

clause arbitrarily the rights of the candidates could not be hampered and the case of petitioner No. 1 is such. Under the eligibility clause in Annexure P. 1, as reproduced above, he was eligible for seeking admission in the MDS Course. Further finally when Annexure P. 7 advertisement was issued, he was debarred from taking the Entrance Test as criteria of eligibility was changed. The petitioner who had served the State Government for more than 5 years with having three years rural service to his credit and such like other persons should not be deprived of the chances of gaining excellence in the field of medicine in such speciality. Further-more, when selection committee had held interview, it was too late to change the criteria for admission. Since the case of only one person is for consideration in this writ petition, it is not considered appropriate to make any further comment on the advertisement-Annexure P. 7 or to quash the admission of other candidates held under the Entrance Test. The ends of justice would be met if direction is given to the respondents to allow admission to Dr. Mohamad Shabir in the Speciality of his choice in the existing vacant seat, if any, or by creating an additional seat. Such a matter was under consideration of this Court in C.W.P. No. 17000 of 1991 (*Dr. Rajesh Khanna and another v. The State of Punjab and others*), which was decided on December 17, 1991. In that case no clear stand was taken as to from which session the changed eligibility clause would be applicable either from 1993 Session or for the earlier session also. A direction was given to finalise the admission to 1991-92 Course on the basis of result of examination already conducted for 3 Years Course.

(6) For the reasons recorded, this writ petition is allowed with the direction to the respondents to allow admission to Dr. Mohamad Shabir, petitioner No. 1. against any of the existing vacant seats or against the additional seat to be created, in necessary in 3-Years MDS Course. No order as to costs.

J.S.T.

Before A. L. Bahri, V. K. Bali, JJ.

AMARJIT SINGH.—Petitioner.

versus

THE STATE OF PUNJAB ETC.,—Respondents.

C.W.P. 58 of 1992.

23rd April, 1992.

*Constitution of India, 1950—Art. 226—Joining Duty—Petitioner selected as Lecturer Physics to join duty before 7th September, 1991 alongwith certified copies of educational certificates—7th September a Saturday reported for duty on 9th September, 1991—Not allowed to*

*join duty on the ground that he did not possess B.Ed. certificate—Denial of respondents not justified—Petitioner could legitimately approach respondents on next working day for assuming duty.*

(Para 3)

A. L. Bahri, J.

Held, that we cannot accept the assertion in the written statement that the petitioner had not produced the certificate when he approached for assuming duty on September 9, 1991 was a public holiday followed by Sunday, another holiday the petitioner could legitimately approach the respondents on the next working day for assuming duty. Denial on the part of respondents was not at all justified.

*Civil Writ Petition Under Articles 226 and 227 of the Constitution of India praying that this Hon'ble Court may kindly be pleased to :—*

- (i) summon the record of the case;
- (ii) *after perusal thereof, to issue a writ of Mandamus directing the respondents to allow the petitioner respondents to accept the joining report of the petitioner at the place of posting with effect from 9th September, 1991 when the reported for duty to the respondent No. 3.*
- (iii) *direct the respondents to consider the feasibility of posting the petitioner near his home town, i.e. Sri Hargobindpur, Kahnawan, Kalanaur or Zafarwal.*
- (iv) *issue any other appropriate writ, order or direction as this Hon'ble Court may deem just and proper in the facts and circumstances of the case.*
- (v) *dispense with the filing of certified copies of Annexures, true copies whereof have been annexed to the writ petition.*
- (vi) *dispense with the sending of advance notice to the respondents.*

Amarjit Singh petitioner in person, for the Respondent.

#### JUDGMENT

A. L. Bahri, J.

(1) Grave in justice was being done to the petitioner that he had to approach this Court. The petitioner was selected as Lecturer in Physics and was posted in a school in district Gurdaspur. He was to join duty before September 7, 1991 alongwith certified copies of educational certificates. September 7, 1991 happened to be Saturday

(holiday). On September 9, 1991, the petitioner approached respondent No. 3 i.e. District Education Officer Gurdaspur for joining duty. However, he was not allowed to do so on the ground that he could join duty only upto September 7, 1991. He had no option but to approach this Court in this Writ Petition.

