
Annexure P-2 deserve to be quashed being arbitrary and based on no evidence.

(7) It is not necessary to consider in detail the other contention of the learned counsel for the petitioner, namely, that it was for the appointing authority to decide whether the petitioner was to be compulsorily retired or not and that he could not act on the directions issued by the Government in that behalf. Reliance in that behalf was placed on *Roshan Lal Gogla v. Financial Commissioner, Haryana and others* (2), and *Bhim Chand Clerk v. The Deputy Commissioner, District Rohtak and others* (3). Suffice it to say that the Government constituted an Officers' Committee to consider the case of the petitioner for his retention in service beyond the age of 55 years on a request made by the appointing authority and it was in these circumstances, the Officers' Committee took a decision which was conveyed by the Government to the appointing authority.

(8) For the reasons recorded above, this writ petition is allowed. Order Annexure P-1 and notice Annexure P-2 are quashed. The petitioner shall have his costs which are assessed at Rs. 1,000.

R.N.R.

Before : S. D. Agarwala, C.J., N. K. Kapoor & H. S. Bedi, JJ.

AMARDEEP SINGH SAHOTA,—Petitioner.

versus

STATE OF PUNJAB AND OTHERS,—Respondents.

C.W.P. 12079 of 1992

May 20, 1993

Constitution of India, 1950—Articles 226 & 227—Admission to M.B.B.S. course—Reservation for sports category—Criteria for such reservation—Requirement for obtaining minimum marks in entrance examination—Waiving of such condition—Validity of—Qualification for admission given in prospectus—Subsequent change in qualification prescribed—Such change invalid.

(Para 19, 20 & 22)

Held, that students pursuing courses in medical or engineering colleges, which are technical subjects, require an academic mind, as ultimately after obtaining degrees from these professional

(2) 1968 S.L.R. 650.

(3) 1968 S.L.R. 798.

colleges, they serve humanity. Policy of the Government laying down the sole criterion for admission as sports cannot be countenanced. It would be against public interest and wholly arbitrary. Excellence in sports may be a very important consideration for admission in the sports quota but a certain-minimum academic standard—is also required to enable the students to obtain degrees. In the circumstances we do not find any fault with the policy of the State Government when it lays down that excellence in sports as well as minimum academic qualification is required before a student is admitted to a medical college.

Held, further that the eligibility for admission to a course has to be seen according to the prospectus issued before the entrance examination and that the admission has to be made on the basis of instructions given in the prospectus as the instructions issued have the force of law. Since the prospectus issued for admission to the 1992-1993 course in the medical college has the force of law and the students appeared in the examination on the basis of the instructions laid down in the said prospectus, it was not open to the State Government to issue contrary instructions and as such also the Notification dated July 13, 1992 issued by the State Government is invalid in law.

CIVIL WRIT PETITION Under Articles 226 and 227 of the Constitution of India praying that :

- (i) *a writ in the nature of Certiorari quashing para No. 3 of the instructions dated 7th June, 1991/12th June, 1991 (Annexure P/2) laying-down the inter-se preference to be accorded to persons holding the same grade;*
- (ii) *directions to the respondents to make admissions in the reserved category of Sportsmen after computing the inter-se merit in each grade on the basis of the marks secured in the P.M.T. examination and thereafter to consider and admit the petitioner to the said course in accordance therewith;*
- (iii) *in the alternative, this Hon'ble Court may be pleased to direct the respondents to make admissions in the reserved category of Sportsmen, purely on the basis of academic merit amongst all the eligible sportsmen/women irrespective of their grading, obtained by any particular sportsman and thereafter to consider and admit the petitioner to the M.B.B.S./B.D.S. Course as per his merit;*
- (iv) *any other writ order of direction that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be issued;*
- (v) *It is still further prayed that during the pendency of the writ petition, the respondents may be restrained from declaring the list of selected candidates in the reserved category of Sportsman or in the alternative the respondents may be restrained from making any admission in*

reserved category of SportsmenyWomen. In the alternative one seat may be kept reserved in the M.B.B.S./B.D.S. course for the petitioner, or if this Court deems fit, the petitioner may be admitted at his own risk and responsibilities;

