

Before : M. M. Punchhi and A. L. Bahri, JJ.

RAVNEET BHATWA,—Petitioner.

versus

PANJAB UNIVERSITY, CHANDIGARH AND OTHERS.  
—Respondents.

Civil Writ Petition No. 11423 of 1989

September 20, 1989.

*Constitution of India, 1950—Arts. 226 and 227—Combined entrance test held by Panjab University to fill seats in Engineering Colleges—20 per cent seats reserved for scheduled caste/scheduled tribe candidates—Petitioner belonging to Scheduled caste category though qualified failed to secure minimum marks in entrance test—Seat reserved for scheduled caste released for general category—Such action—Whether violative of reservation policy.*

*Held*, that the effort in this regard by judicial precedents as also government policy which have come to be tested and questioned in recent times, has been to interlace academic standard and demand of reservation. But in no case has the standard been allowed to go down from a particular limit. Here in the government policy 5 per cent is the tolerable limit by which the standard for the Scheduled Castes candidates has been allowed to come down. Under the government policy, further down grading is not permitted. Result oriented, as the Engineering Colleges are, the standards cannot be so down-graded so as to lower then below tolerable limits.

(Para 5).

*Held*, that it defies imagination that if qualifying marks were the determining factor, what was the use of the combined entrance test. The combined entrance test, as it appears to us, is to marshal varied academic standards prevailing in Boards and other Institutions which provide the raw material to be inducted in the Engineering Colleges. If the argument has to be accepted, the very purpose of the combined entrance test would be defeated.

(Para 3).

*Held*, that this term prescribing minimum qualifying standard for admission pertains to the standards as obtained by the combined entrance test and not to the standard as in the qualifying marks, making one eligible to sit in a combined entrance test. This argument also does not prevail and is hereby rejected.

(Para 4).

Ravneet Bhatwa v. Panjab University, Chandigarh and others  
(M. M. Punchhi, J.)

*Petition Under Articles 226/227 of the Constitution of India  
praying that :*

- (i) *That the records of the case may kindly be called for;*
  - (ii) *That after a perusal of the record and hearing upon the counsel for the parties, this Hon'ble Court may be pleased to grant the following reliefs :*
    - (a) *Issue a writ of mandamus directing respondent No. 2 to admit the petitioner in Degree course of Engineering for the Session 1989-90 and allow the petitioner who is a member of Scheduled-Caste, the admission to one of the seats reserved for the members of Scheduled Castes;*
    - (iii) *That any other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, may kindly be issued;*
    - (iv) *That any other relief to which the petitioner may be found entitled in the facts and circumstances of the case, may kindly be granted.*
    - (v) *That the requirement of filing the certified copies of annexures may kindly be dispensed with in view of the urgency of the matter;*
    - (vi) *That the requirement of serving the advance notices of this petition on the respondents herein may kindly be dispensed with in view of the urgency of the matter;*
    - (vii) *That the costs of this petition may kindly be awarded in favour of the petitioner and against the respondents.*
    - (viii) *It is further prayed that during the pendency of the petition in this Hon'ble Court, the petitioner may kindly be ordered to be admitted provisionally to the Degree Course of Engineering for the Session 1989-90.*
- H. L. Sibal, Sr. Advocate, R. C. Setia, Advocate, with him, for the petitioner.
- S. K. Sharma, Deputy Advocate-General, Punjab, for the State of Punjab.
- H. S. Mattewal, Sr. Advocate, Gurminder Singh, Advocate with him, for the Respondents Nos. 2 & 3.

## ORDER

*M. M. Panchhi, J. (oral)*

(1) The petitioner is a member of scheduled castes. He had over 50 per cent marks in the qualifying examination in the 10+2 system in order to stake claim to admission in an Engineering College/Institute in the State of Punjab. Statedly there are four institutions which cater to the needs of such aspirants as the petitioner. The Panjab University to whom these colleges are affiliated and institutions attached holds a combined entrance test for determining the merit of candidates seeking admission coming from various sources of qualifying examinations having regard to their equivalency.

(2) The petitioner sat in the combined entrance test and obtained  $7\frac{1}{2}$  per cent marks approximately. The government instructions in that regard being Annexure P-1 specifically state that for 20 per cent reservation of seats meant for Scheduled Castes and Scheduled Tribes a candidate, in order to obtain admission relatively on merit, must secure 10 per cent marks in the combined entrance test. Likewise, the general category candidates must obtain 15 per cent marks. Now if the requisite standard of 10 per cent marks and above are not secured by Scheduled Caste candidates within their 20 per cent reservation, the Colleges, and in particular the Thapar Institute of Engineering and Technology, respondent No. 2 opt for releasing the seats meant for Scheduled Castes in favour of general category candidates in terms of the government instructions Annexure P-1. The petitioner, was denied admission by the Institute. As stated at the Bar, he had also applied to the Guru Nanak Engineering College, Ludhiana, but his application was not considered by the said Institution being incomplete. This has given rise to this petition.

