

Code and imposes limitations on granting of bail in addition to the limitations under the Code of the Criminal Procedure as expressly provided in sub-section (2) of Section 37. These limitations on granting of bail specified in sub-section (1) of Section 37 are in addition to the limitations under Section 437 of the Code of Criminal Procedure and were enacted only for this purpose; and they do not have the effect of excluding the applicability of the proviso to sub-section (2) of section 167 Cr.P.C. which operates in a different field relating to the total period of custody of the accused permissible during investigation."

(22) Thus, the answer to question No. (ii) is that the provisions of Section 37 of the Act relating to grant of bail do not override the provisions of Section 167(2) of the Code.

(23) While parting with the judgment, we hope and expect that the States of Punjab and Haryana and Union Territory Chandigarh Administration would constitute Special Courts under section 36 of the Act as soon as it is possible for them to do so. The matter is now remitted to the Single Judge for decision on merits on the bail application. Copy of this judgment be sent to Home Secretaries of these States for information.

R.N.R.

Before Hon'ble S. P. Kurdukar, C. J., G. C. Garg & V. K. Bali, JJ.

SACHIN GAUR,—Petitioner.

versus

PUNJABI UNIVERSITY, PATIALA & ANOTHER,—Respondents.
C.W.P. No. 9979 of 1995

October 12, 1995

Constitution of India, 1950—Art. 226—Sant Longowal Institute of Engineering and Technology—Prospectus-cum-Information Brochure, 1995—Clauses 3.3 & 3.5—Admission to Engineering College—Clause 3.5 providing for selection strictly on merit determined in the Entrance Test—Cut of date is not arbitrary—Petitioner though high in merit in the entrance test has no right to admission if he does not fulfil the eligibility conditions before the prescribed date—Cut of date for admissions is sacrosanct and cannot be changed afterwards otherwise it would result in non-finalisation of admission—Court suggesting that for future in admissions gap between

the cut of date for admission and start of classes should be as little as possible so that meritorious students can be accommodated— Court leaving it open for SLIET to devise ways and means to accommodate the petitioner whose result in the qualifying examination was declared after the cut of date for admission but before the start of classes.

Held, that we have considered the matter afresh and tried various permutations and combinations to accommodate the petitioners in the facts and circumstances of the case. We are of the considered view that nothing substantial can be done by which the petitioners may secure admission. It is even conceded by learned counsel for the petitioners that an Institution has necessarily to fix a cut of date for admissions as non-fixation thereof would result in non-finalisation of admission for an indefinite period.

(Para 12)

Further held, that the authorities concerned should endeavour that the examinations should be held and results should be announced/published within and about the same time frame. However, if it is not possible to start the classes and hold the examinations and declare results thereof simultaneously, situations like the one, confronted by the petitioners in the present case, would be a natural consequence as, a particular institution, like Sant Longowal Institute of Engineering and Technology, in the present case, has necessarily to fix time schedule for start of classes which is always dependent upon the examinations held by it or by the University to which it is affiliated. If the time frame fixed by a particular Institution for admissions or for that matter the last date of admission, is changed or is required to be changed for the reason that the Universities located in other parts of the country have so far not declared the results of the qualifying examination, as mentioned above, the admissions would never be finalised.

(Para 12)

Further held, that this Court is of the confirmed view that there has to be a cut of date provided for admissions and the same cannot be changed afterwards. It has been conceded during the currency of arguments that such cut of date is absolutely essential. That being so, providing of cut of date in the Prospectus-cum-Information Brochure cannot be styled to be arbitrary or repugnant to clause 3.5. No doubt, by strictly adhering to the time-frame set up in the prospectus, some students, like petitioners, would be deprived of admission despite their higher merit in the Entrance Test but such an outcome is impossible to be prevented.

(Para 12)

Further held, that the authorities ought to have considered the change of cut of date for admission provided in the Prospectus-cum-Information Brochure as the start of classes had been postponed for

about a month but that course, if adopted, is likely to upset the admissions of others, who might have secured admission on the dint of their merit in other Entrance Tests and such a course, in considered view of this Court, should not be adopted particularly when such students, who have not been arrayed as party-respondents, have not been heard.

(Para 13)

Further held, that Court would like to suggest to the authorities concerned and which suggestion, the Court hopes and wishes, would be followed for future admissions and the same is that between the cut of date for admission and start of classes there should be as little gap as possible. In other words, the authorities concerned should consciously consider the minimum period required by it to finalise the admission and the start of classes from that date should be in immediate future. By reduction of this gap, it will be possible to accommodate the meritorious students like the petitioners, insofar as it may be possible.