(vi) *filing of certified copies of Annexures and service of advance notice on the respondents may kindly be dispensed with;*

(vii) *costs of the petition be awarded to the petitioner.*

(This case was referred to Full Bench by Hon'ble Mr. Justice J. S. Sekhon, on 18th December, 1992 for deciding the important question of Law involved in the case. The Full Bench consisting of Hon'ble The Chief Justice Mr. S. D. Agarwala, The Hon'ble Mr. Justice N. K. Kapoor, and Hon'ble Mr. Justice H. S. Bedi, finally disposed of the writ petition on 20th May, 1993).

P. S. Patwalia, Advocate and H. S. Sethi, Advocate, for the Petitioner.

G. K. Chatrath, Advocate General (Punjab) with S. S. Saron, DAG, Punjab, for the Respondent.

JUDGMENT OF FULL BENCH DATED 20TH MAY, 1993.

S. D. Agarwala, Chief Justice.

(1) This, judgment will dispose of Civil Writ Petition Nos. 12079, 12176 and 15651 all of 1992, as the question of law referred to us in all the three writ petitions, is common.

The dispute which has been referred to the Full Bench is in relation to the sports quota of the Competitive Entrance Examination for admission to M.B.B.S./B.D.S./B.A.M.S. (Ayurvedacharya) Courses in the Government Medical/Dental Colleges of Punjab in the Government Ayurvedic College, Patiala, for the year 1992-93. The total number of seats in the Medical/Dental/Ayurvedic Colleges are as under :—

Medical College, Patiala	—	150 seats.
Medical College, Amritsar	—	150 seats
Guru Gobind Singh Medical College, Faridkot	-	50 seats
Dental College, Amritsar	—	40 seats
Dental College, Patiala	—	40 seats
Ayurvedic College, Patiala	—	30 seats

15 per cent of the total seats mentioned above have to be filled on All India basis through a test to be conducted by the Central Board of Secondary Education (for M.B.B.S. and B.D.S. only). Out of the seats to be filled in through Competitive Entrance Examination, 2 per cent have been reserved for the sportsmen/sportswomen. Seats are also reserved for other categories to the extent mentioned in respect of each category which need not be enumerated herein as it is not necessary for the purposes of the decision of this reference.

(2) The Competitive Entrance Examination, in short, called the P.M.T. examination, was held on 4th July, 1992. The examination centres were located at Amritsar, Chandigarh, Faridkot, Jalandhar, Ludhiana and Patiala. The Guru Nanak Dev University, Amritsar, this year conducted the PMT examination for all the colleges mentioned above. It issued a prospectus in which the eligibility for the admission to the M.B.B.S./B.D.S. B.A.M.S. Ayurvedacharya Course was categorically stated. Paragraph 4.2(a) (i) of the Prospectus is relevant for the purpose of reservation in the sports category. It is quoted below :—

“(a) (i) Admission shall be made on the basis of the relative merit of candidates determined on the result of the Competitive Entrance Examination (P.M.T.). In the case of reserved seats relative merit of the candidates shall be determined within each category of reservation. In the reserved category of sportsmen/sportswomen, the admission shall be made from amongst the eligible candidates on the basis of their gradation done by the Department of Sports, Punjab in accordance with, Punjab Government Education Department Letter No. 47/26/83-5 Edu(a) 5/1490, dated 7th June, 1991/12th June, 1991. In the reserved category of children/widows of the defence personnel, candidates of sub-category-vi(2) mentioned in Para III (c) infra, shall be admitted only if eligible candidates of sub-category-vi(1) are not available, Minimum marks required for eligible candidates will be communicated subsequently.”

