorist violence in Punjab. Further, the benefit of 2% reservation, in terms of the impugned Rule, is not just confined to the sons/daughters of a person killed or incapacitated in riots, but even to the husband/wife/brothers/sisters of such persons. Of course, a person, who was born in 1984, would be 37 years of age in 2021, but we

wonder, as to how Rule 3.1(B)(vii) (*ibid*), could prohibit all eligible candidates, born before 1984, to avail the benefit it entails. Thus, the presumption that permeates the record is that many such candidates must have obtained admissions being sons/daughters/husband/wife/brothers/sisters of a person killed/incapacitated in 1984 riots, at an appropriate stage/age of their respective careers, in the past.

Prima facie, the impugned rule appears to be in furtherance of the object sought to be achieved and is based on a reasonable differentia between those who have been provided the benefit under the rule and the others who have been left out. Upon due analysis of the assertions set out in the petition, we are impelled to record that even the basic foundation to demonstrate, as to how the impugned Rule is arbitrary, irrational and unconstitutional, has not been laid. Likewise, upon being repeatedly asked, learned counsel for the petitioner failed to indicate or show as to how and on what basis the impugned Rule could be held to be invalid. That apart, the Supreme Court in ***State of Punjab v. Anshika Goyal and others*, 2022 SCC Online SC 86; *Gulshan Prakash (Dr.) v. State of Haryana*, 2010(1) SCC 477; *Chairman and Managing Director, Central Bank of India v. Central Bank of India*, SC/ST Employees Welfare Association, 2015(12) SCC 308; *Suresh Chand Gautam v. State of Uttar Pradesh* 2016(11) SCC 113 and *Mukesh Kumar v. State of Uttarakhand* 2020(3) SCC 1**, has categorically held that the Court cannot direct the State to make reservations nor can a petitioner claim a writ to provide reservation, as the authority and discretion to do so vests solely in the State. Further, a writ to direct the State to provide reservation even in respect of vertical categories like Scheduled Castes and Scheduled Tribes and other backward classes cannot be issued.

As regards the argument that in the reservation policy being adhered to by Punjabi University, Patiala, even the grandchildren are entitled to avail the benefit of reservation for admission: suffice it to say that it would not *per se* bind the respondent-University, being an independent and autonomous body. Which could formulate its own rules/regulations for making admissions to the various courses offered by it.

The claim of the petitioner that even his father was victim of terrorist activities and was incapacitated in January, 2014, and he was entitled to admission even on that score, is palpably erroneous. Significantly, neither the petitioner sought admission being a son of the terrorist victim, nor the District Magistrate, who is the designated authority in terms of the impugned Rule, ever certified that father of the petitioner was incapacitated in a terrorist violence. No cogent material is placed on record either to substantiate this claim. Rather, the assertions made in this regard appear to be false.

Thus, in the wake of the above, the only and the inevitable conclusion that could be reached: the petition lacks merits. Accordingly, the same is dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

February 07, 2022
AK Sharma/ravinder

Whether speaking/reasoned	Yes
Whether reportable	Yes/No