(Para 15)

Further held, that we would strongly recommend the respondent-Institute to find out ways and means to accommodate this student as it would absolutely beyond his control to have produced the certificate, even though it is a fact that he had passed the qualifying examination and result thereof had also been declared before the last date that had been prescribed for admission in the Prospectus-cum-Information Brochure.

(Para 16)

F. K. Mutneja, Advocate, for the Petitioner.

Parninder Fai Singh, Advocate, for respondent No. 2.

JUDGMENT

V. K. Bali, J.

(1) Sachin Gaur through present writ petition (bearing C.W.P. No. 9979 of 1995) filed by him under Article 226 of the Constitution of India seeks issuance of writ in the nature of mandamus directing the respondents to consider his candidature and admit him in Sant Longowal Institute of Engineering and Technology, Longowal in degree course in Engineering on the basis of his high merit, i.e. 8th position in the Entrance Test that was conducted for admission to the course in question. The claim of other petitioners in Civil Writ Petition Nos. 9926, 9943, 10038, 10416, 10928, 11663 and 12061 of 1995 is absolutely identical. Obviously, common questions of law and fact are involved in all these petitions and, therefore, we propose to deal with and decide all the writ petitions by a common

judgment. The facts have, however, been extracted from Civil Writ Petition 9979 of 1995 (*Sachin Gaur v. Punjabi University and another*).

(2) Petitioner, it appears, has brilliant academic record. He did his 10+2 examination from Digamber Jain Inter College, Baraut after which he joined Kanhiya Lal Bahudandi Institute, Rurkee for doing his diploma in Electronics Engineering. The said institute is affiliated to the U.P. Board of Technical Education at Lucknow. The petitioner secured 711 marks out of 1,000 i.e. 71.1 per cent in the first year and in the second year he secured 785 marks out of 1,100 which is about 72 per cent. He had taken the final examination in diploma in May, 1995 and was expecting his result in time. Desirous of seeking admission in degree in Engineering, he applied to Sant Longowal Institute of Engineering and Technology, Longowal, District Sangrur-respondent No. 2 herein, in the form specified clearly mentioning that he had taken his final examination, result whereof was awaited. On the basis of the information given by him in the form with regard to his educational qualifications as also that he had already taken the final examination of the diploma, he was permitted to appear in the Entrance Test which, concededly, is prescribed for securing admission to do degree in Engineering with the respondent-institute. In the Entrance Test, petitioner secured 8th position and was entitled to be admitted to the course in Electronics and Communication Engineering. The interview, which was only a formality and wherein only relevant certificates had to be shown, was slated for July 17, 1995. The petitioner did appear for interview but was not given admission on the sole ground that the result of final year of diploma course that he had taken in Uttar Pradesh had so far not been declared. It is the case of the petitioner that due to the Utrakhnad agitation in the State of Uttar Pradesh, the examinations took place a little late and the results were expected to come around August 1, 1995. The petitioner in terms explained his difficulty to the Director of the respondent-Institute and requested that he may be atleast considered for provisional admission in the course under contention. In support of his plea, as aforesaid, petitioner also pleaded with the Director of the Institute that there was every reason to accommodate him particularly when the results of the students of respondent-Institute itself had also not been declared. In that regard, it was pleaded that there would be no student seeking vertical entry into the course, from the institute itself on the date when the petitioner appeared for interview or even for that matter when the classes

would start and, therefore, there was no logic in denying admission to him on the sole ground that the result of his qualifying examination had so far not been declared. Petitioner had even approached the Principal of K. L. Polytechnic College, Roorkee from which institution he had taken his final examination of diploma requesting him that results should be declared without much delay. However, when the petitioner, despite his entreaties as mentioned above was unable to secure admission in spite of his merit in the Entrance Test, he approached this Court through present petition under Article 226 of the Constitution of India, for the relief as mentioned above.

(3) When the matter came up for motion hearing before the Division Bench on July 14, 1995, it was ordered that one seat be kept vacant till further orders. In all the writ petitions but for C.W.P. Nos. 10928, 11663 and 12061, interim orders to the effect mentioned above, were passed. During the course of arguments at motion stage, learned counsel representing the respondent-Institute cited before the Bench, a Division Bench judgment of this Court in *Deepak Gudwani v. Union of India and others* (1) and prayed for dismissal of the writ petitions as similar challenge to the non-admission of students similarly situate in the last academic year had failed. No doubt, the Division Bench of this Court in *Deepak Gudwani's* case (supra) did repel the challenge to non-admission of the students similarly situate but merit of the petitioners in the Entrance Test, the sole criteria for admission in the degree course of Engineering as per the relevant clause of the Prospectus-cum-Information Brochure, guided the Division Bench, dealing with the matter, to refer it to the Full Bench with a view to find out some logical way, if possible, to accommodate the petitioner, of this case, and others so that the purpose of conducting Entrance Test, in other words, the purpose of recognising and preferring merit and merit alone, could be protected.

