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(31) We cannot find any fault as a matter of principle in the action of the respondents for treating the petitioner ineligible for admission to the course. The terms and conditions of the brochure are binding and effective to all concerned and they must be adhered to strictly. This was so held by a Full Bench of this Court in the case of *Amar Deep Sahota versus State of Punjab and another* (11). The Hon'ble Apex Court has held that mis-placed sympathy in the education matters should be avoided and admission contrary to the Prospectus and Calendar of the University should not be allowed. Even on this score we see no reason to grant the prayer of the petitioner. Reference can be made to the case of *C.B.S.E. and another versus P. Sunil Kumar and others* (12).

(32) In view of the above discussions, we reject all the contentions raised on behalf of the petitioner and dismissed this writ petition with the above observations. However, parties are left to bear their own costs.

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**R.N.R.**

*Before Amar Bir Singh Gill & Swatanter Kumar, JJ*

VINEET SINGLA—*Petitioner*

*versus*

THE STATE OF PUNJAB AND OTHERS—*Respondents*

*C.W.P. No. 10349 of 2001*

6th December, 2001

*Constituion of India, 1950—Arts.14, 16 & 226—Notification dated 10th December, 1997 issued by the State of Punjab—Admission to the Bachelor of Engineering Programme on the basis of an entrance test—Having participated at various levels in the game of 'Softball', petitioner applying under the Sports quota—Government framing a Gradation policy specifying the games for grant of admission under the Sports category—Game of 'Softball' does not fall within the Gradation policy of the State—Game of 'Softball' neither recognised*

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(11) 1993 (2) PLR 212

(12) 1998 (5) SCC 377

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*nor affiliated to the Punjab Olympic Association—Neither the High Court has jurisdiction to include or exclude a game in the gradation policy nor it can express its own opinion in substitution of the opinion of the expert body—Petitioner has no right to claim admission under the Sports category—Petition dismissed.*

*Held*, that the Court has no jurisdiction to include or exclude a game which ought to be mentioned in the Gradation Policy for the said purpose of issuing the Gradation Certificate.

(Para 9)

*Further held*, that twenty two different associations have been recognised and affiliated to the Punjab Olympic Association, where obviously the name of Softball game association does not appear. Since an expert body has been specifically provided under the scheme for this purpose, it will not be appropriate for the Court to express an opinion whether the game of softball should or should not be included in the Gradation List of the State Sports policy. It will not be appropriate for this Court to direct inclusion of Softball in the list.

(Para 10)

Pawan Kumar, Advocate for the Petitioner.

A. G. Masih, DAG, Punjab.

D.S. Nalwa, Advocate, for respondent No. 4.

P.S. Patwalia, Advocate, for respondent No. 4.

Surinder Kumar, Advocate, for respondent No. 5.

Anupam Gupta, Advocate, for respondent No. 5.

### **ORDER**

Swatanter Kumar, J.

(1) The petitioner in this petition under Articles 226/227 of the Constitution of India prays for issuance of an appropriate writ, order or direction for quashing the policy of the Government dated 10th December, 1997, Annexure P-8A to the petition, which regulates admission of the candidates to the Bachelor of Engineering Technology/ Architecture under the Sports category in the State of Punjab. The

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challenge is founded on the contention that it offends Articles 14 and 16 of the Constitution of India as it does not include the game of Softball for which the Sports Graduation Certificate ought to be issued by the Government for the purpose of admission.

