

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH.

C.W.P. No. 15489 of 2003  
Date of Decision: 31.10.2007

Court on its own motion.

Versus

State of Punjab.

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CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,  
CHIEF JUSTICE  
HON'BLE MR. JUSTICE MAHESH GROVER

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Present: Shri A.G.Masih, Senior Deputy Advocate General, Punjab  
for the State.

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1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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VIJENDER JAIN, CHIEF JUSTICE

The representation made by certain students, who were aspiring to seek admission in the Engineering Colleges in the State of Punjab, was treated as a writ petition in the public interest. The following grievance was highlighted in the said representation:-

“1. Public advertisement published in various newspapers on dated 24.7.2003 inviting application for nomination to various Engineering Colleges issued by Director, technical Education and Industrial Training, Punjab, Chandigarh (copy enclosed).

2. Public advertisement published in various newspapers on dated 30.8.2003 inviting application for nomination to various Engineering Colleges issued by Director, Technical Education and Industrial Training, Punjab, Chandigarh (copy enclosed).

Sequence of events is as below:-

DATE	EVENT
24.07.03	<p>Govt. issues public advertisement in various newspapers inviting applications upto 05.08.2003 (5.00 p.m.) from eligible candidates for nomination to various Engineering colleges including Thapar Institute of Engineering and Technology, (Deemed University), Patiala for the year 2003-2004 for making nominations.</p> <p>i) Purely on basis of rank of CET-2003 conducted by Punjab Technical University, Jalandhar.</p> <p>ii) All the eligible candidates shall be regarded at par and there shall be no inter se categorization and the nominations shall be made strictly in accordance with rank in the Common Entrance Test (CET-2003) conducted by PTU, Jalandhar.</p> <p>iii) <b>Counselling of candidates:</b> Counselling of the candidates for nomination seats shall be held on 10.08.2003 at 10.00 a.m. in the Committee Room of Directorate of Technical Education &amp; Industrial Training, Punjab, Plot No.01, Sector 36-A, Chandigarh.</p> <p>Only those candidates will be considered who have applied against the nomination seats. No separate letter for counselling shall be issued.</p>

05.05.03  
(5.00 p.m.)

A large No. of application are received in the O/O Director Technical Education & Industrial Training, Punjab, Chandigarh.

09.08.03

Merit list strictly in accordance with the rank of the candidates in CET-2003 held by PTU, Jalandhar is displayed on the notice board of O/O Director, Technical Education &\* Industrial Training, Punjab, Chandigarh.

Ward of a highly powerful Bureaucrat of Vigilance Bureau of Punjab appears at Sr.No.16 of the displayed merit list.

10.08.03

Counselling of candidates is held and finalized by the counselling committee headed by Dr.Roshan Sunkaria (IAS), Director, Technical Education & Industrial Training, Punjab, Chandigarh.

Ward of highly powerful bureaucrat of Vigilance Bureau of Punjab, appearing at Sr.No.16 cannot be accommodated for nomination to Engineering Seat in Thaper Institute of Engineering and Technology (Deemed University), Patiala, a premier Engineering Institute.

11.08.03

Just to accommodate the ward of highly powerful bureaucrat of Vigilance Bureau, Punjab, the whole bureaucracy bends knees down.

30.8.03

Directorate of Technical Education & Industrial Training, Punjab, Chandigarh issues another advertisement bending the criteria for nominations, to accommodate the ward of the highly powerful bureaucrat of Vigilance Bureau, Punjab to adjust him/ her in Thapar Institute of Engineering & Technology, (Deemed Univesity), Patiala as below after finalization of the counselling of

the candidates held on 10.08.03:

B. Criteria and Earmarking Seats:

- i) To sift out the eligible candidate, by scrutinizing the documents and certificates etc.
  - ii) To place the eligible candidates in the appropriate category, from among the seven categories.
  - iii) In the even there are more than one eligible candidates in any particular category, to place, the candidate in each category, in the ascending order the CET rank, within the same category.
  - iv) Thereafter, to nominate the candidates with the highest rank in CET from among the candidate who is at top of the list in a specific category and also throughout and thence pick up candidates who are first in the other categories, going by increasing CET rank of the top candidate in a specific category and
  - v) After all the seven categories have been scanned and candidate selected, to repeat the process and pick up candidates who are second rank in the respective categories.
- By repeating this process, the nominations shall be made and the preference/ option given by a candidate shall be taken into consideration, in accordance with the order emerging out of this process.

By introducing the above criteria of Inter-Se-Categorization after display of the merit list on 09.08.2003, and after completion of the counselling process held under the Chairmanship of Dr. Roshan Sunkaria, IAS Directorate of Technical Education & Industrial Training, Punjab, Chandigarh on 10.08.2003, the ward of the highly powerful bureaucrat of Vigilance Bureau, Punjab has been brought at Sr.No.3 of the merit list just to accommodate him/ her nomination in Thapar Institute of Engineering and Technology, (Deemed University), Patiala for which the counselling is proposed to be reheld on 12.09.2003.”

