

He had relied upon 1990 Civil Court Cases 406 in which AIR 1984 P&H 439 had been relied upon. By going through AIR 1984 P&H 439, the court would have none that AIR 1954 Pb. 125 had been overruled. No contempt was thus committed by the plaintiff/counsel.

(26) In view of what I have said above, it was justifiably found by the courts below that no temporary injunction could be allowed to the plaintiff and the defendant should be allowed to raise construction according to building plan sanctioned by the Chandigarh Administration,—*vide* letter dated 10th June, 1999. Plaintiff may have *prima facie* case, while sanctioning the plan, the Chandigarh Administration may not have taken into account rules 20, 26 or any other rule of the Punjab Capital (Development & Regulation) Rules, 1952. Chandigarh Administration sanctioned the building plan submitted to it by the defendant for raising construction on plot No. 1120 but it cannot be assumed readily that the Chandigarh Administration was not aware of the implication of rules 20 & 26 and other rules while sanctioning the plan that the raising of construction by the defendant on their plot will bring about diminution of light and air to residential house No. 1119, Sector 8-C, Chandigarh and also damage its drive way etc. Balance of convenience and irreparable injury principle appear to be leaning in favour of the defendant. This revision fails and is dismissed.

R.N.R.

Before N.K. Sodhi & N.K. Sud, JJ.

PARMVEER SINGH,—*Petitioner*

versus

PUNJAB UNIVERSITY, CHANDIGARH & OTHERS,—*Respondents*

C.W.P. No. 9414 of 2000

17th August, 2000

Constitution of India, 1950—Art. 226—Admission to Engineering Courses—Petitioner & respondent No. 4 applying for admission for a seat reserved for sports persons—Respondent No. 4 failed to submit copy of Sports Gradation Certificate with the application form as required by Clause 2.2.5.3 of the Prospectus although she possessed one and had applied for upgradation with the Sports Department—College granting admission to respondent after considering her gradation certificate produced at the time of Counselling—Respondent not entitled to admission as her incomplete application could not be entertained in terms of the clause of the Prospectus—Admission granted

to her quashed with a direction to fill vacancy from amongst candidates who applied for admission under sports category.

Held that the petitioner had filed his application for admission to the course alongwith the sports gradation certificate well within the prescribed time and it was complete in all respects. Respondent No. 4 had applied for admission on 29th June, 2000 which application though within time was not accompanied by the sports gradation certificate as required by clause 2.2.5.3 of the prospectus. This certificate on her own showing was produced by her on 18th July, 2000 at the time of counselling. Since the application of respondent No. 4 was not complete the same should not have been entertained in terms of the aforesaid clause of the prospectus no matter what the merit of the candidate was. May be the certificate C-II as produced by respondent No. 4 was higher in grade than that of the petitioner but that would not entitle her to admission because the same was not produced alongwith the application.

(Para 2)

Further held, that the writ petition is allowed and the admission granted to respondent No. 4 quashed. Respondents No. 1 to 3 are directed to fill the resultant vacancy from amongst the candidates who applied for admission in the sports category on the basis of their merit in the sports grading.

(Para 5)

Surya Kant, Advocate for the petitioner

R.N. Raina, Advocate for respondents No. 2 and 3.

Amrit Paul, Advocate for respondent No. 4.

JUDGMENT

N.K. Sodhi, J.

(1) Petitioner has passed the All India Senior School Certificate Examination conducted by the Central Board of Secondary Education from the D.A.V. College, Sector 10, Chandigarh. He claims to be a sportsman. He has been issued a certificate by the Chandigarh Rifle Association for obtaining third position in the Chandigarh State Rifle Shooting Championship held in July, 1999. He also claims to have participated in the IXth G.V. Mavlankar National Shooting Championship held at Ahmedabad in October, 1999. On the basis of his achievements in the event of shooting, the Chandigarh Administration Directorate of Sports has issued to him a sports gradation

certificate in grade C-III. Admissions to different Engineering courses in the Punjab Engineering College, Chandigarh (hereinafter referred to as the College) and the Department of Chemical Engineering and Technology, of the Punjab University (for short the University) were to be made on the basis of a common entrance test conducted by the University on 19th May and 20th May, 2000 provided the candidates were otherwise eligible for admission to the institution in terms of the eligibility conditions prescribed by the University. Being eligible for admission to an Engineering course in the College for the academic session 2000-2001, the petitioner took the common entrance test conducted by the University. He obtained 76.75 marks out of 360 and his rank in the merit list was 7380. He was issued the result card on 17th June, 2000. The candidates who had been issued the result cards of the common entrance test were required to apply for admission to the 1st year of Bachelor of Engineering courses in the College for which the University had issued a joint admission brochure. As per the brochure the last date for receipt of completed application forms in the concerned College/Department was 30th June, 2000 upto 5 PM. It was specifically provided in the brochure that the applications must reach the concerned College latest by this date irrespective of the date of receipt of the result cards by the candidates. 2% of the total seats in the College were reserved for sports persons like the petitioner and these come to a total of 7. Petitioner applied for admission for a seat reserved for sports persons in the 1st year Engineering course in the College and submitted his application alongwith the sports gradation certificate well within the time prescribed in the prospectus. The relevant clause 2.2.5.3 of the prospectus reads as under:

“The candidates for sports category shall obtain gradation certificate from Director of Sports, Union Territory, Chandigarh and attach the same with the admission application. In the absence of gradation certificate, the application shall not be entertained. No gradation certificate shall be accepted after the last date of receipt of application.”

