

Nischal Gupta v. Union Territory, Chandigarh and others
(R. S. Mongia, J.)

Where the representation made by the detenu to the Central Government has been ignored and left unattended for a period of four months, that would constitute violation of Article 22(5) of the Constitution.

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Where the detenu made a representation to the Central Government on 26th September, 1988 and the decision of the Central Government rejecting the representation was communicated to the appellant on 31st October, 1988, it was observed, that the representation of the detenu had not been given prompt and expeditious consideration."

(12) Relying on the ratio of the judgments of the Supreme Court in *Rattan Singh's case* (supra) and *Abdul Salam's case* (supra), the conclusion is inescapable that the continued detention of the petitioner has been rendered unsustainable inasmuch as the respondent No. 2 failed to consider the representation made by the petitioner against his detention.

(13) In view of the above facts and circumstances of the case, it is not considered necessary to deal with the other grounds.

(14) For the reasons recorded above, the petition is allowed and the continued detention of the petitioner is held illegal and, therefore, quashed. The Superintendent Central Jail, Amritsar as also Superintendent, Central Jail, Patiala (as the counsel for the petitioner has verbally submitted that the petitioner is now detained at Patiala Jail) be informed to set the petitioner at liberty forthwith, unless his detention is required in any other case.

R.N.R.

Before R. S. Mongia, J.

NISCHAL GUPTA,—Petitioner.

versus

UNION TERRITORY, CHANDIGARH AND OTHERS,—Respondents.

Civil Writ Petition No. 10758 of 1991.

8th October, 1991.

Constitution of India, 1950—Art. 226—Admissions—Reservation for sportsman—Claim against reserved category—Punjab Engineering College, on the basis of instructions issued by U.T. Administration to follow the pattern as is being followed in the Panjab

University for the purpose of admission of candidates belonging to sports category, mentioning certain sports disciplines against which sportsmen were to be considered—Candidates excelling in the sport of shooting—Game of shooting, which was included in the sports category in the previous years, however, excluded by above instructions—Candidate basing his claim on the ground that according to prospectus, achievement in sports in the previous three years had to be reckoned for the purpose of admission and, as such, three years notice should have been given prior to excluding the game so that he could switch over to some other game and seek admission in the reserved quota for sportsmen—Denial of admission to him—Whether justified.

Held, that the reason given by the respondents that they would follow the pattern regarding admission as that of Punjab University to which the College is affiliated is a justifiable reason. I find nothing wrong in this reason for deleting the sport of shooting from the sports disciplines which are to be considered for the purpose of admission in the sports category. (Para 3)

Held, further, that according to the prospectus, three years' achievements are to be taken into consideration only in the sports mentioned in the prospectus. Once it is held that a particular game can be excluded for valid reasons, the question of any notice being given to sportsman on any count does not arise, as there is no right with the sportsman to say that once a game is included, it cannot be excluded. (Para 5)

Civil Writ Petition under Articles 226 and 227 of the Constitution of India praying that the complete records of the case be called for :—

- (i) a writ in the nature of mandamus directing the respondents to follow the Punjab instructions Annexure 'P/9' and compliance with the judgment reported in 1990(5)—S.L.R. 658 of this Hon'ble Court be issued.*
- (ii) a writ in the nature of certiorari quashing the general guide-lines issued by the University Annexure 'P/9' be issued.*
- (iii) a direction be also issued to the Engineering College to fill the seats in various branches after giving 5 per cent reservation to the sports-men/women in every branch of Engineering and arbitrary criteria adopted by the Engineering College for allocation of seats to various branches be set aside.*

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- (iv) *a suitable writ, order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case be issued.*
- (v) *filing of certified copies of Annexures 'P/1' to 'P/13' be dispensed with.*
- (vi) *service of advance notices upon the respondents may also be dispensed with.*
- (vii) *costs of this petition be awarded to the petitioner.*

AND

It is further prayed that during the pendency of the writ petition, the petitioner be considered for admission in the sports category and 5 per cent of the seats in every branch of Engineering be treated as reserved.

P. S. Patwalia, Advocate, for the Petitioner.

Ashok Aggarwal, Sr. Advocate with G. S. Sandhawalia, Advocate,
for the Respondent.

