

(2001) 03 P&H CK 0146

High Court Of Punjab And Haryana At Chandigarh**Case No:** Civil Writ Petition No. 1771 of 2000

Miss Raman

APPELLANT

Vs

Punjabi University, Patiala

RESPONDENT

Date of Decision: March 1, 2001**Acts Referred:**

- Constitution of India, 1950 - Article 226

Hon'ble Judges: R.L. Anand, J**Bench:** Single Bench**Advocate:** Mr. P.S. Patwalia, for the Appellant; Mr. H.S. Monn, for the Respondent**Final Decision:** Allowed

Judgement

R.L. Anand, J.

Miss Raman daughter of Dr. H.S. Saini has filed the present writ petition against the Punjabi University, and Patiala College of Management and Technology, Patiala and it has been prayed by the petitioner that writ in the nature of certiorari be issued in her favour against the respondents and the orders dated 27.10.1999 Annexure P12, 1.12.1999 Annexure P15, 24.12.1999 Annexure P17 and 3.2.2000 Annexure P19 vide which she has been made ineligible for admission to BCA-I for the session 1999-2000 in the respondent No. 2 college and her admission has been ordered to be cancelled by respondent No. 1 be quashed. According to the petitioner, the action on behalf of the respondents is totally illegal and has been done in an arbitrary manner. The petitioner has further made a prayer that a writ in the nature of mandamus be issued in her favour and against the respondents declaring her eligible and allow her to continue her studies in BCA-I for the Session 1999- 2000. It has been also prayed that she should be allowed to continue her studies in the said course in respondent No. 2 College.

2. The case set up by the petitioner is that she did her matriculation in the year 1997 from CBSE and thereafter 10+1 in 1998. She appeared in the annual examination of

10+2 and got compartment in Chemistry in April, 1999. The result of the supplementary examination was declared on 31.8.1999, she cleared the compartment and got total 49.6% marks. On 10.6.1999 the respondent No. 1 issued a Hand-book of Information 1999 for conducting BCA entrance test and the last date for submission of the applications was 10.6.1999 and the entrance test was to be conducted on 29.6.1999. The result was declared on 16.7.1999 and in the month of July, 1999 itself the admissions were made. For the purpose of eligibility it was the condition what a candidate must have secured at least 50% marks of aggregate in 10+2 pattern or equivalent examination. Since the petitioner did not passed her 10+2 examination, therefore, she could not apply for the same. It is the case of the petitioner that certain seats felt vacant and the University decided to fill those vacant seats by the criteria enumerated in Annexure P4. Some seats against fell vacant and the University again extended the last date upto 30.9.1999 for NRI and other sponsored categories with late fee of Rs. 1,500/-. Since the petitioner by that lime became eligible, she applied for admission in pursuance to the prospectus for BCA-I on 23.9.1999. The Syndicate of the University in its meeting held on 24.3.1999 took a decision that the fraction worked out to $\frac{1}{2}$ or more should be counted as one. Thus the marks of the petitioner which were 49.6% were counted as 50%. On 23.9.1999, respondent No, 2 sought approval of the respondent No. 1 vide letter Annexure P9 regarding admission of the petitioner and the same was also granted. On 24.9.1999 the petitioner deposited the requisite fee of Rs. 29,600/- and she was issued identity card. On 1.12.1999, the petitioner was informed that her admission has been rejected. According to the petitioner, this order dated 1.12.1999 is illegal. She made representations which were also rejected. Hence, the present writ petition.

3. Notice of the writ petition was given to the respondents. The writ has been contested mainly on the ground that since the petitioner has not passed her 10+2 examination in the main test and that she became successful in the supplementary examination, therefore, she is not entitled to the admission. Also it is the stand of the respondents that the petitioner has not secured 50% marks in 10+2.

4. I have heard Mr. P.S. Patwalia, Advocate on behalf of the petitioner, Mr. H.S. Mann, Advocate on behalf of the respondent-University and with their assistance have gone through the records of the case.

5. Two points arise in the present writ petition for determination. First is, whether the marks of the petitioner can be rounded up, because, according to her, she secured 49.6% marks, whereas the requirement of the University was 50% marks. Annexure P8 is the document issued by the respondent- University, This document contains the proceedings of the Syndicate's meeting held on 24.3.1999 in which it was resolved as follows :-

"In the matter of calculating percentage of marks secured by a candidate in the lower examination for admission to higher course if fraction worked out to $\frac{1}{2}$ or

more it should be counted as 1 (one) and fraction less than 1/2 be ignored."

This decision dated 24.3.1999 further indicates that the syndicate gave the approval to implement the said provision for the classes including the present course. In view of the decision of the syndicate, it is hereby held that the petitioner secured 50% marks and thus she has become eligible in her basic qualification.

6. The second point for determination is whether the petitioner was eligible to apply for the said course or not. It is the common case of the parties that certain seats became vacant which could not be filled up and the process of filling those seats continued upto 30.9.1999. The petitioner became successful in the supplementary examination and before the last date of filing the application she had already passed her 10+2 examination. In these circumstances, she was eligible on the relevant date. The stand of the University that since the petitioner has not passed her 10+2 examination in the parent test i.e. April, therefore, she was not entitled to the admission, is discriminatory and illegal. Moment the petitioner has completed the requisite qualification before the relevant date, she was entitled to be considered for the vacant seat. A seat has already been given to the petitioner though provisionally, therefore, this writ is bound to succeed.

7. Resultantly, this writ petition is allowed by quashing the impugned orders and it is hereby declared that the petitioner was entitled to the BCA course. Since she has already been accommodated for the said course for the session 1999-2000 provisionally, therefore, directions are given to the respondents to regularise the admission of the petitioner. During the pendency of this writ petition the petitioner has cleared BCA Part-I, therefore, she shall take her studies in BCA Part-II as a regular student.

8. Petition allowed.