Respondent no. 4 who had qualified in the common entrance test also applied for admission to the Engineering course in the College against a seat reserved for sports persons. She submitted her application on 29th June, 2000 alongwith an application from her father that her sports grading certificate in grade B-III in the event of cycling was still under approval of the Sports Department of the Chandigarh Administration after its approval by the Sports Gradation Committee. In other words, the application form for admission was not accompanied by the sports gradation certificate as required by the aforesaid clause. Since the grant of this certificate was likely to take some more time, the

respondent's father informed the Principal of the College on or around 14th July, 2000 that higher merited sports gradation certificate of respondent no. 4 in Mount Bike Cycling was still under consideration and, therefore, her lower grade certificate of C-II in cricket issued by the Sports Gradation Committee on 2nd June, 2000 may be taken into account for admission at the time of counselling. Counselling for admission to the seats reserved for sports persons was held on 18th July, 2000 in the University Auditorium, Sector 14, Chandigarh. Petitioner alongwith respondent no. 4 and other eligible candidates appeared for the counselling. The Principal considered the C-II certificate in cricket produced by respondent no. 4 and since that was higher in grading than the C-III certificate granted to the petitioner, he granted admission to respondent no. 4 in preference to the petitioner. It is this action of respondents no. 1 and 2 which is now under challenge before us in this petition filed under Article 226 of the Constitution.

(2) We have heard counsel for the parties and are of the view that the writ petition deserves to succeed. There is no gainsaying the fact that the petitioner had filed his application for admission to the course alongwith the sports gradation certificate well within the prescribed time and it was complete in all respects. Respondent no. 4, on the other hand, had applied for admission on 29th June, 2000 which application though within time was not accompanied by the sports gradation certificate as required by clause 2.2.5.3 of the prospectus. This certificate on her own showing was produced by her on 18th July, 2000 at the time of counselling. Since the application of respondent no. 4 was not complete the same should not have been entertained in terms of the aforesaid clause of the prospectus no matter what the merit of the candidate was. May be the certificate C-II as produced by respondent no. 4 was higher in grade than that of the petitioner but that would not entitle her to admission because the same was not produced alongwith the application. A similar question arose before a Division Bench of this court in *Manish Nanda vs State of Punjab and others* Civil Writ petition 12164 of 1996 decided on 11th September 1996. Petitioner therein applied for admission to an Engineering course and wanted the benefit of reservation for a sports person. As per the prospectus the sports gradation certificate issued by the Director of Sports, Punjab was to be produced for getting the reservation benefit under the 'Sports Category'. This certificate was not produced alongwith the application form though it was produced at the time of counselling. The action of the respondents in not admitting the petitioner therein was challenged before this court and from the pleadings of the parties the question that arose for consideration was whether the requirement relating to the production of certificates mentioned in the prospectus

by a particular time was directory or mandatory. This requirement of time was held to be mandatory and chief justice K. Sreedharan after referring to the Full Bench judgment of this Court in *Amardeep Singh Sahota vs. State of Punjab*(1) observed as under :

“We are bound by the said statement of law and we proceed on the basis that the provisions contained in the prospectus (admission brochure-cum-application form) issued by the respondents govern the rights of the petitioner. In this case, since the petitioner did not comply with the provisions of the said prospectus, inasmuch as he failed to submit attested copy of the sports gradation certificate alongwith the application, the same was liable to be rejected.”

(3) A similar question arose before a Full Bench of this Court in *Sachin Gaur vs. Punjabi University, Patiala and another*(2) wherein it was held “that there has to be a cut off date provided for admissions and the same cannot be changed afterwards.” It was also held by the learned Judges that an institution has necessarily to fix a cut off date for admissions as non-fixation thereof would result in non-finalization of admissions for an indefinite period. It must, therefore, be held in the present case as well that the action of respondents no 1 and 2 in granting admission to respondent no. 4 is illegal being contrary to the provisions of the prospectus and cannot be sustained.

(4) Before concluding, we may refer to the latest judgment of the Supreme Court in *Rajiv Kapoor and others vs State of Haryana and others*(3) to which reference was made by the respondent during the course of arguments to contend that the provisions contained in the prospectus are not sacrosanct and therefore, the respondents were justified in entertaining the sports gradation certificate of respondent no. 4 even after the last date of receipt of applications. We have carefully gone through the judgment of the Apex Court and are of the view that the learned Judges have not held that the provisions contained in the prospectus can be given a go-by. In that case the dispute was in regard to the admission to the Post Graduate Degree and Diploma Courses in Medicines from amongst the Haryana Civil Medical Service candidates for the academic session 1997. This court held that the instructions issued by the State Government on 21st May, 1997 were in contravention of the prospectus and could not, therefore, be relied upon for granting admissions to the candidates. The Apex Court found that the order of 21st May, 1997 was only in continuation of the earlier instructions

(1) 1993 (2) PLR 212

(2) 1996 (1) RSJ I

(3) 2000 (2) SLR 603.

issued on 20th March, 1996 and 21st February, 1997 which had not only been forwarded to the University for making entries in the prospectus but had been issued prior thereto which had to be followed for granting admissions to the candidates. The view of this court in Amardeep Singh Sahota's case (supra) that the prospectus issued for admission to a course of study has the force of law and that it was not open to the State Government to issue instructions contrary thereto has not been reversed. Rajiv Kapoor's case (supra) is entirely on different facts and does not advance the case of the respondents.

(5) In the result, the writ petition is allowed and the admission granted to respondent No. 4 quashed. Respondents No. 1 to 3 are directed to fill the resultant vacancy from amongst the candidates who applied for admission in the sports category on the basis of their merit in the sports grading. There will be no order as to costs.

R.N.R.