In the above paragraph 4.2 (a) (i) quoted above, reference has been made to the Punjab Government Education Department letter No. 47/26/83-5 Edu(a) 5/1490, dated 7th June, 1991/12th June, 1991, issued by the Department of Sports. This letter (hereinafter referred to as instructions) indicates how grades A, B, C and D will

be given by the Director of Sports, according to which admission is to be made from amongst the eligible candidates in the category of sportsmen/sportswomen. The relevant portion of this letter is quoted below :—

“No. 47/26/83-5 Edu(5)/1450.

PUNJAB GOVERNMENT

DEPARTMENT OF EDUCATION

(EDUCATION V BRANCH)

To

All Heads of Departments,
Registrar, Punjab and Haryana High Court, Commissioners of Divisions, Deputy Commissioners and Sub-Divisional Officers (Civil) in the State of Punjab.

Dated, Chandigarh, the 7th June, 1991/12th June, 1991.

Sub : Issuing of Sports Gradation Certificates and Reservation of seats for sportsmen/women in Technical/Medical and Preferential treatment in service of the State Government.

Sir,

I am directed to refer Punjab Government instructions contained in the circular letter No. 47/26/83-5 Edu(5)/3309, dated the 12th July, 1990 on the subject cited above, and to say that after careful consideration, Government have revised as follows, the criteria for the grant of sports gradation certificates for entitlement to the concessions based thereon :—

2. The Certificates shall be in the following descending order of merit :—

Grade A :—Sportsmen/Women of International Standing i.e., those who have represented India in the following International tournaments/Meets/Competitions/Championships etc :—

- (i) Olympic Games.
- (ii) Commonwealth Games.
- (iii) Asian Games.

- (iv) Test Matches/One day matches in Cricket.
- (v) Davis-Cup-in Tennis.
- (vi) World Cup Tournaments in respective Games.

Grade B :—Sportsmen/Women who have participated in the following Tournaments / Meets / Competitions/Championships etc.

- (i) Asian Federation Cup Tournaments.
- (ii) Internatoinal Tournaments other than those, mentioned against grade-A.
- (iii) All India Combined Universities team which participated in the Senior National.
- (iv) K.V.S. team participation in National School Games.
- (v) National Championships/Inter-State.
- (vi) International meets/Championships for Juniors.
- (vii) National Games organised by I.O.A.
- (viii) All India combined Universities team participating in World Universities Championships.
- (ix) National Championships for women/National Sports Festival for Women organised by SAI from 1990-91 onward.
- (x) National School Games.

Grade C : Sportsmen/women who have participated in the following Tournaments/Championships/Meets etc.

- (i) All India Inter-versity tournaments.
- (ii) Inter-District State Championships organised by the recognised State Sports Associations.
- (iii) Punjab State Games organised by POA.
- (iv) Punjab State Championship for women organised by the Punjab Sports Department.
- (v) State School Games organised by the Punjab Education Department.

Grade D : Sportsmen/women who have participated in the following Tournaments/Championships/Meets etc.

- (i) Distrikt Level Competitions organised by Distrikt Sports Associations.

(ii) Inter-College University Tournaments.

(iii) Inter-Schools District Tournaments.

2. ** ** **

3. In the matter of rating, *inter se*, the preference in the same grade will be given in the following descending order :—

- (a) Record Holders in any event.
- (b) Winners.
- (c) Runners Up.
- (d) Third Position holders.
- (e) Number of times participated.
- (f) Number of disciplines participated.

Note 1 : Regarding Senior and Junior Tournaments/Championships, Senior shall have precedence over Junior. Moreover Junior and School Championships will be considered at par.

Note 2 : No Sports gradation certificate shall be issued to the players who participated in Mini, Sub-Junior and in the tournaments which are organised for the players under 15 years age.

4. Participation in a lower grade shall be a pre-requisite for acceptability in the higher grade. For instance, no achievements in Grade 'A' would be recognised if it is not shown to have been achieved through participation in Grade 'B' 'C' and 'D'. Similarly for recognition of an achievement in Grade 'B' participation in Grade 'C' and 'D' will be necessary.