(4) The matter has been contested by the respondent-Institute and in the written statement filed by it. it has been pleaded that the writ is not maintainable as there is no violation of Article 14 of the Constitution of India. In fact, the petitioner did not pass the qualifying examination on the admission date i.e. July 17, 1995. Petitioner was provisionally allowed to sit in the Entrance Test as per clause 3.3 contained in the Prospectus-cum-Information Brochure which reads as follows :—

(1) A.I.R. 1995 P&H 78.

“The eligibility conditions for admission to the certificate, diploma and degree programmes are given in Section 21.1 (a), 2.2 (a) and 2.3 (a) respectively. Candidate, appearing in the qualifying examination before June, 1995, may be considered provisionally to appear in the Entrance Test. Their admission is subject to production of certificate of their having qualified the qualifying examination, before the admission date, failing which their candidature shall be deemed to have cancelled”.

(5) On the strength of the clause aforesaid, it is further the case of respondent-Institute that only those candidates could be admitted who produced certificates of having passed the qualifying examination at the time of admission. The facts of the case, as have been reproduced above, have not been disputed but for that the petitioner did not secure 8th position but he secured 11th position in the Entrance Test. Insofar as the contention of the petitioner with regard to non-declaration of the results of the students for the qualifying examination from the respondent-Institute is concerned, it is pleaded that there is vertical mobility system for the students of the respondent-Institution which is entirely different and it has no connection with the direct entry system. In vertical mobility system, 50 per cent students of one Module are entitled for promotion to the higher module as per the merit list whereas in direct entry system, any body, who fulfills the eligibility conditions as laid down in clause 3.2 (a) can compete and get admission in the degree course.

(6) From the pleadings of the parties and arguments that have been addressed before this Court, it is thus apparent that as per the Prospectus-cum-Information Brouchure, the last date for receipt of completed applications was May 24, 1995 whereas date of Examination of Certificate Diploma was June 17, 1995 and for degree course the examination was to be conducted on June 18, 1995. The result of the degree-course was to be announced by July 1, 1995 and the interview was to be held on July 17, 1995 and the classes were to start from August 1, 1995. The classes could not be started in time and the same had to be postponed to September 1, 1995 and actually started on September 2, 1995. It is also correct that during the pendency of the writ petition results of the petitioners were declared on August 31, 1995 and a copy of the certificate/marks-sheet was handed-over to the respondent-Institute.

(7) Before we deal with the various points raised by learned counsel for the petitioners, justifying the right of admission in the

course under contention, it will be useful to see relevant provisions of the Prospectus-cum-Information Brochure issued by the respondent-Institution. Clause 2 deals with Programme Structure. It recites that the Institute offers modular pattern of education at Certificate, Diploma and Degree levels in emerging technical subjects, and that each module consist of two years. Higher level programmes may be introduced at a later stage on need basis. It also recites that there would be vertical linkage between various modules which would be as illusterated in Table-I. It is also mentioned that there would be vertical mobility of 50 per cent of the students from Certificate to Diploma and Diploma to Degree with suitable bridge courses and suitable bridge courses would be provided in science at different levels to overcome the deficiency required for vertical movement and for direct entry after Diploma. Bridge courses on technical subjects would be provided for the direct entry to Diploma after 10+2 and Degree after 10+2+3. Extensive industrial training would be arranged throughout the country for outgoing students at various levels for acquiring practical experience in industries through practice schools. Table-I, reference whereof has been given in Clause 2, reads under :—

“ENTRY QUALIFICATION AND PROGRAMME DURATION OF VARIOUS LEVELS AS APPROVED BY ALL INDIA COUNCIL FOR TECHNICAL EDUCATION :

Entry Level	Years spent during				
	Certificate Course	Bridge Course	Diploma	Bridge Course	Degree
10+1	2	$\frac{1}{2}$	2	$\frac{1}{2}$	2
10+2	..	$\frac{1}{2}$	2	$\frac{1}{2}$	2
10+2+3	1	2

Sub-clause (b) of Clause 2.3 deals with duration of degree course for the one who seeks direct entry into the said course. For him, the duration is three years including bridge course of one year.

