



CWP No-15263-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No-15263-2024

Date of decision: 07.02.2025

Jasmeen Kaur

... Petitioner

V/s

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. H.S. Batth, Advocate for the petitioner.

Mr. Saurav Khurana, Addl. Advocate General, Punjab
for respondent Nos.1 to 3 and 5.

None for respondent Nos.4 and 6.

SUMEET GOEL, J.

1. The civil writ petition in hand has been preferred under Articles 226/227 of the Constitution of India praying, in essence, for quashing of the order dated 11.06.2024 (Annexure P-11) passed by respondent No.2-Director, State Council of Educational Research and Training, Punjab, cancelling admission of the petitioner to the Diploma in Elementary Education (*hereinafter referred to be as 'course in question'*) and consequences resulting therefrom.

2. Shorn of non-essential details, relevant factual matrix of the *lis* in hand reads thus:

(i) The petitioner had passed her 10+2 examination from Punjab School Education Board in the Academic Session 2021-2022 in

the subjects General English, General Punjabi, Physics, Biology, Chemistry, Environmental Education, Computer Science, Welcome Life and Mathematics on 28.06.2022. Vide notification dated 29.08.2022 (*hereinafter referred to as '29.08.2022 notification'*) issued by the Government of Punjab, admissions to *course in question* were sought to be made for the Session 2022-2024. The relevant eligibility criteria therein reads thus:-

Minimum Educational Qualification:

A. Senior Secondary (10+2) Exam or Equivalent passed with minimum 50% marks for General Category and 45% marks for SC/ST Category. No candidate with Re-appear/Compartment/Result later etc. in qualifying examination shall be eligible to apply.

B. Candidates appearing in the 10+2 Exam can also apply subject to above conditions."

xxx xxx xxx xxx xxx

Merit Criteria:- xxx xxx xxx D.

To ensure high quality standards, any candidate who has not passed subjects English, Hindi, Punjabi, Science, Social Studies and Mathematics in Class X Examination shall not be eligible to apply for admission to D.El.Ed.

xxx xxx xxx xxx xxx

(ii) The petitioner applied, as a general category candidate, in pursuance of the *29.08.2022 notification* and was given admission to the *course in question* in Shaheed Bhagat Singh College of Education (*hereinafter referred to as 'College in question'*). Thereafter, the petitioner appeared in the examination for Hindi as an additional paper in Class X and her result for the same came to be declared on 26.05.2023 wherein she was declared successful in having passed the said examination securing 81 marks out of total 100 marks.

(iii) The petitioner is stated to have attended the classes, as per the requisite norms, and was also deputed for training practice(s) for the first year w.e.f. 16.08.2023 to 20.09.2023. However, since the name of

the petitioner did not figure in the list/programme for the students to be deputed for teaching practice(s) in the second year from 02.05.2024 to 25.10.2024, the petitioner filed the writ petition (CWP No.11968 of 2024 –Jasmeen Kaur Vs. State of Punjab and others) before this Court, which came to be disposed off vide order dated 21.05.2024 directing respondent No.3 (therein) to decide the issue(s) raised by petitioner including the request made by the petitioner to send her for training.

(iv) In pursuance of the above referred to order dated 21.05.2024 passed by this Court, the Director, State Council for Educational, Research and Training, Punjab passed the order dated 11.06.2024 (hereinafter referred to as '*impugned order*'), whereby the admission of the petitioner for the Session 2022-2024 was cancelled.

It is in the above factual backdrop that the present writ petition has been filed before this Court.

3. Learned counsel for the petitioner has argued that the 29.08.2022 *notification* stipulated the minimum qualification as 10+2 examination or equivalent passed with minimum 50% marks for a general category student & the petitioner possessed the said requisite qualification, accordingly. In other words, it has been canvassed that once the minimum educational qualification prescribed for admission was fulfilled by the petitioner, there was no cause with the respondent-authorities to seek the petitioner having passed Hindi exam in Class X examination as well. Learned counsel has further submitted that, the said requirement of a candidate having passed Hindi examination in Class X, is only with the objective to ensure high quality standards and it cannot

be construed as being the minimum required educational qualification(s) for securing admission to the *course in question*.

Learned counsel for the petitioner has further iterated that, in any case, the petitioner had passed the Hindi subject examination in Class X after having secured admission to the *course in question* and has been duly issued the requisite certificate for the same on 26.05.2023. Therefore, the said requirement, as sought for by the respondent-authorities also stood achieved before passing of the *impugned order*.

Learned counsel for the petitioner has further submitted that, the petitioner was admitted to the *course in question* in the year 2022, the duration of the *course in question* is 2 years & the petitioner has already successfully studied therein for more than 1½ years and, hence, the admission of the petitioner ought not to have been cancelled by the respondent-authorities, as a measure of equity.

On the strength of above submissions, learned counsel for the petitioner has canvassed for grant of the writ petition in hand.