5. ** ** **

6. ** ** **

7. ** ** **

8. Director Sports, Punjab who will issue the certificates will also have the authority to cancel any certificate at any time, if it is found to have been issued on false/incorrect information or record.

(Sd.) . . . ,
Under Secretary, Education,
for Secretary to Government, Punjab,
Department of Education
(Sports Wing)."

(3) Writ Petition No. 12079 of 1992 was filed by one Mr. Amardeep Singh Sahota, seeking a quashing of Paragraph No. 3 of these instructions dated 7th June, 1991/12th June, 1991, quoted above **laying down the *inter se* preference to be accorded to persons holding the same grade.** This petition came up before Hon'ble Mr. Justice J. S. Sekhon, who after hearing learned counsel for the parties referred the following three questions to the Full Bench.

- (1) Whether the admission to the sports category should be made purely on the basis of achievements in sports or in accordance with instructions dated 7/12 June, 1991;
- (2) or their merit *inter se* should be determined in the same grade by keeping in view their merit in the pre-entrance test;
- (3) or whether the giving of precedence to those persons who participated in senior tournaments or championships over those had participated in Junior or school championships embodied in note 1 to para 3 of the instructions dated 7/12 June, 1991 is a valid classification.

The above mentioned reference was made by J. S. Sekhon, J. in view of the decision of the Division Bench of this Court in Civil Writ Petition No. 10413 of 1992, *Miss Monic Mehta v. State of Punjab and others*, dated November 30, 1992. Civil Writ Petition No. 12176 of 1992, *Miss Maninder Kaur v. The State of Punjab* also came up before J. S. Sekhon, J. on December 12, 1992 and for the reasons given in the order of the same date in Civil Writ Petition No. 12079 of 1992, this case was also referred to the Full Bench. Civil Writ Petition No. 15651 of 1992 came up for admission before the Bench of A. L. Bahri and G. C. Garg, JJ on January 12, 1993 and it was also directed to be heard a long with Civil Writ Petition No. 12079 of 1992. In the circumstances, all the three writ petitions i.e. No. 12079, 12176 and 15651 all of 1992. have come up for hearing before the Full Bench.

(4) In Civil Writ Petition No. 12079, Amardeep Singh Sahota petitioner appeared in the pre-medical entrance test against 2 per cent reserved seats for sportsmen/sportswomen. In the sports category, in accordance with the instructions dated 7/12 June, 1991, the petitioner got 'B' grade certificate. His case is that in case the merit of the candidates in the P.M.T. is considered, he would be selected for admission in the M.B.B.S. course and the instructions issued by

the State Government waiving the minimum qualifying marks have resulted in great injustice to him. According to him, the merit obtained in the pre-medical entrance test should be the criterion for admission in Medical/Dental Colleges under the sports quota and the action of the State Government in waiving the condition of minimum qualifying standard as also not considering the merit in the pre-medical test is wholly arbitrary. His further case is that admission merely on the basis of merit determined in the sports category under para 3 of the instructions dated 7/12 June, 1991 should not be the sole basis for selecting students under the sports quota.

In Civil Writ Petition No. 12176 of 1992, the sole petitioner is Miss Maninder Kaur. Her case is similar to that of the petitioner in Civil Writ Petition No. 12079 of 1992.

(5) In Civil Writ Petition No. 15651 of 1991, one Chandanjot Singh has also sought admission under the sports quota but here the petitioner is challenging the note which has been appended to para 3 of the instructions dated 7/12 June, 1991. His case is that there should be no distinction between senior and junior and a senior person should not be given priority over a junior as laid down in Note 1 appended to para 3 of the said instructions.

(6) We have heard learned counsel for the petitioners and learned Advocate General on behalf of the respondents.

(7) We have been called upon to adjudicate as under what criterion admission should be made under the 2 per cent sports quota in the category of sportsmen/sportswomen.

