

Chairman/Director, Combined Entrance Examination (Cee) 1990

Vs

Osiris Das and Others

Civil Appeal Nos. 3065-3074 of 1991

(K. N. Singh, P. B. Sawant JJ)

26.07.1991

ORDER

1. Special leave granted in all the petitions.
2. These appeals are directed against the judgment and order of the High Court of Allahabad issuing interim orders directing the provisional admission of the respondent-students to the B.Tech. course of the G. B. Pant University of Agriculture and Technology, Pant Nagar, against the reserved quota of 5 percent towards sons, daughters and spouses of the employees of the University.
3. The State Government of U.P. issued a notification in December 1988 directing that admission on students to the various Engineering Institutions in the State shall be made in the order of merit and through a combined Entrance Examination to be conducted by an Admission Committee. The College of Technology, G. B. Pant University of Agriculture and Technology, Pant Nagar, was one of the institution covered by the said notification. According to the Scheme as contained in the notification, the Admission Committee was required to be hold a combined Entrance Examination for all the technical institutions in the State and candidates to be selected on merit and allotted to the institutions based on their choice and merit as determined on the basis of the marks obtained by them in the Entrance Examination. The brochure of the combined Entrance Examination, 1990-91 issued by the University contained an information that the University has provided for reservation of 5 percent seats over and above the sanctioned strength of seats of the sons and wards of the employees of the University. The respondent-students, who are the sons and wards of the employees of the University, appeared at the combined Entrance Examination held in 1990 for the session commencing in February 1991. In August 1990 the result of the combined Entrance Examination was declared but the University did not declare the result of reserved quota of sons and wards of the employees of the University.
4. It appears that the University was interested in giving the benefit of 5 percent reservation to the sons and wards of the employees of the University, but the State Government insisted that such reservation was not justified and would be contrary to constitutional provisions. The University accepted the directions issued by the State Government, and decided to do away with the reservation of seats for the sons and wards of the employees of the University. It is on account of that the decision that the result for the reserved quota of 5 percent for the sons and wards of the employees of the University was not declared. Since the respondent-students failed to qualify for admission in the general category of candidates, they filed writ petitions under Article 226 of the Constitution before the High Court of Allahabad claiming admission to the University against the reserved quota of 5 percent as aforesaid. A learned Single Judge of the High Court issued interim orders directing the University authorities to provisionally admit the respondent-students in the B.Tech. course and

to permit them to continue their studies. The appellants preferred these appeals against the aforesaid interim orders of the High Court.

5. After hearing learned counsel for the parties and having regard to the facts and circumstances of the case, we are of the opinion that the High Court was not justified in issuing the interim orders. There is no dispute that the G. B. Pant University is aided and financed by the State Government and University is an instrumentality of the State. Any instrumentality of the State cannot give preferential treatment to a class of persons without there being justification for the same. The reservation of seats for admission to the B.Tech. course in favour of the sons and wards of the employees of the University is violative of the doctrine of equality enshrined under Article 14 of the constitution. There is no rationale for the reservation of the seats in favour of the sons and wards of the employees of the University nor such any reservation has any reasonable nexus with the object which is sought to be achieved by the University. The State Government, in our opinion, rightly insisted on the University to do away with the reservations in favour of the sons and wards of its employees. It is apparent that the University authorities accepted the suggestions made by the State Government and they rightly decided not to give any preferential treatment to the sons and wards of the employees of the University in the matter of admissions to the technical institution. Once the State Government and University both decided not to have any reserved quota for the sons and wards of the employees of the University, no legal right could be claimed by the respondent-students for being given preferential treatment in the matter of admission to the B.Tech. courses of the University. The learned Single Judge of the High Court failed to appreciate these aspects and granted the interim orders directing the University to admit the respondent-students. Once admission to an institution or a course of study is determined on merit on the basis of evaluation of marks at the Entrance Examination, no student securing lower marks has any legal right for admission much less a right enforceable in a Court of Law. Since the reservation of seats in favour of sons and wards of the employees of the University was apparently violative of Article 14 of the Constitution, no court could issue directions for the enforcement of any such reservation. We are, therefore, of the opinion that the High Court was not justified in issuing the impugned interim orders. We accordingly allow these appeals and set aside order of the High Court.

6. Even though we have set aside the interim order of the High Court, we are of the opinion that having regard to the facts and circumstances of the case it would not be in the interest of justice to debar the respondent-students now who had been admitted and are undergoing their studies in the University. The University has been granting reservation in favour of sons and wards of its employees for the last 25 years and even for the session 1990-91 the University had published the brochure wherein it had issued information to the effect that 5 percent of the seats were reserved for the sons and wards of the employees of the University. It is in this background that the respondent-students appeared at the examination on the representation made by the University and they did not seek admission elsewhere. Moreover, the University has been persisting in its stand to implement the reservation in favour of the sons and wards of its employees. It was only in October 1990 that the University decided to fall in line with other institutions. During the all this period the respondent-students were kept hanging on the hope that they would be considered for admission against the reserved quota. The delay in taking final decision by the University created a situation where respondent-students would not pursue their study elsewhere. The students, who have been admitted under orders of the High Court and are pursuing their studies under the order of the High Court, are : (1) Sanjeev Kumar Singh, (2) Rishabh Vats, (3) Km. Salma Rizvi, (4) Km. Alka Srivastava, (5) Chandra Shekhar, (6) Ajay Gupta, (7) Anup Bhat, and (8) Neeteesh Sood. We are, therefore, of the opinion that the University and other authorities will allow the aforesaid eight respondent-students to pursue their studies and appear at the examination treating them to be regular

students. We should, however, like to make it further clear that this order is being passed in the special facts and circumstances of this case, which will not be treated as a precedent and no other student will be entitled to any claim or right of admission against the aforesaid reserved quota for the sons and wards of the employees of the University.

7. In view of the above discussion, the writ petitions filed by the respondent-students pending before the High Court shall stand dismissed.

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