

Before N.K. Sodhi and R.C. Kathuria, JJ

Ms. ANJALI VERMA,—*Petitioner*

versus

GURU NANAK DEV UNIVERSITY & OTHERS,—*Respondents*

C.W.P. No. 11750 of 2000

13th November, 2000

Constitution of India, 1950—Art. 226—Admission to M.B.B.S. Course—Seat reserved for gallantry awardee—Petitioner seeking admission against such seat—Admission granted to the petitioner—Admission cancelled on the ground that Vishisht Sewa Medal not in the list of Gallantry awards—Petitioner not eligible in terms of the prospectus—Order of the respondents cancelling the admission of the petitioner justified—Writ dismissed.

Held that as the petitioner had claimed reservation being the ward of a Gallantry Awardee, she was duty bound to furnish all the requisite documents including the certificate of the Gallantry Award of her father. She has only appended the copy of the certificate of Vishisht Sewa Medal awarded to her father. That being so, her claim cannot be accepted in view of the specific provision contained in the prospectus.

(Para 7)

Further held, that admission of the petitioner has been cancelled at the initial stage. If the impugned order cancelling the admission of the petitioner to M.B.B.S. course is quashed it would tantamount to directing the official respondents to permit ineligible student to continue with the course which would be perpetuating an illegal admission and the University by its negligence, acquiescence or for any other reason cannot be allowed to bye-pass the provisions of the prospectus and to grant admission to the course to the students who do not fulfil the eligibility criteria.

(Para 10)

Puneet Bali, Advocate,—*for the petitioner.*

P.S. Patwalia, Advocate,—*for respondent Nos. 1 and 2*

Gurminder Singh, Deputy Advocate General Punjab,—*for respondent Nos. 3 and 4.*

Sanjay Majithia, Advocate,—*for respondent No. 5*

Rajeev Godara, Advocate,—*for respondent No. 6*

JUDGMENT

R.C. Kathuria, J.

(1) In this petitioner, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing of order dated 26th August, 2000 (Annexure P.9) passed by the Chairman, Selection Committee & Principal, Guru Gobind Singh Medical College, Faridkot (respondent No. 3) cancelling the admission of the petitioner to M.B.B.S. Course Session 2000.

(2) For admission to the M.B.B.S./B.D.S./B.A.M.S. (Ayurvedacharya) courses for the session 2000 in the three State Medical Colleges, two State Dental Colleges and Government Ayurvedic College, Patiala, Guru Nanak Dev University (respondent No. 1) conducted the Punjab Medical Entrance Test-2000 (hereinafter referred to as PMET-2000). The father of the petitioner is employed in Indian Air Force and at present holds the rank of Wing Commander having headquarters CAC(U), Indian Air Force at Bamrauli (Allahabad) U.P. He was given the award of Vishisht Sewa Medal by the President of India as per notification dated 26th January, 1992, published in Part-I. Section 1 of the Gazette of India dated 4th July, 1992. 1% of the seat have been reserved for the children/widows of defence personnel killed or disabled to the extent of 50% or more in action, wards of gallantry awardees as per Annexure-G and children of the serving defence personnel/Ex-servicemen as per Annexure-G of the prospectus for PMET-2000 by respondent No. 1. Claiming herself to be the ward of gallantry awardee, the petitioner applied for admission to M.B.B.S. course by submitting application along with the required supporting documents for appearing in PMET-2000 under the reserve category. She secured rank 4017 in the written examination conducted by respondent No. 1. She was called for counselling on 1st August, 2000 by respondent No. 3. All the documents, on the basis of which admission was sought by the petitioner, were scrutinised by respondent No. 3. Thereafter, she was granted admission. She had deposited the necessary fee on 5th August, 2000. Soon thereafter, she received show cause notice dated 17th August, 2000 (Annexure-P.7) from respondent No. 4 wherein she was informed that Vishisht Sewa Medal does not figure in the list of Gallantry Awards awarded by the President of India and also in terms of the list of Gallantry Awards mentioned in Annexure-G of the prospectus. It was also stated in the said notice that she has obtained admission by misrepresentation and misleading the Selection Committee by furnishing false information/certificate and for that reason her candidature was liable to be rejected. She submitted a detailed reply dated 23rd August, 2000 to the Principal,

Government Medical college, Amritsar (respondent No. 4). Finding no merit in the reply filed, the same was rejected and admission granted to the petitioner in Government Medical college, Amritsar was cancelled with immediate effect on 26th August, 2000. Action of the respondents in cancelling her admission has been challenged in this writ petition on the ground that there was no concealment on her part when she submitted her application along with the documents for admission to the M.B.B.S. course to respondent No. 1, she has specifically stated therein that she was claiming admission under reserve category as her father has been awarded Gallantry Award of Vishisht Sewa Medal and for the laxity on the part of the respondents in not properly scrutinising the application and documents submitted by the petitioner, she cannot be allowed to suffer because, at this stage, she is not in a position to get admission in any other course in any institution.