(8) Paragraph 4.2 (a) (i) of the Prospectus regarding admission has already been quoted above. In this para it has been clearly stated that admission in the reserved category of sportsmen/sportswomen shall be made amongst the eligible candidates on the basis of their gradation done by the Department of Sports Punjab in accordance with the Punjab Government instructions dated 7/12 June, 1991. The relevant portion of these instructions have also been quoted above which lays down the criterion for gradation.

(9) By notification dated May 20, 1992 issued by the Department of Health and Family Welfare, the Governor of Punjab ordered that the selection of the students for admission to the M.B.B.S./B.D.S./B.A.M.S. (Ayurvedacharya) Course for the session

1992-93 in all the three Medical Colleges was to be made by holding a Competitive Entrance Examination (PMT) which was conducted last year by the Guru Nanak Dev University, Amritsar. Clause III(a) of the Notification lays down the eligibility criteria for admission to the said courses. This clause III (a) was exactly quoted in paragraph 4.2 (a) (i) of the prospectus which we have already quoted in the early part of the judgment. In this paragraph, it was specifically mentioned that the minimum marks required for eligible candidates will be communicated subsequently. The State Government instead of notifying the minimum marks required for eligible candidates issued Notification dated July 13, 1992 in partial modification of the Notification dated May 20, 1992 which reads as follows :—

“III(1) The condition of minimum qualifying marks for Competitive Entrance Test (PMT) has been waived off and the admission to M.B.B.S./B.D.S./B.A.M.S. will be made strictly in order to relative merit of candidates determined on the result of Entrance Test (PMT). In case of reserved seats relative merit of the candidates will be determined within each category of reservation.

(2) The other terms and conditions will remain the same as already notified on 20th May, 1992.”

(10) The position which emerges therefore is that by Notification dated May 20, 1992, the State of Punjab issued specific condition on the basis of which admissions were to be made under the 2 per cent quota reserved for sportsmen/sportswomen. This condition was subsequently modified by the Notification dated July 13, 1992. The learned counsel for the petitioners have challenged the validity of para 3 of the instructions dated 7/12 June, 1991 as well as the note 1 appended to the said para and they have also challenged the Notification dated July 13, 1992 which waives the condition of laying down minimum qualifying marks for Competitive Entrance Test.(PMT). Shri P. S. Patwalia learned counsel for the petitioners in Civil Writ Petitions No. 12079 of 1992 and 12176 of 1992, which were referred to the Full Bench on December 18, 1992, has not disputed the giving of Grades A, B, C and D under para 2 of the instructions dated 7/12 June, 1991. But his contention is that once a student comes in a particular grade and if in that particular grade selection is made for admission then the admission would be made on the basis of the marks obtained in the Competitive Entrance Examination (P.M.T.) on merit, and the admission made primarily

on the basis of sports in the same grade is arbitrary, discriminatory and consequently violative of Article 14 of the Constitution of India. Shri S. S. Nijjar, Senior Advocate, appearing for the petitioner in Civil Writ Petition No. 15651 of 1992 has further urged that note 1 appended to para 3 of the instructions dated 7/12 June, 1991 giving precedence to seniors over the juniors is void and goes contrary to the main para 3 of the instructions and as such Note 1 is void and liable to be set aside.

(11) The criterion on which the admission should be made under the sports quota has been a subject matter of challenge in this court in various cases. In *Miss Maninder Kaur and others v. State of Punjab* (1), the policy decision taken by the State Government on January 11, 1962 in regard to the admission under the sports quota came up for consideration. The State under this policy decision had categorised the sportsmen into four grades. Grade A related to sportsmen of international standard; grade B to sportsmen of national standing; grade C to sportsmen who have achieved State status and grade D to sportsmen who played for their college, school, institution etc. without achieving State status. The weightage was given to the students in the form of percentage of marks secured in the written test. This weightage was added to the marks secured in the admission test in respect of sportsmen/sportswomen and then the merit was determined and admission made accordingly. I. S. Tiwana, J. as he then was, who decided that case was of the opinion that only consideration that should prevail with the authorities for the purposes of these admissions should be the rating of these candidates in the light of their performance in the field of sports. According to him, the marks obtained in the premedical entrance test were wholly irrelevant and the candidates should be admitted purely on the rating which they obtained under the policy decision in sports.

