

Thaper Institute of Engineering and Technology, Patiala (Deemed University)

Vs

Abhinav Taneja and Others

Civil Appeals Nos. 4885-91 of 1989

(K. Jagannatha Shetty, L. M. Sharma, P. B. Sawant JJ)

06.04.1990

JUDGMENT

SAWANT, J. -

1. These appeals are directed against two orders of the Punjab and Haryana High Court by which the High Court has directed the appellant-Institute to admit respondent-students 1 to 8-B to its B.E. course irrespective of their merits.
2. The relevant admitted facts are that on May 24 and 25, 1989, respondent 9 - Punjab University held a Combined Entrance Test (CET) for admission to B.E. course (Session 1989-90) conducted by 4 different institutes including the appellant-Institute. On June 26, 1989, the University declared the merit list of students who appeared in CET. June 30, 1989 was the last dated fixed for submitting applications by students to individual institutes. The students were given choice of the institutions and they were required to state their choice in order of preference. The representatives from the 4 institutes meet together at Chandigarh from July 24 to 27, 1989 to finalise the admissions to the 4 institutes. The meeting of the representatives of the 4 institutes was necessary to ensure that the students were given the institutes of their choice in the order of merit, subject, of course, to the students applying to the particular institutes and that the student did not get admission at more than one institute at a time. The committee of representatives interviewed the students and awarded them the institutes of their choice in the order of their respective merits. Accordingly, the appellant-Institute drew up its merit list of candidates, interviews were held in the respective institutes including the appellant-institute for filling up the reserved seats other than those reserved for Scheduled Castes and Scheduled Tribes and also for filling up seats in general category which fell vacant subsequently as a result of the student leaving the appellant-Institute. On August 14, 1989, a second round of interviews was held in all the institutes including the appellant-Institute for filling seats which fell vacant as a result of the student leaving the appellant-Institute subsequently. Incidentally, this was also the last date of admission to B.E. course as was notified in the prospectus of the appellant-Institute. However, the last date was extended to August 25, 1989 by an advertisement in the newspaper, namely, Tribune published on August 19, 1989 wherein it was clearly mentioned that the admission to the course will be closed on August 25, 1989. The advertisement was repeated in another newspaper, namely, the Times of India on August 20, 1989. The appellant-Institute closed the admissions at 5.00 p.m. on August 25, 1989. On this day, the position of the appellant-Institute was that the last student who was admitted to the B.E. course was at serial number 1127 in the merit list prepared by the University as per the results of the CET.
3. On August 30, 1989, respondents 1 to 4 filed a Writ Petition No. 11218 of 1989 before the Punjab and Haryana High Court for a direction to the appellant-Institute to extend its last date of

admission and to admit them to the B.E. course in the appellant-Institute alleging that six seats were lying vacant in the Institute.

4. In the meanwhile, as usual, the first test of the B.E. course was held by the appellant-Institute after six weeks of the commencement of the course. On September 19, 1989, the appellant-Institute filed its written statement to the writ petition objecting to the maintainability of the petition against the appellant-Institute as it was not a State within the meaning of Article 12 of the Constitution of India. It was also pointed out in the written statement that since the past experience showed that some students left the Institute as soon as they got admission in the other institutes, the appellant-Institute had admitted in the B. E. course in the appellant-Institute were 180 and students at numbers 181-190 were admitted to meet this contingency. It was also pointed out in the written statement that the last date of admission to the course was fixed by the appellant-Institute taking into account the said past experience as well as to put a seal of finality on the process of admission which would otherwise continue indefinitely. On September 20, 1989, the appellant-Institute also filed a short affidavit in the writ petition stating therein that the admissions to the B.E. course had closed on August 25, 1989 and no students had been admitted thereafter. It was also pointed out that regular classes had begun, and the first terminal examination had been held from September 4, 1989 to September 9, 1989 which carried weightage of about 30 per cent marks. Hence, the students admitted at the belated stage would not be able to cover up lecture attendances and no sea in excess of the total seats could be filled up.