(3) The petition has been contested by the official as well as private respondents. Respondent No. 1 while justifying the cancelling of the admission of the petitioner, stated that the certificate produced by her in support of her claim for eligibility in the category of Defence Services is not covered in the list of Gallantry Awardees awarded by the Armed Forces, though at the time of interview it was made to believe that said certificate is covered under the said category. It was further stated that Vishisht Sewa Medals are Non-Gallantry Awards in term of paras 50-51 of the Army instructions dated 14th April, 1973 and that the Gallantry Awards are the decorations awarded for the act of bravery in presence of the enemy whether on land, at sea or in the air as laid down in the Defence services Regulations. Volume 2, (revised edition 1987) and further clarified by the Station Headquarters, Ferozepur Cantt. in their office letter No. 1349/1/A, dated 10th August, 2000 and the letter of the Government of Punjab bearing memo No. PS/PSMER-2R/3332, dated 14th/16th August, 2000. Respondent No. 5 in his written statement maintained that he was admitted to B.D.S. course at Dashmesh Institute of Research, Faridkot in the first counselling on 5th August, 2000. According to him, on the representation filed by his father, respondent No. 3 had held an enquiry into the admission granted to the petitioner and one Raunak Singh to M.B.B.S. course as they had been wrongly granted admission under the reserve category as wards of awardees of Vishisht Sewa Medal. It is, thereafter that on 17th August, 2000 show cause notice was issued to the petitioner and other student-Raunak Singh regarding the cancellation of their admission to the course. After consideration of their representations, their admission was cancelled by respondent No. 3. Under these circumstances, he was granted admission by respondent No. 4 on 31st August, 2000, at Government Medical College, Amritsar. He

started attending his classes but on 14th September, 2000, as Anjali-petitioner was allowed to attend the classes in terms of the directions given by this Court,—*vide* order dated 1st September, 2000, he was informed by respondent No. 4 that his admission and that of Gurnimrat Kaur has been kept in abeyance till the decision of the writ filed by the petitioner. This action of respondent No. 4 was also assailed by him as no notice was given to him before passing the said order. Gurnimrat Kaur-respondent No. 6, in her separate written statement, took up the similar stand as stated by respondent No. 5.

(4) We have heard learned counsel for the parties and gone through the record of the writ petition.

(5) The primary question that has arisen for determination in this petition is whether the action of respondent No. 3 in cancelling the admission of the petitioner to the course on account of her claim being not covered under the eligibility criteria laid down in the prospectus was justified. The eligibility criteria for admission to the course mentioned in the prospectus, so far as relevant to the controversy, reads as under :—

“3.3 The application form duly filled in should be accompanied by the following documents :

a. to d. xx xx xx xx xx

e. Candidates applying under SC/ST or other reserve category must submit an at-tested copy of the category certificate issued by the competent authority as defined in Section 7 of this Prospectus.

xx xx xx xx xx xx xx

7. Reservation in State Medical/Dental/Ayurvedic Colleges:

xx xx xx xx xx xx xx

(vii) Children/Widows of defence personnel killed or disabled to the extent of 50% or more in action.

Wards of Gallantry Awardees as per Annexure

G. Children of the serving defence personnel/

ex-serviceman.

1%

Children of the serving defence personnel/ex-serviceman (Annexure-G)

xx xx xx xx xx xx

ANNEXURE-G

Paramvir Chakra

Mahavir Chakra

Ashok Chakra

Sarvotam Yudh Sewa Medal

Kirti Chakra

Uttam Yudh Sewa Medal

Vir Chakra

Shaurya Chakra

Yudh Sewa Medal

Sena, Nau Sena, Wayu Sena, Medal mentioned in despatches.”

(6) The above provisions of the prospectus provide no room for doubt that only the wards of the Gallantry Awardees, who have been conferred any of the awards noted in Annexure-G above, are eligible to apply for admission to the course against 1% seats reserved for. Admittedly, the Vishisht Sewa Medal has not been mentioned in Annexure-G. Position in this regard also stands confirmed from the letter dated 14th/16th August, 2000 of the Punjab Government wherein it has been clarified that Vishisht Sewa Medal is not included in the list of Gallantry Awards as given in Annexure-G of the notification No. 5/6/2000-5HBIII/1703, dated 20th April, 2000, which has been reproduced in the prospectus of PMET-2000. Therefore, no reservation of seats can be extended for the children of Vishisht Sewa Medal holders. It has not been disputed by the counsel representing the petitioner during the course of arguments that Vishisht Sewa Medal is a Non-Gallantry Award and is given for the distinguished services of the high order rendered by the awardee. At the same time, it cannot be construed as Gallantry Award and for that reason there is a conspicuous omission with regard to the award of Vishisht Sewa Medal in the list of Gallantry Awards mentioned in Annexure-G.