4. Upon notice of motion having been issued; reply by way of affidavit of Mr. Anand Gupta, Assistant Director (Affiliation), office of Director, State Council of Educational Research and Training, Punjab has been filed on behalf of respondent Nos.1 to 3 and 5. The said reply primarily stipulates that the eligibility of a candidate for admission to the course in question has to be seen on last date fixed for submitting the application form i.e. 27.09.2022. Passing of Hindi subject examination in Class X is also one of the required eligibility criteria and since the petitioner had not passed the subject of Hindi in Class X examination, as

on the last date for submitting the application form, her admission to the course in question has been rightly cancelled.

Learned counsel, while raising submissions in tandem with the reply, has further placed reliance upon letter dated 03.05.2024 sent by respondent No.6 to the Principal, DIET, Kairon, District Tarn Taran, Punjab, wherein it has been stated that the petitioner (herein) was granted admission erroneously and the respondent No.6-College has undertaken not to repeat such mistake in future to contend that respondent No.6-College was also responsible for grant of wrongful admission to the petitioner and the *impugned order* has, thus, been rightly passed to undo the folly committed earlier.

5. Respondent No.4 – (National Council for Teacher Education), in the considered opinion of this Court, is not an essential party-respondent to be heard for effective adjudication of the present writ petition and this Court had hence proceeded to adjudicate the *lis* in hand without awaiting its response.

6. Office note indicates that service was effected upon respondent No.6 - *College in question* but none has caused appearance on its behalf. Therefore, it is amply deducible that respondent No.6 has willfully chosen to remain unrepresented.

7. We have heard learned counsel for the rival parties and have perused the record.

8. The prime issue that arises for determination in the present writ petition is as to whether the petitioner had been rightly admitted to the *course in question* and whether the respondent-authorities were aptly justified in cancelling the admission earlier granted to the petitioner.

The further issue that arises for consideration is that, in case it is held that the petitioner was not entitled to admission to the *course in question*, whether cancellation thereof is justified at the present juncture.

9. The fulcrum of the *lis* in hand lies in the interpretation of mandatory qualification(s) required for securing admission to the *course in question*. The 29.08.2022 notification, enshrining therein the required qualifications, stipulates that the candidate ought to have passed Senior Secondary (10+2) Exam or equivalent with minimum of 50% marks for general category as “*minimum educational qualification*” and candidate having passed Hindi subject exam in Class X has been prescribed under the “*merit criteria*”. A holistic reading of the 29.08.2022 notification, prescribing mandatory requirements for admission to the *course in question*, unequivocally shows that a candidate is required to fulfill all the conditions stipulated therein whether prescribed under the heading of “*minimum educational qualification*” or “*merit criteria*”. Therefore, the plea raised on behalf of the petitioner that a candidate was required only to fulfill the minimum educational qualification deserves rejection.

A critical analysis of the 29.08.2022 notification and the prescribed admission schedule reveals that the last date for submitting the application form to the *course in question* was 27.09.2022. It is not in dispute that, on this date, the petitioner had not passed Hindi exam in Class X examination, but has qualified the same later on i.e. on 26.05.2023. No cut-off date for having mandatory educational qualification is prescribed in the 29.08.2022 notification. However, the last date for filing of online application form was 27.09.2022. At this juncture, it would be apposite to refer herein to a judgment of the

Hon'ble Supreme Court in case of ***Ashok Kumar Sonakar vs. Union of India and others, 2007(4) SCC 54***, wherein it has been held that:

“20. Possession of requisite educational qualification is mandatory. The same should not be uncertain. If any uncertainty is allowed to prevail, the employer would be flooded with applications of ineligible candidates. A cut-off date for the purpose of determining the eligibility of the candidates concerned must, therefore, be fixed. In absence of any rule or any specific date having been fixed in the advertisement, the law, therefore, as held by this Court would be the last date for filing the application.”

Indubitably, the above demiurgic enunciation of law has factual backdrop pertaining to a recruitment process but the *ratio decidendi* thereof would apply *mutatis mutandis* to an admission process as well.

Ergo, the cut-off date for possessing requisite mandatory educational qualification for admission to the *course in question*, is indubitably, 27.09.2022. The petitioner, having passed Class X examination in the subject of Hindi after the cut-off-date, cannot be lawfully construed as having been eligible for admission at the time of consideration of her candidature. Thus, the petitioner cannot be stated to be qualified for securing admission to the *course in question* as she did not possess the mandatory educational requirements for the same. Therefore, the impugned order dated 11.06.2024 (Annexure P-11) passed by respondent No.2 cannot be said to be illegal or arbitrary.

10. This Court, having found that the petitioner was granted admission *sans* the mandatory qualification for the same, is now posed with the issue *nay* conundrum as to whether the admission granted to the petitioner deserves to be cancelled at this stage, especially in view of the

common ground of the rival parties, that the petitioner has undertaken substantial part of the course in question.