(12) The decision in *Maninder Kaur* (supra) came up for consideration in the case of *Ranbir Singh v. Thapar Institute of Engineering and Technology, Patiala* (2), the view taken by I. S. Tiwana, J., was over ruled by the Division Bench. The Bench upheld the policy of the State Government giving weightage to the various categories of sportsmen/sportswomen by adding 10 per cent, 5 per cent, 3 per cent and 2 per cent marks on the basis of their sports gradation certificates. The case of *Maninder Kaur* (supra) was over ruled in this decision. The Bench took the view

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

(2) A.I.R. 1988 Punjab and Haryana 51.

that the learned Judge has not appreciated the fact that the admission was being sought by a student in a professional college and not in a sports college. In order to pass an examination in such a professional college, the candidate should have a good academic career otherwise it may not be possible for him to pass the same. It was further observed that no useful purpose would be served if the students who are unable to get through the examinations are admitted. The ratio decided of this case is that the merit in sports no doubt is to be considered for admission in a professional college but the marks obtained in an examination have also to be given due weightage and the student should have a good academic career before he is admitted to a professional college. The principle laid down in *Maninder Kaur's case* (supra) that only merit in sports has to be considered was not accepted by the Bench.

(13) In *Miss Chetna Sharma and others v. U.T. Chandigarh and another* (3), the question involved was in regard to the reservation under the sports category in an engineering college. The principle laid down in the case of *Ranbir Singh* (supra) was accepted again by the Bench of this Court holding that the weightage of marks in addition to academic performance was fair and just and the policy of the State Government in that behalf was not illegal.

(14) In *Miss Daljeet Kaur v. State of Punjab and others* (4), the matter of admission to the medical college in relation to the reservation for sportsmen/sportswomen in the sports quota again came up for consideration and the question was how the competing claims of academic excellence and the sport excellence in the field of reservation in favour of sportsmen/sportswomen should be reconciled. The Court accepted the principle that academic excellence was not to be given a go-by even for reserved categories. It was held that when the main object is to produce doctors and not the sportsmen, the government policy in that regard is oriented to achieve academically sound doctors but interlaced within tolerable limits, some sports element. It was further held that one cannot imagine a situation when a candidate aspiring to become a doctors adopts a sports route to become one by design. Rather, it is the sports instinct which makes him a sportsman. The policy of the government lying down the minimum eligible as 35 per cent marks combined with the relative of the candidate in the sports category was held to be valid. The contrary contention was not accepted.

(3) 1992 (1) S.L.R. 1.

(4) A.I.R. 1990 Pb. & Hy. 176.

(15) In this case also therefore, besides the excellence in sports, relative merit amongst the students in relation to the marks obtained in the admission examination was also given due consideration and the policy of the government was upheld with regard to obtaining minimum marks in the admission examination.

(16) In a very recent judgment of the Supreme Court in *Sandeep Brar and another v. State of Punjab and others* (5), reported in 1993 (1) Recent Services Judgments 323 Hon'ble Kuldip Singh, J. has held that the methodology for admission to the reserve seats for sportsmen/sportswomen is the function of the State and hence to be decided by the State Government. It is the function of the Executive to lay down the procedure for admission to the reserved categories. It is no doubt correct that the Court has the power of judicial review. If the validity of the Government instructions is challenged, the Court can examine the same but the High Court would not be justified in directing different procedure than the one notified by the State Government to be made applicable to the admissions. In principle, therefore, it has been laid down by the Hon'ble Supreme Court of India that it is the jurisdiction of the State Government to lay down the policy for the admission to the reserve seats for sportsmen/sportswomen when making admissions to any medical college. We have consequently to examine as to whether the policy laid down by the 7th/12th June, 1991 instructions was a valid policy or it suffers from some legal infirmity.