5. On September 21, 1989, the High Court allowed the writ petition by proceeding on the assumption that more than half a dozen seats were lying vacant with the appellant-Institute. The High Court held that belated admissions were something that the students seeking such admissions would worry about rather than the appellant-Institute. The appellant-Institute was also directed to grant admissions to respondents 1 to 4 in the B.E. course forthwith. As pointed out by the appellant-Institute, on that day the factual position with regard to seats in the course was that out of 190 students who were granted admission, 12 students had left leaving a total strength of 178 students. Since the last date for admission was August 25, 1989, 178 students had continued in the course with regular instructions and tests one of which was already held as stated earlier between September 4 and 9, 1989, six weeks after the commencement of the course.

6. A further batch of writ petitions, namely, Writ Petitions Nos. 12519, 12520, 12521, 12593, 12868, 12463 all of 1989 filed by respondents 5 to 8-B respectively were allowed by the High Court on October 6, 1989 directing the appellant-Institute to admit the respective respondents to the said course. It also further appears that three other similar writ petitions filed by other students seeking admission to the course in the appellant-Institute are pending before the High Court for preliminary hearing. The appellant-Institute further points out that the second test of the said course was scheduled to be held from October 23 to 28, 1989.

7. It is not disputed before us that whereas the last student admitted on merit in the appellant-Institute was at serial numbers 1127 in the merit list prepared by the University as per the Combined Entrance Test, the respondent-students were at the serial numbers in the said merit list, as follows : respondent No. 1 (1145), No. 2 (1147), No. 3 (1161), No. 4 (1277), No. 5 (1259), No. 6 (1112), No. 7 (1266), No. 8 (1218), No. 8-A (1189) and No. 8-B (1245). Thus it will be seen that except for respondent 6 who had not earlier applied for being admitted to the appellant-Institute and had opted for some other Institute, all the respondents had secured lower numbers in the merit list. What is further, the students who were at a higher serial number of merit list were still waiting for admission to the appellant-Institute, when the High Court directed the appellant-Institute to admit the

respondent-students. What is more, even in their writ petitions before the High Court the respondent-students had claimed no further relief than that they should be directed to be admitted to the appellant-Institute according to their merit. The relief claimed in Writ Petition No. 11218 of 1989 may be reproduced here by way of illustration :

"... this Hon'ble Court may please to issue a writ of mandamus directing the respondents to extend the date of admission and to admit the petitioners in the B.E. course as per their merits;"

The High Court further not only ignored the fact which was specifically pointed out in the appellant-Institute's affidavit in reply before it, that there were no seats available in the appellant-Institute whose capacity was only 180 seats at also the fact that there were more meritorious students than the respondents as per the CET who could not secure admission and who were waiting to be admitted to the appellant-Institute. The respondent-students could get admission to the appellant-Institute only if their comparative merits ordained it and not otherwise. They could claim no merit over other meritorious students merely because they had approached the court for securing admission.

8. There was further nothing wrong in the appellant-Institute admitting 10 more students in the circumstances pointed out above. The Institute has a capacity of only 180 students. To meet the contingency of the students leaving it soon after admission the had admitted, as they do every year, 10 more students. As it turned out, 12 of the students left leaving 178 students on the roll, with only 2 vacancies. The High Court could have directed only two students to be admitted and that too on merit. Admittedly, there were more meritorious students than the respondents, waiting in queue. The High Court thus travelled beyond its jurisdiction and not only directed more students than the Institute could absorb but also students who were less meritorious, to be admitted. No reasons whatsoever have been given by the High Court for exercising its extraordinary writ jurisdiction so peremptorily which has resulted in injustice both to the appellant-Institute as well as to the students who stood higher in merit than almost all the respondent-students except respondent 6. We refrain from making any further comments on the impugned order.

9. Since the respondent-students stand already admitted, and the more meritorious students cannot now avail of the seats given to the respondents due to lapse of time, we do not propose to interfere with their pursuit of the course. It is for this reason that we are dismissing the appeals.

10. In the circumstances, the appeals stand dismissed, but with no order as to costs.

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