(3) Mr. Sibal, learned counsel for the petitioner, in the first instance says that the combined entrance test is only meant to determine the eligibility and once that eligibility is determined one has to fall back on the marks obtained in the qualifying examination. It has been pressed into service that the qualifying marks obtained by the petitioner are fairly high. We are not impressed by this argument, for it appears to be lopsided. It defies imagination that if qualifying marks were the determining factor, what was the use of the combined entrance test. The combined entrance test,

Ravneet Bhatwa v. Panjab University, Chandigarh and others  
(M. M. PUNCHHI, J.)

---

as it appears to us, is to marshal varied academic standards prevailing in Boards and other Institutions which provide the raw material to be inducted in the Engineering Colleges. If Mr. Sibal's argument has to be accepted, the very purpose of the combined entrance test would be defeated. We reject this argument outright.

(4) The second argument raised is that in terms of the government instructions, Annexure P-1, the petitioner was entitled to admission. The term relied on is in the following words :—

“It is understood that there is minimum qualifying standard for admission to various institutions. Students belonging to Scheduled Castes/Scheduled Tribes should be eligible for admission to the reserved seats if they attain this minimum standards without any reference in the gap between their marks and the marks of the last person admitted to the open seats.”

This term is interpreted by Mr. Sibal to say that it applies to qualifying marks and it has relevancy for the purpose. We do not appreciate this stand as well. This term prescribing minimum qualifying standard for admission pertains to the standards as obtained by the combined entrance test and not to the standard as in the qualifying marks, making one eligible to sit in a combined entrance test. This argument also does not prevail and is hereby rejected.

(5) The third argument raised is that the petitioner despite his having attained  $7\frac{1}{2}$  per cent marks in the combined entrance test was entitled to admission as it would otherwise violate the policy of reservation. The effort in this regard by judicial precedents as also government policy which have come to be tested and questioned in recent times, has been to interlace academic standard and demand of reservation. But in no case has the standard been allowed to go down from a particular limit. Here in the government policy 5 per cent is the tolerable limit by which the standard for the Scheduled Castes candidates has been allowed to come down. Under the government policy, further down-grading is not permitted. Result oriented, as the Engineering Colleges are, the standards cannot be so down-graded so as to lower than below tolerable limits. So this argument does not appeal to us also. All

these factors have been taken into consideration while issuing the prospectus of the Thapar Institute of Engineering and Technology, Patiala, where the petitioner sought admission. In our view, he was rightly declined admission. In the return it has been asserted 27 candidates above the petitioner on merit in the combined entrance test have likewise been refused admission.

(6) For the foregoing reasons, we dismiss this petition *in limine*.

P.C.G.

*Before A. L. Bahri, J.*

RAM SARUP AND ANOTHER,—*Petitioners.*

*versus*

STATE OF PUNJAB AND ANOTHER,—*Respondents.*

*Civil Writ Petition No. 3234 of 1986*

February 27, 1989.

*Punjab Civil Service Rules, Volume II—Rl. 6.16(C) and (B)(ii)—Punjab Municipal Services (Recruitment and Conditions of Service) Rules, 1975—Rls. 15, 16, 17—Punjab Municipal Account Code, 1939—Clause XVI(1)(aa)—Rl. 10(b)—Constitution of India, 1950—Art. 226—Release of payment of Provident Fund, Gratuity, Ex-gratia grant and salary of deceased employee—Brothers of deceased employee applying for such release—Municipal Committee asking them to produce succession certificate with regard to estate of deceased—Succession certificate obtained from civil court, supplied—Non-release by the committee on the ground that brothers having attained majority not covered by the definition of family—Entitlement.*

*Held*, that in the absence of nomination of one of the family members as defined in Clause (XVI)(1)(aa) of Punjab Municipal Account Code. Such of the relations as defined could get the provident fund in the said order. In the absence of any family member as defined, the provident fund is payable to the legal heirs of the deceased as provided under Clause 2(i)(b) of Rl. 10 of Chapter XVI of the Municipal Committee was not justified in refusing to pay provident fund of the deceased employee to the brothers of the deceased as legal heirs who had produced succession certificate.

(Para 7)