

case of breach of trust. The proper and the only efficacious remedy for the respondent was to file a suit for specific performance of the agreement. If he had been put into possession in part performance of the agreement, it may have been possible for him to defend that possession by seeking a decree of permanent injunction. In the absence of the delivery of possession in part performance of the agreement, it is not possible to grant permanent injunction restraining the owner from transferring the property for all times to come. The decree holder, therefore, has no subsisting right to enforce the decree against petitioner No. 1 as well.

(5) For the reasons recorded above, this petition is allowed and the impugned order set aside. No costs.

S.C.K.

Before R. N. Mittal and M. M. Punchhi, JJ.

RANBIR SINGH,—*Petitioner.*

versus

THAPAR INSTITUTE OF ENGINEERING & TECHNOLOGY,
PATIALA and another,—*Respondents.*

Civil Writ Petition No. 4478 of 1986.

May 15, 1987.

Constitution of India, 1950—Article 226—Admission to professional course—Sports category—Candidate with higher grade sports certificate lower in merit list to another candidate—Whether has better claim to admission only on the basis of superior sports certificate—Overall merit—Whether proper criteria for admission.

Held, that in order to determine *inter se* merit of sportsmen for admission to the College, weightage is given to them by adding 10 per cent, 5 per cent, 3 per cent and 2 per cent marks on the basis of their Sports Gradation Certificates to normalized qualifying marks. Thus, while determining merit of the candidates, benefit of the Sports Gradation Certificates is given to them and on the basis of that merit, they are admitted to the College. The clause nowhere provides that a sportsman having Higher Grade Sports Certificate is to be preferred for admission to the College to that who holds a

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Lower Grade Certificate. If that had been the intention of the Government, the instructions would have been couched in a different language. It is well settled principle of interpretation of statutes that the words in the statutes are given their plain meanings. The duty of the Court is to take the statute as it stands and construe the words in their natural sense. If its language is clear and unambiguous, the Court cannot extend its operation. From a plain reading of the clause, it cannot be held that sportsmen having Higher Grade Certificates are to be preferred to those who are having Lower Grade Certificates notwithstanding that they are lower in merit in the merit list than the latter. Hence, the clause can neither be termed as irrational or arbitrary.

(Para 7).

Maninder Kaur and others vs. State of Punjab and others A.I.R.
1985 Punjab and Haryana 46.

(Over-ruled).

Petition under Articles 226 and 227 of the Constitution of India praying that this Hon'ble Court may be pleased to summon the record of the case and after a perusal of the same may be pleased to—

- (a) *issue a writ in the nature of certiorari quashing the impugned policy adopted by Respondent No. 1 for making admission to 4 seats in the category of outstanding sportsmen and further quashing the admission of respondent No. 2.*
- (b) *issue a writ in the nature of mandamus directing the Respondent No. 1 to admit the petitioner from the category of outstanding sportsmen to the B. E. course ;*
- (c) *issue any other writ, order or direction that this Hon'ble Court deems fit under the facts and circumstances of the case ;*
- (d) *service of advance notices on the respondents be dispensed with ;*
- (e) *petitioner be exempted from filing the certified copy of annexure P-1 ;*
- (f) *cost of the petition may also be awarded to the petitioner.*

It is further prayed that during the pendency of the writ petition the respondent No. 1 be directed to admit the petitioner provisionally to B.E. Course at his own risk. and responsibility or

any other writ, order or direction that this Hon'ble Court deems fit may be passed.

“Case was admitted and referred to a larger Bench as it involved a substantial question of law by Hon'ble Mr. Justice S. P. Goyal and Hon'ble Mr. Justice D. V. Sehgal on August 25, 1986. The Division Bench consisting of Hon'ble Mr. Justice R. N. Mittal and Hon'ble Mr. Justice M. M. Punchhi, decided the case on 15th May, 1987.”

Satya Pal Jain, Advocate, for the Petitioner.

Ashok Bhan, Sr. Advocate, with Rakesh Garg, Advocate, for respondent No. 1.

Hemant Kumar Gupta, Advocate, for A. K. Mittal, Advocate, for respondent No. 2.

JUDGMENT

R. N. Mittal, J.

(1) Briefly, the facts are that Thapar Institute of Engineering & Technology, Patiala-respondent No. 1, is running a four years degree course. It has been declared to be a University under section 3 of the University Grants Commission Act, 1956. There are 180 seats for Bachelor of Engineering Course, out of which 2 per cent seats are reserved for outstanding sportsmen who possess sports gradation certificates issued by the Department of Sports, Punjab. Thus, there are in all four seats for outstanding sportsmen. The Sports Department issues four types of gradation certificates, namely, Grade 'A' for sportsmen of International standing, Grade 'B' for sportsmen of National standing, Grade 'C' for sportsmen of State standing and Grade 'D' for sportsmen who played for their colleges.

(2) For determining the *inter se* merit of the candidates, the College has adopted a policy of giving weightage to the candidates according to their gradation certificates. The candidates having gradation certificates A, B, C and D are given a weightage of 10 per cent, 5 per cent, 3 per cent and 2 per cent marks respectively. The College has evolved its own formula for determining the merit of the candidates and those marks are added to the marks obtained by the candidates according to that formula.