JUDGMENT

R. S. Mongia, J. (Oral)

(1) In this writ petition, the petitioner is a sportsman and has excelled himself in the sport of Shooting. There are certain seats reserved for sportsmen in the Punjab Engineering College, Chandigarh and the petitioner is staking his claim in the reserved category of sportsmen.

(2) While reserving the seats for the sportsmen, the College Authorities on the basis of the instructions issued by the U.T. Administration, which runs the College, certain sports disciplines have been mentioned and the sportsmen who have excelled themselves only in those sports disciplines are to be considered for admission against the reserved seats in that category. The game of Shooting has not been included by the respondent-College. The grievance of the petitioner is that as far as the game of Shooting is concerned that was being included in the sports category during the previous years and according to the learned counsel for the petitioner there are no justifiable reasons to exclude this sport this year. Learned counsel further submitted that according to the prospectus it had

been mentioned that achievements in sports in the previous three years shall be reckoned for purpose of admission, and that being so atleast three years notice should have been given prior to excluding this game so that the sportsman like the petitioner could switch over to some other game and seek admission in the reserved quota for sportsmen.

(3) The Punjab Engineering College, Chandigarh is affiliated to the Punjab University. A decision was taken by the Chandigarh Administration that they should follow the pattern as is being followed in the Panjab University for its Departments for the purpose of admission of the candidates belonging to sports category. The game of shooting has not been included by the Panjab University for admitting the students in the sports category in the Panjab University departments. It may be observed here that as far as the game of shooting is concerned, the same was deleted from the sports calendar by the Association of Indian Universities in its Sports Committee Meeting held on 4th April, 1986 and subsequently the Panjab University deleted this game from its sports calendar also. The reasons given by the Sports Committee of Association of Indian Universities was that in view of the difficulties in the availability of ranges, transportation of arms and ammunition to the venue of tournament, it had been decided to discontinue the Inter University Shooting Tournament, both Men and Women. It is, no doubt, that in the previous years, the game of shooting had been included by the Punjab Engineering College for admitting the students in the sports category but that would not give any right to a sportsman to ask the authorities that a particular game once included must continue for all times to come. According to me, the reason given by the respondents that they would follow the pattern regarding admission as that of Panjab University, to which the College is affiliated is a justifiable reason. I find nothing wrong in this reason for deleting the sport of shooting from the sports disciplines which are to be considered for the purpose of admission in the sports category.

(4) The game of Boxing which was earlier there for admission to the Departments of the Panjab University was excluded for the Session 1989-90. This was challenged in this Court in C.W.P. No. 9958 of 1990, which was dismissed on September 12, 1989. Learned Single Judge observed as under:—

“Moreover, if the game of Boxing was excluded in the present prospectus no grievance can be made by the petitioner

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claiming reservation on that basis because it is not one's right to claim that a particular game be included in the list provided in the prospectus. It is for the Department concerned to provide such a list of games."

It was also observed by the Learned Judge that valid reasons had also been given for excluding the sport of Boxing. As observed by me above, the petitioner has no right to say that a particular game must continue for all times to come and that valid reasons have been given by the Chandigarh Administration to exclude the game of Shooting.

(5) I also do not find any force in the contention of learned counsel for the petitioner that since the achievement of the previous three years in the various disciplines of sports is to be taken into consideration at least three years notice should have been given so that if a particular sportsman wanted to shift, he could shift over to some other sport. According to the prospectus, three years' achievements are to be taken into consideration only in the sports mentioned in the Prospectus, Once it is held that a particular game can be excluded for valid reasons, the question of any notice being given to sportsman on any count does not arise, as there is no right with the sportsman to say that once a game is included, it cannot be excluded.

(6) For the foregoing reasons, I find no merit in this writ petition, which is hereby dismissed. However, there will be no order as to costs.

R.N.R.

Before Jawahar Lal Gupta, J.

KIRTI PARSHAD JAIN AND OTHERS---*Petitioners*

versus

THE STATE OF HARYANA AND OTHERS---*Respondents*

Civil Writ Petition No. 734 of 1991.

1st April, 1991.

Haryana Municipal Act, 1973—S. 13—Withdrawal of resignation—Municipal Commissioners submitting resignation—Deputy Commissioner accepting it on the same day—S. 13 requiring resignation to be