(17) However, at this stage, it would be appropriate to point out that in *Sandeep Brar's* (supra) elaborate arguments were addressed on the question whether academic excellence or the achievements in the field of sport should be the main consideration. But this question was left open by the court to be decided in an appropriate case.

(18) In the instant case in accordance with the policy laid down by the State Government,—vide Notification dated May 20, 1992, which was made applicable to the examination in question, it was categorically laid down that the admission shall be made on the basis of the gradation done by the Department of Sports, Punjab in accordance with the instructions dated 7th/12th June, 1991. In the Notification it was further laid down that minimum marks required for eligible candidates will be communicated subsequently. It is, therefore, clear from the policy of the government that insofar as admission to reserve category of sports is concerned, the gradation was to be

made on the basis of instructions dated 7th/12th June, 1991 but the candidates would be required to obtain minimum marks for becoming eligible for admission.

(19) Students pursuing courses in medical or engineering colleges, which are technical subjects, require an academic mind, as ultimately after obtaining degrees from these professional colleges, they serve humanity. Policy of the Government laying down the sole criterion for admission as sports cannot be countenanced. It would be against public interest and wholly arbitrary. Excellence in sports may be a very important consideration for admission in the sports quota but a ~~certain—minimum academic standard—~~is also required to enable the students to obtain degrees.

(20) In the case of *Maninder Kaur* (supra), it was held that excellence in sports should be the sole criterion for admission but this view was not accepted in the subsequent cases cited above by the Division Benches of this Court. We also agree that besides excellence in sports, there should also be requirement of minimum academic qualification before a student could be made eligible for admission in a professional college. We agree with the view taken in the cases of *Ranbir Singh* (supra), *Miss Chetna Sharma* (supra) and *Miss Daljeet Kaur* (supra). In the circumstances we do not find any fault with the policy of the State Government when it lays down that excellence in sports as well as minimum academic qualification is required before a student is admitted to a medical college.

(21) The Notification of the State Government dated July 13, 1992 which we have already quoted above and which waives the requirement of obtaining minimum qualifying marks, in our opinion, is an after thought and wholly arbitrary. If the validity of this Notification is upheld then the result would be that only merit in sports would become the criterion for admission in the reserved category of sports. This is not acceptable. In the circumstances, the Notification dated July 13, 1992, is liable to be quashed and cannot be given effect to.

(22) It may at this stage further be stated that the Notification dated July 13, 1992 goes contrary to the policy which was laid down for admission in the Notification dated May 20, 1992 on the basis of which the Prospectus had been issued to the students and the students appeared for test on the basis of the policy laid down in the prospectus. The Prospectus cannot subsequently be changed by the State Government to the detriment of the students to benefit certain

other students. In *Ravdeep Kaur v. The State of Punjab and others* (6), Division Bench of this Court had an occasion to consider the value of a Prospectus issued for admission to an entrance examination. It was held that the eligibility for admission to a course has to be seen according to the prospectus issued before the entrance examination and that the admission has to be made on the basis of instructions given in the prospectus as the instructions issued have the force of law. We agree with the view taken by the Division Bench. Since the Prospectus issued for admission to the 1992-93 course in the medical college has the force of law and the students appeared in the examination on the basis of the instructions laid down in the said Prospectus, it was not open to the State Government to issue contrary instructions and as such also the Notification dated July 13 1992 issued by the State Government is invalid in law.

(23) There is another aspect of the matter if condition of acquiring minimum qualifying marks in an admission examination is waived then the examination itself would become a farce. A sportsman may just enter the hall not answer any question and come back get zero and yet because of his sports category he would get admission in a medical college. In this way, the very purpose and spirit of the competitive examination will be given a go-by. If an examination is held, it must be given its due importance.