(2) The necessary facts are that the petitioner passed his 10+2 (Non-medical) examination from Khalsa College, Patiala and appeared in the Common Entrance Test for admission to Bachelor of Engineering Programme conducted by the Punjab Technical University, Jalandhar (hereinafter referred to as the "University") for various Colleges/ Institutions throughout Punjab for the year 2001-2002. The University held examination in furtherance to the Notification issued by the State of Punjab in April, 2001. The result of this Entrance Test was declared in June, 2001. The petitioner ranked at 12000 in the merit declared by the University. The petitioner claimed to have applied under the Sports Quota, for which 2% seats were reserved. The petitioner particularly applied for admission to Thapar Institute of Engineering and Technology, Patiala as well as in other Colleges. The petitioner claims that he had participated in 45th National Games 1999-2000, held by the Government of Jammu and Kashmir in the game of Softball. He also participated in the Inter College University Softball Tournament held at Panjabi University, Patiala in the year 2001. *Vide* Annexure P-7, petitioner had applied for issuance of Sports Graduation Certificate in the game of Softball to the District Sports Officer, Rank Hall, Baradari Garden, Patiala.

(3) Upon notice, separate written statements were filed on behalf of the Thapar Institute of Engineering and Technology through its Registrar and the State of Punjab.

(4) According to the Thapar Institute of Engineering and Technology, counselling for allocation of seats was held from 7th to 9th July, 2001 and second counselling was held on 29th July, 2001. All the seats were filled on that day and no seat had been left vacant. The academic Session had commenced on 16th July, 2001. As such, the petitioner, according to the Institute, could not be granted admission in the academic year.

(5) The Director of Sports filed a detailed affidavit on two different occasions, stating that the Sports Department of the Government of Punjab had issued the Graduation policy,—*vide* letter dated 10th December, 1997 which is Annexure R-1 to the written

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statement. As per the policy, no Gradation Certificate could be issued in relation to a game which is not specifically mentioned in the Gradation policy and those certificates alone could be signed/counter-signed by the concerned Department. As the Softball is not included in the Government policy, there is no fault on the part of the Department in not issuing the Gradation Certificate to the petitioner. Various other games are also not included in the Gradation policy, like Roller Skating, Body-building Chess and Yoga as these games had not been given recognition by the Punjab Olympic Association till date. Thus, no Gradation Certificate could be issued to the petitioner. The respondents have also placed on record the policy adopted by the Government relating to inclusion/exclusion of sports from the policy of the Government for issuance of Gradation Certificates. The criteria for the purpose of inclusion of games in the Gradation list depends upon its popularity, potential and affiliation of their inclusion in the National Games and International competitions held by the concerned and designated Associations. As the game of Softball is not recognised and does not fall within the Gradation Policy of the State, The petitioner was not entitled to Gradation Certificate and consequently to admission in the aforesaid Course under the Sports category.

(6) Learned counsel for the petitioner, on the above premises, strenuously contended that a game which is played at the National and inter-Universities level and the petitioner having participated at different levels, the Government is obliged to include the said Softball game in the Gradation Policy for the purpose of issuance of Gradation Certificate. Further, the Government was obliged to issue Gradation Certificate to the petitioner according to his merit under the Sports category. In fact, the learned counsel further supported his contention on the basis of clause 8 of the Policy, issued by the Government on 10th December, 1997. Clause 8 of the Policy reads as under :—

“Performance achieved in individual event of any discipline and in team games will be considered only if it has been achieved through a competition with 7 or more competitors (individual even) and 15 or more units in team games.”

(7) The learned counsel also placed reliance upon a Single Bench judgment of this Court in the case of *Mandip Singh versus Union Territory, Chandigarh and others*.(1).

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(1) 1997 (4) RSJ 96

(8) Admittedly, admission under the Sports category has to be controlled and granted in terms of the Policy formulated by the State Government issued,—*vide* its notification dated 10th December, 1997. The said Policy is the guide to the grant of admission under the specified category. It is the settled principle of law that the Policy must be given effect to upon its complete reading and a mere reference to some clauses of the Policy out of full context is not permissible. Clause 8, upon which the learned counsel for the petitioner relies upon, certainly refers to the expression “in individual event of any discipline”. The said expression has to be read in its proper perspective and with the preceding paragraph of the same Policy. Clause 8 cannot be read in its abstract and de-hors other substantive provisions contained in other paragraphs 1 to 7 of the same Policy. The expression “any discipline” cannot be given a meaning which would frustrate the entire Policy. The Policy provides the criteria for the grant of Sports Gradation certificate for entitlement to the admission based thereon. In other words, admission to Sports Category is a mere concession given by the State in recognition of merit in Sports. Clause 2 of the Policy tells us that the certificates are to be granted in ascending order of merit of Grade A, Grade B, Grade C and Grade D. The respective Grades again provide for internal performance between the different sports level which are achieved by the individual applicant. Clause 3 of the Policy is pertinent and has a direct bearing on the matter in controversy. Thus, it will be appropriate to refer to clause 3 of the Policy which reads as under:—

