

(2009) 07 P&H CK 0258

High Court Of Punjab And Haryana At Chandigarh

Case No: CWP No. 21607 of 2008

Dheeraj Chawla

APPELLANT

Vs

Punjab State Board of Technical
Education and Industrial
Training

RESPONDENT

Date of Decision: July 7, 2009

Citation: (2009) 4 RCR(Criminal) 597

Hon'ble Judges: Permod Kohli, J

Bench: Single Bench

Advocate: Raman Sharma, for the Appellant; Ashish Rawal, Advocate For the Respondent No. 1 and Mr. Vikas Kathilia, Advocate For the Respondent No. 2, for the Respondent

Final Decision: Dismissed

Judgement

Permod Kohli, J.

Respondent No. 2 is a polytechnic College established in Kharar District Mohali in the State of Punjab. It is duly affiliated with the Punjab State Board of Technical Education and Industrial Training and has also been duly approved and recognized by the All India Council of Technical (A.I.C.T.E.). Respondent No. 2-College issued information brochure for admission to various diploma engineering three-year courses. The eligibility criteria provided in the said brochure was as under :-

Eligibility

a) Matric passed from any recognized board.

b) Direct admission to 3rd Semester/2 Year :

ITI-1 Year/10+2 with vocational courses passed from recognized board.

2. In response to the aforesaid brochure, the petitioner applied for admission to diploma in Mechanical Engineering. The petitioner passed his Secondary School Examination i.e. matric in the academic session 2005-2006 and secured grade point

average of 06.40 on the basis of best five grades. He, however, did not pass in the subjects of Science and Technology. He had secured only 002 marks in theory and 024 in practical in this subject with Grade "D" as is evident from the certificate of qualification dated 4.5.2006 (Annexure P-1). The petitioner was admitted to Diploma Courses in Mechanical Engineering under the management quota in respondent No. 2-Institute provisionally subject to passing of the supplementary examination in Science and Technology from the Board of School Education, Haryana, Bhiwani for which he appeared on 10.9.2008 under Roll No. 0818611051. It is admitted case of the parties that the result of the supplementary examination was declared only on 20.12.2008 and the petitioner obtained 46 out of 75 marks in Theory and 24 in Practical which he had earlier secured and thus he was declared passed in supplementary examination. The petitioner approached respondent No. 1-Board for appearance in the Ist Semester examination which was scheduled to be held on 2.1.2009. Respondent No. 1 refused to entertain the examination form as the last date for submission of the form had expired. The petitioner accordingly filed this petition seeking a direction for his appearance in the Ist Semester Examination commencing from 2.1.2009.

3. This Court, vide its order dated 24.12.2008, while issuing notice of motion passed following, interim order :-

.....In the meanwhile, the petitioner shall be permitted to appear in the First Semester Diploma in Mechanical Engineering Examination, subject to the final decision of the petition. The appearance in the Examination shall not give rise to any legal or equitable right to the petitioner...

4. Learned counsel for the petitioner has filed CM No. 6956 of 2009 seeking a direction to allow him to sit in the 2nd Semester Classes and to mark his presence.

5. Respondent No. 2 has filed written statement. Counsel for respondent No. 1 has argued the matter without filing any written statement.

6. I have heard learned counsel for the parties.

7. Relevant issue involved in this petition is whether the petitioner was eligible at the time of his admission to diploma course in Mechanical Engineering. Mr Ashish Rawal, learned counsel for respondent No. 1 has placed on record copy of the Joint Entrance Test (JET) Prospectus for the year 2008 issued by respondent No. 1 for Joint Entrance Test to various Diploma Engineering Courses. The prospectus contains conditions of eligibility for Joint Entrance Test and one of the eligibility conditions relates to the qualification which reads as under :-

A) Eligibility Criteria for Joint Entrance Test :

xxx xxx xxx

ii) The test shall be open to candidates who have passed the Matriculation or equivalent examination in Mathematics, Science (Physics, Chemistry and Biology) and English, provided that a candidate who has appeared for the qualifying examination but whose result has not been declared shall be admitted provisionally to the Joint Entrance Test. The admission of such candidates to the Entrance Test shall be purely provisional and shall stand cancelled, if they fail to qualify themselves in the aforesaid qualifying examination and such candidates shall have no claim, whatsoever, for admission to these courses.