(8) Clause 3.1, which is general, deals with the admission for the session commencing from August 1, 1995 and distribution of seats for diploma and degree programme for the students who come from vertical entry as also for the students who come by direct recruitment. Suffice it to say here that in each discipline there are 30 seats and the quota of students of the Institute itself is 50 per cent, obviously other 50 per cent seats are for the students who secure direct entry. Clause 3.3, as has been reproduced above, deals with qualifying examination and the eligibility. Clause 3.5 deals with criteria for selection. The same reads thus :—

“Selection for admission will be made strictly on the basis of merit determined in the SLIET Entrance Test conducted separately for Certificate, Diploma and Degree Programmes followed by an interview. Details of the scheme of the test are given in Appendix-1.”

Clause 4 is with regard to general information Clause 4.1 given Academic Calendar where it is stated that the academic session of the Institute is from August 1, 1995 to June, 1996 comprising three trimesters each of 14 weeks duration. A tentative calendar of Session 1995-96 has been given in the said clause.

(9) From the various clauses, noted above, one thing that needs immediate notice is that whereas a student from the Institute, who has sought vertical entry in the degree course, has to necessarily pass 10+2 and also to do $\frac{1}{2}$ year bridge course followed by two years diploma course. After he has secured Certificate in Diploma, he has to do $\frac{1}{2}$ year bridge course which is followed by two years course for obtaining degree in Engineering. A person who seeks direct entry into the degree course i.e. through Entrance Test, for him the course is of three years' duration including one year bridge course. In other words, a student who has sought vertical entry needs to put in only $2\frac{1}{2}$ years to do degree course out of which $\frac{1}{2}$ year is meant for bridge course whereas a student seeking direct entry has to put in three years out of which one year is for bridge course.

(10) The two fold contention of the learned counsel appearing for the petitioners in various writs is that by denying admission to the petitioners, respondent-Institute has clearly violated clause 3.5 which in terms talks of selection for admission strictly on the basis of merit determined in the Entrance Test. As a natural corollary to the afore stated contention, it is being argued that the cut of date given for admission in the Prospectus-cum-Information Brochure is wholly arbitrary and is repugnant to the purpose which is sought to be achieved by clause 3.5, reproduced above. The second contention of learned counsel is that once the study programme, as scheduled in the Prospectus-cum-Information Brochure, has not been adhered to and for one reason or the other, the classes could not be started in time and where infact postponed for more than a month, the authorities concerned ought to have extended the last date of admission so that the students so high in merit, as the petitioners, could be admitted.

(11) The first contention, noted above, was also passed into service before the Division Bench which decided (*Deepak Gudwani's* case (supra)). As mentioned above, it did not carry conviction with the Division Bench dealing with the matter. It was held that "the condition of production of result of the qualifying examination on the date of admission can not, in the facts and circumstances of these cases, be quashed as arbitrary and illegal." For holding so, reliance was placed upon Full Bench judgment of this Court in *Amardeep Singh Sahota v. State of Punjab and others* (2), wherein it was held that "the eligibility for admission had to be seen according to the prospectus issued before the Entrance Test and the instructions issued in the prospectus had the force of law." During the course of arguments, we have been told that Division Bench judgment of this Court in *Deepak Gurwani's* case (supra) has been confirmed by the Apex Court in SLP(C) No. 21084 of 1994.

(12) As mentioned above, *Deepak Gudwani's* case was cited before the Division Bench at motion stage and there was no dispute at any time that the same covers the matter against the petitioners but it was the anxiety of the Court to find out some legitimate ways and means to accommodate the petitioners, who are so higher in merit that the matter was referred to the Full Bench. With the assistance of learned counsel for the parties, we have considered the matter afresh and tried various permutations and combinations to accommodate the petitioners in the facts and circumstances of the case. We are of the considered view that nothing substantial can be done by which the petitioners may secure admission. It is even conceded by learned counsel for the petitioners that an Institution has necessarily to fix a cut of date for admissions as non-fixation thereof would result in non-finalisation of admissions for an indefinite period. This cut of date for admissions, it has again remained un-controverted, has to be fixed keeping in view the tentative date when the classes have to start. In the Entrance Test, for direct entry, the competition is open, of course for 50 per cent, to the students spread all over the country. Indifferent States, located all over the country, and in different Universities, the study and examination programme is not and can not be the same. It is not even possible either for the authorities or for that matter even for the Court to fix the same programme of studies and examinations of different Universities located all over the country and, at the most, it can be said that the authorities concerned should endeavour that