‘Performance of following Sports discipline only will be considered for the purpose of Sports Gradation:—

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|------------------------------------|------------------------------|
| 1. Athletics                       | 2. Badminton                 |
| 3. Basketball                      | 4. Cricket                   |
| 5. Cycling                         | 6. Cymnastics(Artistic Only) |
| 7. Football                        | 8. Hockey                    |
| 9. Handball                        | 10. Judo                     |
| 11. Kabaddi<br>(National<br>Style) | 12. Kho Kho                  |
| 13. Lawn Tennis                    | 14. Boxing                   |

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|--------------------|-----------------|
| 15. Wrestling      | 16. Swimming    |
| 17. Table Tennis   | 18. Volleyball  |
| 19. Weight Lifting | 20. Shooting    |
| 21. Archery        | 22. Equestraian |
| 23. Fencing        |                 |

(9) The other clauses of the Policy preceding to Clause 7 also declare various essential conditions which the applicant must satisfy in order to claim Gradation Certificate. The expression "Following Sports disciplines only" certainly has predominance over the expression used in clause 7 "any discipline". Any discipline can not enlarge the scope of Clause 3 which restrict by definite terms that Gradation Certificate would be issued only for the sports which are mentioned in Clause 3 of the Notification. Both these clauses do not have any contradiction but they have to be read harmoniously to achieve the object underlying the concessional policy framed by the State. By no means, a Gradation Certificate can be issued to a sport which is not incorporated under clause 3 and this stand of the State Government is well founded and cannot be rejected. It is the settled principle of law that the framing of a policy falls primarily in the domain of the State agency and Courts being not an expert body, may not be the appropriate forum to disturb or alter the said policy. Reference in this regard can be made to a recent judgment of this Court in *the State of Punjab versus Daya Nand Medical College etc.*(2). The above policy, i.e. the Sports Policy of the State, does not relate to the standard of adoption of the minimum marks required to be obtained in the competetive examination by the applicant. What it basically regulates is the manner and the methodology in which the applicant can apply and get a seat in the Engineering or like other professional courses under the Sports category. We are of the considered view that the Court has no jurisdiction to include or exclude a game which ought to be mentioned in the Gradation Policy for the said purpose of issuing the Gradation Certificate. The criteria indicating what kind of a sport should be recognized by the State authority for issuance of a Gradation Certificate has been placed on record and is dated 12th January, 1998 as Annexure R-C. Annexure R-3 to the reply further indicates what are the pre-requisites for consideration of Sports Gradation of a game

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(2) JT 2001 (8) S.C. 529

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by the Sports Department, Punjab. The relevant clauses of Annexure R-3 are:—

1. Sports Association must be registered under Societies Registration Act of 1960.
2. Sports Association must be recognised by Punjab Olympic Association.

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7. Committee under the Chairmanship of Secretary Sports will have the following members :—

- (1) Director Sports (Member Secretary)
- (2) Joint Director Sports.
- (3) Senior most Deputy Director.
- (4) President/Secretary POA.

They will review the existing policy and shall make necessary changes on any aspect of the policy including the inclusion or exclusion of any unit. The decision of the Committee will be final. This review will take place after every five years.

8. Committee mentioned in para 7 will take into consideration if the particular discipline is recognised discipline in Asian and Olympic Games Popularity of the game, participation level, performance level will be given special emphasis.”