As the time of motion hearing, a direction was given to the respondents to permit the petitioner to join duty on production of B.Ed. certificate, that is how during the pendency of Writ Petition, he was allowed to join duty on January 11, 1992. After notice of motion was issued, reply was filed by Deputy Director (School Administration) Office of Director of Public Instructions, Punjab.

(2) In para 14 of the Writ Petition, it was specially averred by the petitioner that on the next day i.e. September 9, 1991, he reported for joining duty. However, respondent No. 3 did not allow him to join duty. No specific denial of this assertion was made in the written statement, para 14 was generally denied being wrong and it was asserted that the petitioner was making baseless allegation against respondent No. 3. It was further mentioned as under .—

“It is pertinent to mention here that the petitioner was not allowed to join duties as he could not produce the original certificate of B.Ed. which was essential according to condition laid down in appointment letter”.

(3) From the reply as aforesaid, it is more or less admitted that the petitioner in fact approached respondent No. 3 on September 9, 1991 and was not allowed to join duty as he was not possessing B.Ed. certificate. Photo copy of the B.Ed. certificate has been shown by the petitioner which shows that this certificate was issued to him on 5th August, 1991. If the petitioner was in possession of a duplicate copy of the certificate, we cannot accept the assertion in the written statement that the petitioner had not produced the certificate when he approached for assuming duty on September 9, 1991. When September 7, 1991 was a public holiday followed by Sunday, another holiday, the petitioner could legitimately approach the respondents on the next working day for assuming duty. Denial on the part of respondents was not at all justified. Respondent No. 3 has not specifically denied the allegations of petitioner.

(4) During the pendency of the Writ Petition, the petitioner was allowed to resume duty on January 11, 1992, for all intents and purposes, the petitioner would be deemed to have joined on September 9, 1991 and he would be entitled to the pay and other service benefits with effect from that date. So directed.

(5) With the directions aforesaid, this Writ Petition stands allowed with costs which are quantified at Rs. 2,000.

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J.S.T.

*Bejare A. L. Bahri & V. K. Bali, JJ.*

GRAM PANCHAYAT, DUBALDHAN, THROUGH ITS  
SARPANCH,—*Petitioner.*

*versus*

STATE OF HARYANA AND OTHERS,—*Respondents.*

*Civil Writ Petition No. 3432 of 1992.*

April 28, 1992.

*Constitution of India—Arts. 226/227 & 47—Punjab Gram Panchayat Act (IV of 1953)—Section 26—Gram Panchayats passed unanimous resolutions recommending prohibition in their area and requesting respondents that no liquor vends be auctioned—Respondents auctioned liquor vends despite resolution received—Such resolution binding upon Excise & Taxation Commissioner—Especially as resolution is in keeping with article 47 of the Constitution.*

*Held, that a perusal of Article 47 of the Constitution of India and Section 26 of the Punjab Gram Panchayat Act would manifest that the prohibition for consuming intoxicating drinks has been given a statutory recognition moreso when the same is self imposed. The resolutions of the Gram Panchayats particularly when the same are passed unanimously reflect the view of the inhabitants of the village for which a particular Panchayat is constituted and if the elected representatives of the People as also the inhabitants of the village impose upon themselves a restriction for not consuming liquor, the same has not only to be appreciated but given full effect. The moment resolution is passed under Sub Section (1) of Section 26 and received in the office of the Excise and Taxation Commissioner, it takes effect from the 1st day of April of the Year next, after such resolution. But for the exceptions that might be available from the provisions of the Punjab Excise Act as made out from Sub-Section (3), the of Section 26 as also from proviso to Sub Section (3), the collector has no choice but for to give effect to the resolution passed by the Gram Panchayat. In fact the said resolution is binding upon the Excise and Taxation Commissioner.*

(Para 10)

*Punjab Gram Panchayat Act—Section 26—Provision of specific period commencing from 1st day of April ending on 30th day of September of any year in passing resolution seeking enforcement of prohibition—Not mandatory—Time frame prescribed is directory.*

*Held, that the provision of specific period commencing from 1st day of April ending on 30th day of September in any year in passing*