In general terms; *Equity* is a notion of fairness, impartiality and even-handed dealing. *Osborne* considered equity as fairness and related it with natural justice. For *Aristotle*, equity is a correction of the law, where the law is defective owing to its universality. The term "Equity" originates from the Roman term "*aequitas*", suggesting the idea of equality, equilibrium, and proportion. The writ jurisdiction of a High Court, as enshrined under Article 226/227 of the Constitution of India, is not confined to the rigid contours of legalistic adjudication but extends to the realm of equity, ensuring that the justice is dispensed in its truest and fairest form. The court, while exercising its extraordinary jurisdiction, does not merely function as a mechanical arbiter of legal principles but also as a custodian of justice, obligated to prevent manifest injustice, even in the cases, where strict legal norms may appear adverse to the petitioner. The doctrine of equity, which serves to temper the rigidity of the law, mandates judicial intervention to prevent an inequitable outcome. Equity, while operating within the framework of the law, does not permit legal provisions to be enforced in a manner that results in undue hardship, oppression, or disproportionate consequences. The purpose of legal norms is to uphold fairness, not to be applied mechanically to defeat substantial justice. Where a party, *albeit* initially ineligible, has acted in good faith and without any fraudulent intent, and where no overriding public interest is adversely affected, equity demands that the individual should not be subjected to disproportionate hardship solely on the basis of a technical defect at the inception. Furthermore,

legal principles must be applied in a manner that align with the objectives of justice and fairness. The writ Court, as the guardian of justice, must ensure that legal procedures are not used as instruments of rigidity, but rather as vehicles for advancing fairness and mitigating undue hardship. Thus, in circumstances where a litigant has, in good faith, undertaken significant commitments based on a reasonable expectation of progression, equity mandates a balanced approach that upholds the substantive ends of justice while avoiding an unduly harsh application of the law. Judicial intervention is warranted where a litigant has acted in good faith and where allowing strict compliance with technical requirements would result in unwarranted hardship. The *maxim actus curiae neminem gravabit* (an act of the court shall prejudice no one) applies herein with complete vigour, reinforcing the salutary principle that the writ court should not allow its process to be employed in a manner that defeats substantive justice. A rigid application of rules should not undermine the broader principles of fairness and justice. The *doctrine of proportionality*, another cornerstone of judicial review, necessitates that the adverse impact on the petitioner must be weighed against the broader objectives of the regulatory framework. *Ergo*, in the exercise of its equitable jurisdiction, the writ Court must not render decision(s) that results in punitive detriment to the litigant, especially when no fraud, misrepresentation, or malafide intent is attributable to such litigant. The writ Court must desist from taking a hyper-technical view that subverts substantive justice. Instead, a holistic approach, ensuring that equity and good conscience prevail, must be the guiding beacon in the adjudication of such matters. The writ jurisdiction must,

thus, be wielded as an instrument of justice rather than an inflexible adjudicatory tool, bound by pedantic legal formalities.

10.1. Reverting to the factual matrix of the case in hand, the petitioner, though ineligible for being admitted to the *course in question*, was actually admitted and has pursued her studies/training wherein significant resources, in terms of time and effort, have been undertaken by all the concerned. The *course in question* is of 2 years duration, out of which about 1½ year already stands successfully undertaken by petitioner. There is no material brought forth to indicate that the petitioner has indulged in any fraudulent or shenanigan practice(s) so as to secure admission to the *course in question*. Also, nothing perceptible has been brought forward to indicate any collusion at the end of the petitioner with any authority. Still further, the petitioner had attained requisite qualification(s) by passing Hindi subject in Class X examination much before passing of the *impugned order* whereby the admission was cancelled. *Ergo*, in the distinctively peculiar and accentuating facts/circumstances of the case in hand, this Court deems it appropriate to allow the petitioner to complete the *course in question*. This Court must hasten to add a word of caution herein, namely, that the *dicta* of the present case shall not be construed as precedent.

11. In view of the above ratiocination, the writ petition in hand is disposed off in the following terms:

- (i) The impugned order dated 11.06.2024 passed by the Director, State Council of Educational Research and Training, Punjab - respondent No.2 (copy whereof has been appended as Annexure P-11 with the petition) is quashed.

The respondents are mandated to undertake, forthwith, requisite consequential steps accordingly including forwarding the name of the petitioner for Teacher Training Programme in accordance with the applicable rules.

(ii) The *ratio decidendi* of the instant case shall not be considered as precedent as the same has been passed in individualistic peculiar facts of the present case.

(iii) The instant order shall not be construed as any kind of interdiction upon the concerned authority(s) to take requisite action(s), in accordance with law, against respondent No.6 - Saheed Bhagat Singh College of Education, village Kairon, Tehsil Patti, District Tarn Taran for wrongly admitting the petitioner to the *course in question*.

(iv) No order as to costs.

12. The respondents-authorities are directed to file a compliance-affidavit, in terms of the directions made hereinabove, within four weeks from today, failing which they may render themselves liable for punitive consequences as per law. Matter be put up on 07.04.2025 for consideration of such compliance-affidavit etc.

(SUMEET GOEL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

February 07, 2025
Naveen/Ajay

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No