



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.25047 of 2024 (O&M)

Reserved on: 03.10.2024

Date of Order:18.10.2024

Prithvansh Malhotra

.Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Wasim Qadri, Senior Advocate (through V.C.)
with Ms. Bhavna Kapur, Advocate (through V.C.) and
Mr. Dushant Jog, Advocate, for the petitioner.

Mr. Gagneshwar Walia, Addl. Advocate General, Punjab
for respondent no.1.

Mr. Vipul Aggarwal, Senior Panel Counsel,
for respondent no.3-Union of India.

ANIL KSHETARPAL, JUDGE

1. INTRODUCTION AND BRIEF FACTS:

1.1 The petitioner aspires for admission in MD/MS/PG Diploma course. He prays for issuance of writ in the nature of certiorari to quash notifications dated 06.03.2023, 10.03.2023 and 20.8.2024, which restricts the admission against 15% NRI seats only to genuine NRIs or their children.

1.2. From the pleadings, it is evident that the petitioner or his parents are not NRIs. He claims that his sister, who is currently pursuing her higher medical studies in the United States of America and has also started her residency after completing her MD and is currently pursuing her Nephrology Fellowship from the University of South Florida, would sponsor

his candidature.

2. **SUBMISSIONS BY THE RIVAL PARTIES:-**

2.1 Heard the learned counsel representing the petitioner at length and with his able assistance perused the paper book.

2.2 The following question arises for adjudication:-

“If in accordance with the State Government's policy, a 15% reservation for genuine NRIs is provided in the prospectus for admission to a professional course whether it will be appropriate to direct inclusion of non-genuine NRIs by the Constitutional courts?”

3. **DISCUSSION:-**

3.1 Baba Farid University of Health Sciences, Faridkot, while issuing admission notice for NRI seats in MD/MS/PG Diploma Courses at Private Institutions/Private & Deemed Universities and Minority Institutions for Session 2024, has restricted the entry of NRI candidates to the following categories:-

“Category I : NRIs/Children of NRI who originally belonged to State of Punjab.

Category II : NRIs/Children of NRI who originally belonged to an Indian state other than Punjab.”

3.2 With respect to admissions to MBBS/BDS courses, the State of Punjab after the last date of submission of the application, sought to expand the definition of 'NRIs' by including uncle's (paternal or maternal/aunts/grand parents maternal/paternal etc.) as genuine NRIs.

3.3 This court vide judgment in **Devbir Singh vs. State of Punjab and others, CWP 20041 of 2024, decided on 10.09.2024** struck down the

expanded definition with the following observations:-

“3.19 The issue of seats allocated under the Non-Resident Indian (NRI) quota in educational institutions has frequently been a subject matter of public debate and judicial scrutiny. 15% seats are reserved for NRI quota out of 85% State quota by the State of Punjab with the justification that higher fee can be charged to fund institutional development and offset the fee of others. However, the practice has often deviated from its intended purpose. In several instances, it has been observed that students benefitting from the NRI quota, as well as their parents, are not bonafide NRIs. Instead these seats tend to be filled by less academically meritorious students who possess the financial means to secure admission, in this category, thus diluting the merit based admission process.

3.20 Proponents of NRI quota argue that the funds generated through this system enable educational institutions to enhance the quality of their infrastructure, and support educational development. Furthermore, the NRI quota serves an additional purpose for persons of Indian origin who have migrated abroad and wish to have their children educated in India, as it allows their children to reconnect with Indian culture while also ensuring that funds are invested in the Indian Educational System.

3.21 However, allocation of such seats must be approached with caution and strict regulation. It is recommended that the reservation of NRI seats be limited to no more than 15% of total intake, as per P.A.Inamdar's case (supra) and admissions shall be given to genuine NRIs, allowing their children or 'Wards' to be admitted under this category. The clause(e) of

corrigendum has also used word 'ward', which should be understood in alignment with its standard, elementary meaning, and therefore it shall include only a 'minor' who is under the guardianship of an NRI (i.e. bonafide guardianship); only such 'wards' shall be entitled to claim 'NRI Quota seats').

3.22. The expansion of 'NRI' definition through the recent corrigendum dated 20.08.2024, is arguably unjustified for several reasons. Initially, the 'NRI Quota' was intended to benefit genuine NRIs and their children, allowing them to access education opportunities in India. By broadening the definition to include distant relatives such as uncles, aunts, grandparents, and cousins, the core objective of NRI quota is undermined. This widening opens the door for potential misuse, allowing individuals who do not fall within the original intent of the policy to take advantage of these seats, potentially bypassing more deserving candidates.”

3.4 Moreover, in exercise of power of judicial review, the courts cannot interfere in policy making sphere of the government unless the policy is manifestly arbitrary, irrational, malafide or inconsistent with constitution or laws. Similarly, the courts are neither expected to interfere on the ground that a better, more fair or wiser alternative is available nor act as appellate authority. Reliance in this regard can be placed on the following decisions:-

1. **BALCO Employees Union (Regd.) vs. Union of India, (2002) 2 SCC 333.**
2. **Directorate of Film Festivals vs. Gaurav Ashwin Jain, (2007) 4 SCC 737.**

3.5 The learned senior counsel representing the petitioner has vehemently submitted that brother and sister should be included in the definition of NRI as they are related by blood with the candidate. The

learned senior counsel representing the petitioner has relied upon the orders passed by the Supreme Court in *Consortium of Deemed Universities in Karnataka (CODEUNIK) and another versus Union of India and others (Writ Petition (Civil) No.689 of 2017)*, Division Bench judgment of Madhya Pradesh High Court in *Anshul Tomar vs. State of M.P. And others, 2008 SCC Online MP, 139* and interlocutory orders passed by the Supreme Court in *Ruchin Bharat Patel vs. Parents' Association for the M/D Students and others, 2006 SCC OnLine SC 1437*. All these judgments have already been examined, analyzed and distinguished in *Devbir Singh's case (supra)*.

4. **DECISION:-**

4.1 Having considered the submission, this court appreciates the governments intention behind by the NRI quota which aims to provide access only to children of genuine NRIs. As is evident, the petitioner or his parents are neither NRIs nor they have ever lived abroad. Merely because the petitioner's sister is in USA would not be sufficient to justify his inclusion in getting admission through back door entry under the category of NRI.

4.2 For the reasons noted above, the writ petition is dismissed.

4.3 All the pending miscellaneous applications, if any, are also disposed of.

(ANIL KSHETARPAL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

18th October, 2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No