In response to the notice, the State of Punjab filed its counter through the Secretary, Technical Education & Industrial Training and

sought to justify the power of nomination by it to certain seats not exceeding the quota of 2% in Thapar Institute of Engineering and Technology, Patiala, which is a deemed university and in which reservation was provided for the first time from the session 1986-87 keeping in view the situation in the State prevailing at that time which warranted the accommodation to the distressed migrant families. It was stated that a nomination policy was duly framed and published on 23.7.2003, which was revised on 27.8.2003 providing accommodation to the following categories:-

- “i) Children of those who have lost a bread winner owing to terrorist action or where such a person has suffered permanent disability of 50-% and above, as a result of terrorist action, or
- ii) Families of riot victims, if someone in family, was killed between 31.10.1984 and 7.11.1984 in the riots in Delhi, Bokaro Kanpur and other places, or
- iii) Grand Children of Freedom Fighters, or
- iv) Children of Defence Personnel who were resident of Punjab and have since died in any operation whether in Punjab or outside Punjab/ India including during Kargil Operation 1999, or
- v) Children/ widows of Para military forces personnel, Punjab Police, PAP and Punjab Home Guards, killed or disabled in action to the extent of 50% or more, and children/ wards of officers and Jawans of Punjab Police PAP and Para Military

forces, all of whom are winners of President and Police Medal for Gallantry or winners of Police Medal for Gallantry (provided it is conferred by the President of India), including such posthumous awardees, or

vi) Children of Punjab Government Officers with 20 years service, out of which at least 5 years have been spent on dangerous or arduous duties, or

vii) Children of Punjab Government employee, the employee being widow.”

Dis-satisfied with the response submitted by the State, we had appropriately sought the government record of the case.

The perusal of the said record shows that on 16.6.2003, a proposal was mooted for taking a decision to make recommendations against the nomination seats from out of the following five categories:-

“1) Children of those who have lost a bread winner due to terrorist action or where such a person has suffered permanent disability of 50% and above, as a result of terrorist action.

2) Families of riot victims, if someone in family, was killed between 31.10.1984 and 7.11.1984 in the riots in Delhi, Bokharo Kanpur and other places.

3) Grand Children of Freedom Fighters, or

4) Children of Defence Personnel who were resident of Punjab and have since died in any operation whether in Punjab or outside Punjab/ India including during Kargil Operation 1999.

5) Children/ widows of Para military forces personnel, Punjab Police, PAP and Punjab Home Guards, killed or disabled in action to the extent of 50% or more, and children of para-military forces personnel/ ex-para military forces personnel, wards of Punjab Policemen decorated with Gallantry Medals.”

But, surprisingly, the Secretary, Technical Education and Industrial Training, Punjab, in his note dated 20.6.2003, made a mention of his discussion with the Technical Education Minister and the Principal Secretary to the Chief Minister and sought the approval of the above reproduced proposal along with the following two categories:-

“i) Children of P.C.M.S. Post-graduate doctors with at least 20 years of service in the Punjab Government, including a minimum 5 years of service as personal doctor to Chief Minister.

ii) Children of Punjab Government employees, the employee being a widow.”

On 10.7.2003, the proposal of the Director, Technical Education and Industrial Training, Punjab was approved by the Chief Minister with a slight change in the aforementioned category (i) to mean that the children of all the Punjab Government officers with twenty years of service out of which at least 5 years have been spent on dangerous or arduous duties would be entitled for nomination. Accordingly, a policy was framed on 18.7.2003, which was published on 23.7.2003.

As noticed above, the aforesaid policy was revised on 27.8.2003 providing accommodation to seven categories.

We notice with some anguish that the decision-making process suffers from the vice of arbitrariness, as a result of which scope for admission of needy children has been expanded simply to accommodate certain officials of the State of Punjab. The entire categorization as short-listed earlier leaned in favour of those students whose parents either died in riots or who lost their bread-winners due to terrorist action or they were grand-children of freedom fighters and children/wards of defence personnel or para-military forces personnel and the exceptional persons, who have won accolades in the performance of their duties in the State Services.

The only two offensive categories are the children of Punjab Government Officers with 20 years service, out of which at least five years have been spent on dangerous or arduous duties and children of Punjab Government employees, the employee being widow.

The aforesaid two categories do not merge with the criteria of necessity and suggest that the seats are being used as largesses to be distributed at the whims and fancies of the powers with it.

Having regard to the totality of the circumstances, we dispose of this writ petition with a direction that the above mentioned two categories shall stand deleted from the nomination policy dated 27.8.2003 of the State of Punjab, as being arbitrary and having no nexus with the avowed objective of providing relief to the children/ wards of the needy and deserving persons, who have served the State or have become victims



of terrorist' violence or violence and riots as a measure of rehabilitation.

However, we make it clear that since a long time has elapsed and the students admitted pursuant to the above said two categories may have completed their professional courses, it is not desirable to disrupt their careers at this stage. Therefore, this decision will not affect the persons, who had been admitted to various courses by giving the benefit of the above two categories and the same shall apply prospectively.

**( Vijender Jain )**  
**Chief Justice**

**October 31,2007**  
**“SCM”**

**( Mahesh Grover )**  
**Judge**