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

**CM-19671-CWP-2024 with
CM-6048-CWP-2025 in/and
CWP-16684-2024 (O&M)
Date of Decision : 29-04-2025**

MASTER ADITYA BENIWAL

.....Petitioner

VERSUS

UNION OF INDIA AND OTHERS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Mohit Garg, Advocate with
Mr. Mohit Saini, Advocate and
for the petitioner.

Mr. Vipul Aggarwal, Sr. Panel Counsel
for respondent Nos.1 to 4- UOI.

Mr. Arun Gosain, Advocate
for respondent No.5-NTA.

Mr. Pardeep Kumar Rapria, Advocate
For applicant/respondent No.6.

HARSIMRAN SINGH SETHI, J. (Oral)

CM-19671-CWP-2024

1. This is an application for placing on record reply and Annexure R-5/1 to R-5/2 on behalf of respondent Nos.5.
2. Keeping in view the contents mentioned in the application, the same is allowed. Reply and Annexure R-5/1 to R-5/2 on behalf of respondent Nos.5 is taken on record subject to all just exceptions.

CM-6048-CWP-2025

1. This is an application for impleading the applicant Master Nitin as respondent No.6 in the present writ petition.
2. In view of the contents mentioned in the application, the same is allowed. The applicant Master Nitin be impleaded as respondent No.6 as party to the present petition only for the purpose of prosecuting the present case.
3. Registry is directed to make necessary changes in the memo of parties by impleading the applicant Master Nitin as respondent No.6 as party to the present petition.

CWP-16684-2024 (O&M)

1. In the present petition, the grievance being raised by the petitioner is that the petitioner who is a minor and is represented by his mother had applied for admission to the Sainik School within the State of Haryana. While filling up the form to appear in the entrance examination for getting the admission in the Sainik School, the petitioner filled up the category as “General” instead of “ward of Defence Personnel” and vide impugned order dated 04.07.2024 (Annexure P-11), the claim of the petitioner to change the category has been rejected, which is causing prejudice to the petitioner.
2. The petitioner competed in the examination for admission to the Sainik Schools and was ultimately selected in the Sainik School, Rewari whereas, the petitioner is claiming that the petitioner-candidate is that

instead of being treated as a “General Category” candidate, the candidature of the petitioner should be treated as a “ward of Defence Personnel” and his merit should be revised so that, he is granted admission in any other Sainik School in the State of Haryana.

3. The prayer of the petitioner-candidate is that filling of the category as “General” was inadvertent on the ground that in the application itself where, the petitioner-candidate has given the details of his father it is mentioned that he is a member of armed forces.

4. Learned counsel for the petitioner submits that the inadvertently, by mistake, wrong category was filled while filling up the form by the petitioner-candidate and the said mistake should have been condoned by the respondent so as to re-consider the claim of the petitioner-candidate in the “Defence Category” to grant the petitioner-candidate the admission in any other Sainik School than the one where the petitioner has been granted the admission being a “General Category” candidate.

5. Upon notice of motion, the respondents have appeared and filed the reply. In the reply, the respondents have stated that the plea which is being taken by the petitioner is that filling of the “General Category”, is inadvertent, which is in correct.

6. Learned counsel for the respondent submits that after the filling up of the form and the last date, the candidates were given a correction window of 3 days to correct any of the information filled up by the candidate whereas the petitioner-candidate never availed of the option of said correction window at any time till, his case was considered in the “General

Category” and he was allocated the Sainik School, Rewari, after which the petitioner-candidate agitated his claim to be considered in the “Defence Category” instead of “General Category”.

7. Learned counsel for the respondent further submits that another candidate i.e. respondent No.6-Master Nitin who is next in the merit in the Defence Category, is still waiting for admission as one seat has been reserved in favour of the petitioner-candidate and in case, the category of the petitioner is changed from “General Category” to “Defence Personnel”, respondent No.6-Master Nitin will lose his admission and no one else, who was lower in merit in the “General Category” than the petitioner will also be able to get admission at this stage and the seat in the “General Category” will go waste.

8. I have heard the learned counsel for the parties and have gone through the records of the present case with their able assistance.

9. As per the settled principle of law, the admissions are to be made on the basis of the information disclosed by the candidate which is available with the Department upto the last date of the filling up the form concerned. Reliance can be placed upon the judgment of the Hon’ble Supreme Court of India in Civil Appeal No.7677 of 2021 titled **“The State of Bihar and ors. Vs. Madhu Kant Ranjan and anr.”** decided on 16.12.2021. Relevant paragraph 9 of the judgment is as under:-

“9. As per the settled proposition of law, a candidate/applicant has to comply with all the conditions/eligibility criteria as per the advertisement before the cut-off date mentioned therein unless extended by the recruiting authority. Also, only those documents,

which are submitted alongwith the application form, which are required to be submitted as per the advertisement have to be considered. Therefore, when the respondent No.1 original writ petitioner did not produce the photocopy of the NCC 'B' certificate alongwith the original application as per the advertisement and the same was submitted after a period of three years from the cut-off date and that too after the physical test, he was not entitled to the additional five marks of the NCC 'B' certificate. In these circumstances, the Division Bench of the High Court has erred in directing the appellants to appoint the respondent No.1 original writ petitioner on the post of Constable considering the select list dated 08.09.2007 and allotting five additional marks of NCC 'B' certificate.”

10. Keeping in view the said principle of law, it may be noticed as per the terms and conditions of the Advertisement, it was duly mentioned that no change in the category could be entertained after the submission of the application form and no subsequent changes will be affected/accepted through the correction window.