(10) According to the respondents, the above mentioned ingredients are not satisfied as the alleged association of Softball is neither registered society under the relevant Act nor it is recognised by the Punjab Olympic Association. Annexure R-2 to the reply states which are the Associations that have been recognised and affiliated to the Punjab Olympic Association. Twenty two different associations have been specified where obviously the name of Softball game association does not appear. Since an expert body has been specifically

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provided under the scheme for this purpose, it will not be appropriate for the Court to express an opinion whether the game of Softball should or should not be included in the Gradation list of the State Sports policy. The Hon'ble Apex Court in the case of *Dalpat Abasaheb Solunke etc. versus Dr. B.S. Mahajan etc.* (3) had clearly indicated that where a subject falls within the domain of an expert body, the Court should not normally express its own opinion in substitution of the opinion of the expert body. In other words, our view is fortified by the above principle that it will not be appropriate for this Court to direct inclusion of Softball in the list stated under clause 3 of the Notification.

(11) As it is apparent from the pleadings of the parties, a sport's popularity, potential and its affiliation/recognition by the Olympic Association of the State of Punjab or India are the matters which can be determined by the expert body created under the Scheme and thus, this Court would have no mechanism to find out and record the findings that particular game or the association dealing with the said game ought to be included in the Gradation list of sports. We are not in a position to accept the contention of the petitioner that there shall be deemed inclusion of the Softball game in the list on the strength of clause 8. The concept of deemed inclusion cannot apply in the facts and circumstances of the present case and particularly, to a policy, which in terms specified the satisfaction of a prescribed criteria as a pre-requisite for its inclusion.

(12) The petitioner had admittedly not annexed any Gradation Certificate with his application form as it was not issued by the respondents on the above premises. The requirement of the procedure makes it obligatory to annexe the requisite certificate justifying the claim under Sports category along with the application. An incomplete application could not give any right to the petitioner much less an enforceable legal right. A Full Bench of this Court in the case of *Indu Gupta versus Director of Sports, Punjab and another* (4), clearly stipulated that incomplete forms which are not in conformity with the terms of the brochure could be rejected by the competent authority and as such, the same does not violate any right of the petitioner.

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(3) AIR 1990 SC 434

(4) 1999 (4) R.S.J. 667



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(13) Reliance placed by the petitioner in the case of *Mandip Singh (supra)* is misconceived. Firstly, the facts of that case were different and the petitioner was not issued the Gradation Certificate because he had participated in the All India G.V. Mavlankar Shooting Championship 1996 of which association was recognised but the tournament was not recognised by the National Rifle Association of India and as such the Gradation Certificate was not countersigned by the Chandigarh Administration. We are unable to persuade ourselves to accept the view that the above judgment covers the case of the petitioner entirely on law and facts. With greatest respect, we are not in a position to persuade ourselves to concur to the view expressed by the learned Single Judge in *Mandip Singh's case (supra)*. Another factor which has weighed with this Court in declining the relief to the petitioner is that admittedly, the course had started in July, 2001 and nearly six months have already elapsed of this technical professional course. It will be too late in the day to consider the case of the petitioner even if the plea of the petitioner is accepted. Midstream admission to the professional course was not approved by the Apex Court in the case of *State of Uttar Pradesh and Ors. versus Dr. Anupam Gupta etc.* (5).

(14) For the reasons aforesaid, we find no merit in this petition and the same is dismissed. However, we leave the parties to bear their own costs.

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**R.N.R.**

Before N.K. Sodhi and Jasbir Singh, JJ

MATA SUDARSHAN TILAK RAJ DHAWAN EDUCATIONAL  
TRUST—*Petitioner*

versus

STATE OF HARYANA AND OTHERS—*Respondents*

C.W.P. No. 11923 of 2001

7th January, 2002

*Constitution of India, 1950—Art.226—All India Council for Technical Education Act, 1987—All India Council for Technical Education (grant of approval for starting new technical institutions,*

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(5) JT 1992 (4) SC 422