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(3) The petitioner passed his Pre-Engineering Examination from Government Mahandra College, Patiala getting 480 marks out of 650. He had been given Grade 'C' Certificate by the Punjab Government. He applied for admission to the Bachelor of Engineering Course under the category of sportsmen. According to the formula, the petitioner was given 75.21 per cent marks in the merit list, prepared by the College. After adding 3 per cent marks, his percentage came to 78.21. Respondent No. 2 also applied for admission to the College under the category of sportsmen. According to the formula of the College, he was getting 76.77 per cent marks. He held Grade 'D' Certificate. Thus, he was entitled to a weightage of 2 per cent and by adding the weightage, his percentage came to 78.77. It is pleaded that as the petitioner was having Grade 'C' Certificate, he was entitled to have preference over respondent No. 2 who was having Grade 'D' Certificate, for admission to the Bachelor of Engineering Course from the category of sportsmen. He relied on a decision of this Court in *Miss Maninder Kaur and others v. State of Punjab and others* (1). However, he has not been given that preference.

(4) The Writ Petition was contested by respondent No. 1. But, no return was filed by it. The learned Motion Bench doubted the correctness of the decision of the learned Single Bench in *Miss Maninder Kaur's case* (supra) and referred the matter to a Larger Bench. This is how, the matter was listed before us.

(5) The question that arises for determination is whether the petitioner is entitled to be admitted to the College in preference to respondent No. 2, on the ground that he possesses higher grade sports certificate, though he ranks lower than the latter in the merit list prepared by the College after giving weightage to them on account of the Sports Certificates.

(6) In order to determine the question, it is relevant to read the Clause by which weightage is given to candidates holding Sports Certificates for admission in the College against the vacancies reserved for sportsmen. It is as follows:

"2 per cent seats are reserved for outstanding sportsmen possessing sports gradation certificates A, B, C & D issued by the Department of Sports, Punjab. For purposes of determining the *inter se* merit of the candidates a weightage

(1) A.I.R. 1985 Punjab and Haryana 46.

of 10 per cent, 5 per cent, 3 per cent and 2 per cent marks for A, B, C & D grades respectively would be added to the normalized qualifying marks obtained by the candidates."

(7) From a reading of the Clause, it is clear that in order to determine *inter se* merit of the sportsmen for admission to the College, weightage is given to them by adding 10 per cent, 5 per cent, 3 per cent and 2 per cent marks on the basis of their Sports Gradation Certificates to normalized qualifying marks. Thus while determining merit of the candidates, benefit of the Sports Gradation Certificates is given to them and on the basis of that merit, they are admitted to the College. The Clause nowhere provides that a sportsman having Higher Grade Sports Certificate is to be preferred for admission to the College to that who holds a Lower Grade Certificate. If that had been the intention of the Government, the instructions would have been couched in a different language. It is well settled principle of interpretation of statutes that the words in the statutes are given their plain meanings. The duty of the Court is to take the statute as it stands and construe the words in their natural sense. If its language is clear and unambiguous, the Court cannot extend its operation. From a plain reading of the Clause, it cannot be held that sportsmen having Higher Grade Certificates are to be preferred to those who are having Lower Grade Certificates notwithstanding that they are lower in merit in the merit list than the latter.

(8) The facts of the case are not disputed. The petitioner, it is true, holds a Higher Grade Certificate than that of respondent No. 2 but he gets 78.21 per cent marks, whereas respondent No. 2 gets 78.77 per cent marks. Thus, he is lower in the merit list, prepared by the College, than respondent No. 2. In view of the aforesaid discussion, we are of the view that he is not entitled to be admitted to the College in preference to respondent No. 2 on the ground that he possesses Higher Grade Sports Certificate than that of the latter.

(9) In *Miss Maninder Kaur's case* (supra), the question under consideration was about admission to the Medical Colleges on the basis of Sports Certificates and the Clause regarding weightage was in similar language in which the present Clause is. It was observed by a learned Single Judge that though the reservation had been made with a view to encourage sports talent yet on the basis of formula adopted by the Government, the best possible sportsmen having A-Grade Certificates have to be ignored and the candidates mostly

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possessing D and C Grade Certificates are to be given admission to the Colleges. That was irrational and arbitrary. When the merit of the candidates likely to be admitted against the reserved seats was adjudged as students, they were sought to be given preference over those who had secured much higher marks than them on the ground that they were sportsmen and when their merit was compared to the sportsmen who had achieved higher laurels in the field of sports then they were sought to be preferred on the ground that they were better students. It was further observed that if the policy of encouraging sports was to have any meaning, then essentially *qua* the sportsman who had qualified the Pre-Medical test and, thus, came to form a class by themselves, the only consideration that should prevail for purposes of admission apparently had to be the rating of those candidates in the light of their performance in the field of sports. It is evident from the above observations that the learned Judge found the Clause to be irrational and arbitrary on the ground that in view of its language, the best sportsmen cannot get admission in the College against the vacancies reserved for them. In doing so, the learned Judge has not appreciated the fact that the admission was being sought by them in a Professional College and not in a Sports College. In order to pass an examination in such Colleges, the candidate should have good academic career, otherwise it may not be possible for him to pass the same. No useful purpose would be served if students who are unable to get through the examinations, are admitted. If the Clause is examined from this point of view, it cannot be termed to be irrational and arbitrary. With great respect to the learned Judge, we have not been able to persuade ourselves to accept the reasoning given in that case. We, therefore, overrule the view expressed therein.

(10) For the aforesaid reasons, we do not find merit in the Writ Petition and dismiss the same, with no order as to costs.

R.N.R.