

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No. 24747 of 2012 (O&M)

Date of Decision: 27.08.2013

Harleen Cheema

..Petitioner

Versus

State of Punjab and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE SANJAY KISHAN KAUL, CHIEF JUSTICE.
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASHI**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. Whether the judgment should be reported in the Digest?

Present : Mr. Rajiv Kataria, Advocate, for the petitioner.
Mr. G.P.Singh, Addl. Advocate General, Punjab,
for respondent No.1 and 2.
Mr. Manish Dadwal, Advocate for
Mr. K.S.Dadwal, Advocate, for respondent No.3.
Mr. Harsh Aggarwal, Advocate, for respondent No.4.

SANJAY KISHAN KAUL C.J. (Oral)

The petitioner, a candidate, who had cleared the 10+2 examination from Chandigarh, has filed the present writ petition under Article 226 of the Constitution of India contending that she is entitled to admission from the State quota of Punjab. There are multifarious pleas *inter-alia* assailing certain eligibility conditions but keeping in view certain developments, learned counsel for the petitioner gives up all such reliefs.

2. Learned counsel for the petitioner, while referring to the eligibility criteria for PMET under the notification dated 31.03.2008 of the Government of Punjab dealing with the admissions to MBBS/BDS

courses, submits that she now meets the criteria and does not thus seek to challenge the criteria. This plea is predicated on Clause 4(A)(vi) dealing with the eligibility criteria for the PMET which reads as under:-

“(vi) Should have passed his/her 10+2 examination or other qualifying examination in place of 10+2, as listed in 4(A)(i)(a) to (f) above, as candidate from a recognized institution situated in the State of Punjab only except for the exemptions wherever applicable. The candidate would be required to submit a certificate to this effect from the Principal/Head of the Institute last attended in the Prescribed Proforma.

(Para amended vide Corrigendum No. 5/3/08-3HBIII/3389 dated 30.05.2008)”.

3. It is the submission of learned counsel for the petitioner that he is not requesting this Court to deal with the issue of the petitioner being a bonafide resident of Punjab as in his opinion the petitioner has already obtained the requisite certificate which is to be examined by the State Government. He further submits that there is no need to advance the plea of coming within the exemptions under para 4(A) as were sought to be urged earlier.

4. It is the say of learned counsel for the petitioner that the requirement as per Clause 4(A)(vi) is that the petitioner should have passed her 10+2 examination from a recognized institution situated in the State of Punjab. The exemptions would apply if this was not satisfied. He now contends that the petitioner has infact to be treated to have passed 10+2 examination from the State of Punjab.

5. It is not in dispute that 10+2 examination has been passed by the petitioner from the school located in Chandigarh. In order to contend that passing of 10+2 examination from a school in Chandigarh would amount to passing of 10+2 examination from the State of Punjab, learned counsel for the petitioner relies upon the observations of the Supreme Court in case **Raminder Singh Nagra Vs. Jagjit Singh Puri and others** 2010(2) S.C.T. 554. The controversy factually in that case was that the petitioner was the son of a Central Government employee posted at Chandigarh in the office of Accountant General, Chandigarh. He sought admission to the MBBS course on the ground that the children of the employees working in the State of Punjab are entitled to get preferential consideration in the matter of admission to MBBS course. The petitioner was denied admission on the ground (i) that he had not passed 10+2 course from the State of Punjab and (ii) that his father was not working in connection with affairs of the State of Punjab.

6. The High Court rejected the petition. The Supreme Court took cognizance of the fact that undisputedly two conditions to be met to qualify for the course were that the candidate should have passed 10+2 course from the State of Punjab and that he/she should be a ward of an employee of State Government Institutions/Undertakings who are posted in Chandigarh or in Punjab in connection with the affairs of Punjab Government for a period of three years. Qua the second aspect, the petitioner's father working in the office of Accountant General,

Punjab, was held to be entitling the petitioner to be treated as a person in the preferential category. We may note that this aspect does not concern with the matter in issue at hand. However, while considering the first aspect aforesaid i.e. whether the fact that the petitioner herein having passed the examination from a Secondary School in Chandigarh, would be entitled to be treated as a candidate who has passed examination from the State of Punjab, it has been observed that Chandigarh being the Union Territory, which is also capital city of State of Punjab, is to be treated as part of the State of Punjab. Thus the petitioner therein was held entitled to exemptions.

7. Learned counsel for the petitioner thus submits that only declaration he seeks from this Court is in terms of the Supreme Court judgment i.e. that the petitioner before us having passed her 10+2 examination from a recognized school in Chandigarh being capital of State of Punjab, should be treated as a candidate who has cleared her 10+2 examination from the State of Punjab.

8. In our view, the aforesaid issue is no more *res-integra* in view of what has been observed by the Hon'ble Supreme Court in the aforesaid judgment, albeit in that factual context. No doubt, a judgment is in the context of the facts of a particular case and in that context the ratio of the judgment has to be seen. If we see the said ratio, while coming to a conclusion in favour of the petitioner, in that case one of the parameters requiring the candidate to clear 10+2 examination from the State of Punjab would be fulfilled if such a candidate has passed

10+2 examination from a school in Chandigarh on the ground that Chandigarh was the capital of State of Punjab. This ratio would apply with all force even in the present case keeping in mind the limited declaration which is being sought now by learned counsel for the petitioner.

9. We are thus of the view that the petitioner fulfills the requirements of having passed the qualifying examination of 10+2 from the State of Punjab in terms of Clause (vi) of para 4(A) of the Notification dated 31.03.2008 dealing with the admissions to MBBS/BDS courses.

10. As far as the petitioner's meeting other eligibility conditions are concerned, the same have to be determined by the competent authorities as submitted by learned counsel for the petitioner.

Petition is allowed in the aforesaid terms leaving the parties to bear their own costs.

CM No. 11978 of 2013

Application is disposed of as having become infructuous.

(SANJAY KISHAN KAUL)
CHIEF JUSTICE

(AUGUSTINE GEORGE MASIH)
JUDGE

27.08.2013

'ravinder'

1. Whether to be referred to the Reporters?

| Yes | No |
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| ✓ | |