the examinations should be held and results should be announced/ published within and about the same time frame. However, if it is not possible to start the classes and hold the examinations and declare results thereof simultaneously, situations like the one, confronted by the petitioners in the present case, would be a natural consequence as, a particular Institution, like Sant Longowal Institute of Engineering and Technology, in the present case, has necessarily to fix time schedule for start of classes which is always dependent upon the examinations held by it or by the University to which it is affiliated. If the time-frame fixed by a particular Institution for admissions or for that matter the last date of admission, is changed or is required to be changed, for the reason that the Universities located in other parts of the country have so far not declared the results of the qualifying examination, as mentioned above, the admissions would never be finalised. It is an admitted position that the students try their luck for admission to various technical and other courses in as many Entrance Tests that they can possibly take as on account of various circumstances as also reservation extending almost to 50 per cent, added there to the admission on the basis of capitation fee, it leaves little scope for a student to be sure to qualify and get admission if he is to appear only in one Entrance Test. In a given case, it can happen that a student, who has competed for more than one Entrance Test for the same course, on the dint of his merit in one Entrance Test has secured admission in some Institution and even though he is entitled to admission, again based upon his merit in the other Entrance Test, he gives up the same, having been already admitted. If the last date of admission is changed, such a student would not, obviously, have admission in either of the University or Institution, as the case may be. Such examples can be multiplied and after considering all such examples, this Court is of the confirmed view that there has to be a cut of date provided for admissions and the same can not be changed afterwards. As mentioned above, it has been conceded during the currency of arguments that such cut of date is absolutely essential. That being so, providing of cut of date in the Prospectus-Cum-Information Brochure can not be styled to be arbitrary or repugnant to clause 3.5. No doubt, by strictly adhering to the time-frame set up in the prospectus, some students, like petitioners, would be deprived of admission despite their higher merit in the Entrance Test but such an outcome, as mentioned above, is impossible to be prevented.

(13) Coming now to the second contention of learned counsel for the petitioners, it shall be seen from various clauses of the

Prospectus-cum-Information Brochure, reproduced above, that a student from the Institute, who has sought vertical entry in diploma has to do $\frac{1}{2}$ years' bridge course which is followed by 2 years course for obtaining degree in Engineering whereas a student, who seeks entry to the degree course through Entrance Test, has to do the course which is of three years' duration including one year bridge course. A student, who has thus come through vertical entry has to do $\frac{1}{2}$ year bridge course whereas a student, who has come through direct entry, has to do one year bridge course. When both, i.e. the one who has come through vertical entry and the one who has come through direct entry, complete their bridge course, they are put together to do two years degree course and it is only then that the classes held for them are the same. No doubt, the results of the students, who appeared in the qualifying examination from the respondent-Institute itself had not been declared till such time the arguments were heard in this case but the same would not make much difference as the students from the Institute have to undergo bridge course of only $\frac{1}{2}$ year and they would start classes with those, who have sought admission through direct entry six months after the said students, i.e. the students who have been admitted through direct entry. There could be some substance in the argument of learned counsel for the petitioners that the authorities ought to have considered the change of cut of date for admission provided in the Prospectus-cum-Information Brochure as the start of classes had been postponed for about a month but, as mentioned above, that course, if adopted, is likely to upset the admissions of others, who, as referred to above, might have secured admission on the dint of their merit in other Entrance Tests and such a course, in considered view of this Court, should not be adopted particularly when such students, who have not been arrayed as party-respondents, have not been heard.

(14) For the foregoing discussion, we find no merit in these writ petitions and the same are dismissed.

(15) However, before this Court may part with this judgment, it would like to suggest to the authorities concerned and which suggestion, the Court hopes and wishes, would be followed for future admissions and the same is that between the cut of date for admission and start of classes there should be as little gap as possible. In other words, the authorities concerned should consciously consider the minimum period required by it to finalise the admission and the start of classes from that date should be in immediate future. By reduction of this gap, it will be possible to accommodate the

meritorious students like the petitioners, insofar as it may be possible.

(16) In Civil Writ Petition 10416 of 1995, it is the positive case of the petitioner that the result of his qualifying examination had since been declared before the cut of date prescribed in the Prospectus-cum-Information Brochure and he had passed the said examination in first division. It is his further positive case that this information was duly brought to the notice of the Interview Board but in the very nature of things it was not possible for him to have produced the certificate of his having passed the examination as it was to be obtained from Maharashtra. We would strongly recommend the respondent-Institute to find out ways and means to accommodate this student as it was absolutely beyond his control to have produced the certificate, even though it is a fact that he had passed the qualifying examination and result thereof had also been declared before the last date that had been prescribed for admission in the Prospectus-cum-Information Brochure. Parties to bear their own costs.

R.N.R.