11. Hence, once the Standard Operating System duly informed the candidates that no such correction window will be allowed to be made, the correction sought to be made is impermissible.

12. Further in Para No.8 of the Standard Operating Procedure adopting for All India Sainik School, learned counsel submits that for the year 2024 clearly stated that any details given in the application form can only be amended during the correction window provided and subsequently, no candidate will be allowed any change in their personal details including

gender, father name, mother's name, guardian's name or domicile, date of birth as well as the category.

13. Further, as per the judgment of the Hon'ble Supreme Court of India in Civil Appeal no.198 of 2005 titled "***J&K Public Service Commission Vs. Israr Ahmad and ors.***", decided on 07.01.2005, wherein a Category-1 cannot be allowed to be changed. The relevant paragraph 6 of the judgment is as under:-

"6. We have considered the rival contentions advanced by both the parties. The contention of the first respondent cannot be accepted as he has not applied for the selection as a candidate entitled to get reservation. He did not produce any certificate along with his application. The fact that he has not availed the benefit for the preliminary examination itself is sufficient to treat him as a candidate not entitled to get reservation. He passed the preliminary examination as a general candidate and at the subsequent stage of the main examination he cannot avail the the reservation on the ground that he was successful in getting the required certificate only at a later stage. The nature and status of the candidate who was applying for the selection could only be treated alike and once a candidate has chosen to opt for the category to which he is entitled, he cannot later change the status and make fresh claim. The Division Bench was not correct in holding that as a candidate he had also had the qualification and the production of the certificate at later stage would make him entitled to seek reservation. Therefore, we set aside the judgment of the Division Bench and allow the appeal."

14. Keeping in view the settled principle of law, the Category-1 once opted by petitioner-candidate, cannot be allowed to be changed later on especially at the cost of the future of other candidates.

15. In the present case, the petitioner filled up the form with the clear intent that he is a candidate belonging to the “General Category” and is competing for the same. Though, the occupation of the father was given as a Defence Personnel but, it may be noticed that all the wards of the Defence Personnel need not apply in the “Defence Category” and it could be that a candidate might chose “General Category” to compete in the competitive examinations.

16. Further, the argument i.e. the basis of filing of the writ petition is that filling of the “General Category” was inadvertent. In case, the said fact that the filling up of the form with the intent that the petitioner intends to compete in the “General Category” was inadvertent, the petitioner should have availed the correction of the same when 3 days window was granted by the respondents to correct his final data so that, the data which has been filled by the petitioner-candidate is taken into consideration for assessing the entitlement of the petitioner-candidate for admission to the Sainik Schools. The petitioner-candidate has not availed the said correction window despite availability of the chance to correct his category from “General Category” to “Defence Personnel” therefore, even if it is assumed that the filling of the “General Category” was inadvertent but, once, the petitioner-candidate failed to exercise the due diligence to correct the said inadvertent mistake despite availability of option, the same cannot be allowed to be corrected as from “General Category” to “Defence Category” and that too at a cost of the future of another candidate, who is waiting in line to get admission in the Defence Category, who has done nothing wrong while filling up the form or

competing for admission to the Sainik School in the category of Defence Personnel.

17. Further, if the prayer of the petitioner-candidate is accepted as of today, the petitioner will have to be shifted to the “Defence Category” thereby ousting respondent No.6-Master Nitin, who is next in merit in the “Defence Category” to be admitted in the Sainik School. The seat in the “General Category” which will be vacated by the petitioner-candidate at Sainik School, Rewari, will not be filled up as of now keeping in view the lapse of time hence, the situation will be such that two candidates will suffer in case, the inadvertent mistake of the petitioner-candidate i.e., the change from “General Category” to “Defence Category” is allowed to be corrected at this stage and that too especially in view of the facts which have been mentioned hereinbefore.

18. Keeping in view the totality of the circumstances where, the petitioner has already been granted admission in the Sainik School, Rewari in the facts and circumstances of the present case, the prayer of the petitioner that he is entitled to compete in the “Defence Category” so as to grant admissions in another Sainik School, cannot be accepted.

19. Learned counsel appearing on behalf of the private-respondents submits that as seat was reserved for the petitioner-candidate, respondent No.6-Master Nitin has not been granted admission. He further submits that as respondent No.6-Master Nitin was seeking admission in 6th Class and after the 6th Class, the admission cannot be granted in the 7th Class.

20. It may be noticed that the seat to respondent No.6-Master Nitin was not given due to an interim order passed in favour of the petitioner-candidate. The order granted by the Court should not cause prejudice to a candidate, who was otherwise eligible and entitled to get admission as per merit. The reliance can be placed upon the judgment in *Inderchand Jain (D) through LRs. Vs. Motilal (D) through LRs, (2009) 14 SCC 663*.

21. Hence, while rejecting the claim of the petitioner to grant admission by treating him as competing in the “Defence Category”, it is directed that respondent No.6-Master Nitin, who was next in the Defence Category, should be granted admission without their being any question raised qua his entitlement at this stage.

22. At this stage, learned counsel for the petitioner submits that the petitioner is already studying in Sainik School, Rewari but as per the terms and conditions of the admission, he can shift to any other Sainik School also, which request of the petitioner-candidate has been declined vide order dated 03.04.2025. Hence, the respondents be directed to consider the claim of the petitioner for transferring the petitioner to any other Sainik School.

23. It may be noticed that the order dated 03.04.2025 is not under challenge. In case, the petitioner is aggrieved in any manner against the said order, he can avail appropriate remedy admissible to him as per law.

24. Pending application, if any, also stands disposed of.

29-04-2025
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES
Whether reportable: NO