8. Based upon the aforesaid condition, it is argued that the petitioner was not eligible at the time of admission and thus respondent No. 2 illegally granted the admission to him under management quota. Since the very admission of the petitioner was illegal and impermissible under the Prospectus issued by respondent No. 1-Board and the qualification prescribed by the A.I.C.T.E. he was not entitled to appear in the Ist Semester Examination nor entitled to continue with the course.

9. It has been vehemently argued on behalf of the petitioner that the petitioner sought admission on the basis of information brochure issued by respondent No. 2-College which provides matric as the qualification. It is submitted that there was no condition in the information brochure that the candidate should have science as the compulsory subject in matric. According to the learned counsel for the petitioner, the petitioner was fully eligible as per the information brochure and thus he cannot be denied the right to continue with the studies and he was also eligible for first semester examination.

10. It is true that the information brochure issued by respondent No. 2 did not specifically provide that the candidate should have passed Science (Physics, Chemistry and Biology) as compulsory subjects in matric. None-the-less, respondent No. 2-Institute has been established in accordance with the A.I.C.T.E. norms and is affiliated with respondent No. 1-Board. The Institute was/is thus bound to observe and follow all admission norms as may be prescribed by the A.I.C.T.E. and the respondent No. 1-Board. These norms are clearly notified in the JET prospectus for the year 2008. Respondent No. 2- College could not dilute or alter the admission norms and the qualifications as have been prescribed by the affiliating body and A.I.C.T.E. the apex body. It is argued on behalf of the petitioner that now the petitioner has also passed Science subjects in matric in supplementary and thus should be deemed to be eligible. I am unable to accept this contention. The eligibility is required before admission to the courses. Learned counsel for the petitioner has further referred to Condition No. (ii) in the JET prospectus which also permits a student who has appeared in the qualifying examination, but whose result has not been declared. From the reading of the aforesaid condition, it appears that a candidate who has appeared in the qualifying examination is entitled to participate in the Joint Entrance Test, but if he fails, he will have no right to admission in the course. In the present case the result of the qualifying examination (Matric) of the

petitioner was already declared, but he failed in Science subjects and thus he was ineligible for admission to the course. Acquisition of subsequent eligibility in Supplementary is of no relevance. The issue has also been considered by a Division Bench of this Court in the case of Sachin Sharma v. Punjab University, 2002 (1) S.C.T. 1124 wherein following observations have been made :-

4. We have heard learned counsel for the parties at some length. The facts are hardly in dispute in the present case. The petitioner alongwith number of other candidate could not submit their final year result or even detailed mark-sheet before the competent authority within the prescribed period i.e. 4.7.2001. They were unable to produce the said documents even by extended date i.e. 20.7.2001. The result was declared on 20.8.2001. Thereafter the petitioner could have produced the said result before the authorities. It is clear that no fault is attributable to any of the respondents. As per the Full Bench judgment of this Court in the case of Amardeep Singh Sahota v. State of Punjab and others, 1993 (4) SCT 328 (P&H) (FB) : 1993 (4) SLR 673 and Rahul Prabhakar v. Punjab Technical University, Jalandhar and others, 1997 (3) SCT 526 (P&H) (FB) : 1997 (3) PLR 13 terms and conditions of the brochure are binding....

11. Since the petitioner was ineligible at the time of admission under the prescribed norms his admission to the Course is itself bad and illegal. The petitioner has no right to continue with the Course even if he has acquired the eligibility after the admission. Thus, this petition is liable to be dismissed.

12. It appears that the respondent No. 2 has misrepresented in the information brochure and correct and true information regarding eligibility has not been published. This might have persuaded the petitioner to seek admission in the course, but that does not help the petitioner in continuing with the course. The petitioner is entitled to claim damages and compensation from the respondent No. 2 for the loss suffered and also the expenses incurred for admission and pursuing the course. The petitioner is at liberty to seek appropriate remedy in this regard.

Dismissed.