(7) By now it is well settled that the provisions of the prospectus have the force of law and the terms and conditions contained therein have to be strictly complied with while granting admission to the course. As the petitioner had claimed reservation being the ward of a Gallantry Awardee, she was duty bound to furnish all the requisite documents including the certificate of the Gallantry Award of her father. She has only appended the copy of the certificate of Vishisht Sewa Medal awarded to her father. That being so, her claim cannot be accepted in view of the specific provision contained in the prospectus.

(8) Faced with this situation, learned counsel for the petitioner strenuously urged before us that at the time when admission form was submitted to respondent No. 1, all the requisite documents as required by Section 7 of the prospectus were annexed with the application. It is further stand of the petitioner that even at the time of the interview, verification of the documents was done by respondent No. 3 and it is thereafter she was granted admission to the course. There being no concealment on her part, respondent Nos. 1 to 3 are estopped from taking a converse stand to support the order of cancellation of admission of the petitioner. Strength was sought by him from the observations in *Shri Krishan v The Kurukshetra University, Kurukshetra* (1) and *Swaranjit Singh and another v State of Punjab and others* (2). In *Shri Krishan v. The Kurukshetara University, Kurukshetra* (supra), it was observed that “before issuing the admission card to a student to appear at Part I Law Examination in April, 1972 it was the duty of the University authorities to scrutinise the admission form filled by the student in order to find out whether it was in order. Equally it was the duty of the Head of the Department of Law before submitting the form to the University to see that the form complied with all the requirements. If neither the Head of the Department nor the University authorities took care to scrutinise the admission form, then is disclosing the shortage of percentage in attendance the question of the candidate committing a fraud did not arise. Similarly, when the candidate was allowed to appear at the Part II Law Examination in May, 1973, the University authorities had no jurisdiction to cancel his candidature for that examination. If the University authorities acquiesced in the infirmities which the admission form contained and allowed the candidate to appear in the Examination, then by force of the University Statute the University had no power to withdraw the candidature of the candidate.”

(9) In *Swaranjit Singh v. State of Punjab and others* (supra) the question agitated was that the admission granted to the four female students including respondents 3 to 5 be set aside and the respondents be directed to admit the first four boys from the waiting list of the general category including the petitioners. It was noticed that the course had started in March/April, 1997 and the examination for the 1st semester was held in July, 1997, in which girl students had appeared. Taking these circumstances into account, it was held that to cancel their admission at this stage would not be fair and for that reason the admission granted to the students was not disturbed.

(1) AIR 1976 S.C. 376

(2) 1997(3) PLR 691

(10) Manifestly, the controversy, which had arisen in both the above noted cases is entirely different than in the present case. In the present case admission of the petitioner has been cancelled at the initial stage. If the impugned order is quashed as prayed by the petitioner it would tantamount to directing the official respondents to permit ineligible students to continue with the course which would be perpetuating an illegal admission and the University by its negligence, acquiescence or for any other reason cannot be allowed to bye-pass the provisions of the prospectus and to grant admission to the course to the students who do not fulfil the eligibility criteria.

(11) Adverting to the other submissions made, it was pointed out by the learned counsel for the petitioner that because of lack of care in properly scrutinising the admission form and the documents annexed thereto, the petitioner has been left in lurch because she cannot seek admission at this stage to any other course and for that reason the Court should come to her rescue. This plea is based more on compassion which has no support of the law. The petitioner has been placed in a situation of her own doings. The petitioner was duty bound to carefully examine the provisions of the prospectus before claiming admission under the reserve category. The petitioner cannot shift the blame to the respondents in this regard merely because the respondents have ignored the requirement of the prospectus to the detriment of eligible candidates. If this contention is allowed to prevail, then the eligible candidates would be denied admission on the basis of the wrong action of the University in granting admission to ineligible candidates. Therefore, there is no force in the stand taken from the side of the petitioner.

From the aforesaid, we find no merit in the writ petition and dismiss the same.

S.C.K.

Before N.K. Sodhi & R.C. Kathuria, JJ

MANDEEP SINGH,—*Petitioner*

versus

STATE OF PUNJAB & OTHERS,—*Respondents*

C.W.P. No. 10710 of 2000

23rd November, 2000

Constitution of India, 1950—Art. 226—Prospectus for admission to Punjab Medical Entrance Test, 2000—Admission to M.B.B.S.