(24) In view of the above, we cannot accept the extreme contention raised by Shri P. S. Patwalia that in the case of reservation in the sports quota merit in the examination should be the sole criteria for admission otherwise the relevance of sports excellence will cease to have any importance which is the basis of the quota in question. There will be no incentive left for a sportsman/sportswomen to excel in sports and very good sportsmen who have devoted their maximum time in playing games would never be able to get admission in the medical colleges. If this is accepted then the very purpose for which reservation in sports quota is made would become nugatory. We, therefore, do not agree with the contention of Shri Patwalia that even in the same grade admissions should be made on the basis of merit in the admission examination.

(25) In regard to the submission made by Shri S. S. Nijjar that Note 1 appended to para 3 of the instructions dated 7th/12th June, 1991 is void, we are of the opinion that this contention has also no force. Note 1 clarifies as to what is the intention of the main para 3

namely, that the seniors should have precedence over the juniors. In our opinion, this does not make the main para nugatory or scuttles its effect. It is only an explanation of the main para further laying down that seniors shall be given precedence over the juniors in the matter of rating. According to clauses (a) to (f) of para 3 of the instructions dated 7th/12th June, 1991, the seniors are a Class' different from the juniors. There is no discrimination between the same class and as such the question of any discrimination on the basis of it does not arise. Note 1 consequently in our opinion is not void. A similar instruction was held to be valid by this Court in C.W.P. No. 4133 of 1985, *Gurshran Bhinder v. The State of Punjab* decided on September 13, 1985. We consequently hold as valid the policy of the State Government issued by Notification dated May 20, 1992 and the Notification of the Government dated July 13, 1992 is hereby quashed.

(26) It is not disputed by the learned Advocate General that the minimum qualifying marks laid down by the Government in the previous examination was 35 per cent. Since no minimum qualifying marks have been laid down by the Government for the year 1992-93, we direct that 35 per cent marks shall be treated as the minimum qualifying marks for the year in question as this percentage of marks appear to us the most reasonable and fair. The State Government is directed to prepare the result according to our decision. Our answer to the three questions referred to us is :—

- (i) The admission to the sports category should not be made purely on the basis of achievements in sports but it should be made in accordance with the instructions dated 7th/12th June, 1991.
- (ii) The merit *inter se* should be determined in the same grade by excluding students who do not get the minimum qualifying marks alongwith relative merit obtained in sports according to instructions dated 7th/12th June, 1991.
- (iii) The preference to seniors *qua* juniors is a valid classification and the instructions dated 7th/12th June, 1991 can not be held to be invalid on that account.

(27) In view of the answers given by us, we direct that the State of Punjab shall prepare fresh merit list.

(28) After preparing the fresh merit list, the State shall determine as to which of the students according to the fresh merit list

have already been admitted in the Medical Colleges. Their admission shall be regularised. If there is any student who was not admitted under the fresh merit list then such a student or students shall be granted admission in the Medical Colleges in the Session 1993-94 and additional seats shall be created for those students. They need not appear again in the 1993-94 examination. This is on the condition that such students have not got admission in other Medical Colleges in this Session 1992-93. If any student has been admitted in the Medical College by the State Government in pursuance of the result declared by them though not in accordance with the principles laid down by us and such student has already pursued his course in the Medical College then his admission shall not be disturbed and he shall continue to remain admitted in the College.

(29) We have now to consider the question in regard to those students who though they are not entitled to be admitted within the principles laid down by us but have been granted provisional admission due to orders passed by this Court. In regard to these students also since the law was wholly unsettled and there were different decision by different Benches of this Court in regard to the principles of admission, they should not be made to suffer in the interests of justice and they be also permitted to continue their course in the Medical Colleges as regular students.

(30) We have held that it is the jurisdiction of the State Government to lay down the policy for admission to the sports quota in the Medical Colleges but in our opinion the State Government should not change the policy every year and in one year change it many time as has been done in this year. We expect the State Government that any policy which it determines in regard to the sports quota for the next year, shall be permitted to continue for atleast three years so that students who are eligible in the sports quota may be aware of the said policy.

With the above observations and directions, the writ petitions Nos. 12079, 12176 and 15651 all of 1992 are disposed of.

S.C.K.