

Punjab Engineering College Etc. Etc vs Sanjay Gulati And Ors on 20 April, 1983

Equivalent citations: 1983 SCR (2) 801, 1983 SCC (3) 517, AIR 1983 SUPREME COURT 580, 1983 (15) LAWYER 61, 1983 LAWYER 15 61, 1983 UJ (SC) 439, (1983) 2 SCJ 26, 1983 (3) SCC 517, (1983) 2 SCWR 157, (1983) 9 ALL LR 411

Author: Y.V. Chandrachud

Bench: Y.V. Chandrachud, R.S. Pathak, Sabyasachi Mukharji

PETITIONER:

PUNJAB ENGINEERING COLLEGE ETC. ETC.

Vs.

RESPONDENT:

SANJAY GULATI AND ORS.

DATE OF JUDGMENT 20/04/1983

BENCH:

CHANDRACHUD, Y.V. ((CJ)

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CHANDRACHUD, Y.V. ((CJ)

PATHAK, R.S.

MUKHARJI, SABYASACHI (J)

CITATION:

1983 SCR (2) 801 1983 SCC (3) 517

1983 SCALE (1) 404

ACT:

Justice to students-Admissions made contrary to Rules and Regulations- Interference by the courts-Adjustment of equities between students wrongly admitted vis-a-vis students unjustly excluded-Solution-Creation of supernumerary seats-Beneficiaries should include non-writ Petitioners who are higher-up in the merit list.

HEADNOTE:

Admissions to the Punjab Engineering College, Chandigarh for the academic year 1982-83 granted to eight candidates by what is described as the spot test method, to seven wards of the employees of the Punjab Engineering College and another were struck down by the Punjab High

Court as in violation of the rules and regulations governing admissions to the institution. However, the students wrongly admitted were allowed to continue their studies on humanitarian grounds. Hence the appeals after obtaining special leave of the Court.

Disposing of the appeals, the Court

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HELD: 1:1 Since all the sixteen students wrongly admitted have already completed one or two semesters it will be unjust to cancel their admission at this stage and to remove their names from the rolls of the College, and therefore, they must be allowed to continue their studies as if their admission to the College suffered from no defect or illegality. [803 F-G]

1:2 Cases like these in which admissions granted to students in educational institutions are quashed raise a sensitive human issue. It is unquestionably true that the authorities who are charged with the duty of admitting students to educational institutions must act fairly and objectively. If admissions to these institutions are made on extraneous considerations and the authorities violate the norms set down by the rules and regulations, a sense of resentment and frustration is bound to be generated in the minds of those unfortunate young students who are wrongly or purposefully left out. On the other hand, students who are wrongly admitted do not suffer the consequences of the manipulations, if any, made on their behalf by interested persons. [804 B-D-F]

1:3 Law's delays work their wonders in such diverse fashions with the result that the courts find it difficult to adjust equities between students who are wrongly admitted and those who are unjustly excluded. Since by the time the High Courts take up the matter and finally decide the cases, students who are

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wrongly admitted finish one or two semesters of the course and the courts are regretfully perforced to allow them to continue their studies. [804 F-G]

The court observed that "this situation has emboldened the erring authorities or educational institutions of various States to indulge in violating the norms of admission with impunity. They seem to feel that the courts will leave the admissions in tact, even if the admissions are granted contrary to the rules and regulations, which is a most unsatisfactory state of affairs. Laws are meant to be obeyed, not flouted. Some day not distant, if admissions are quashed for the reason that they were made wrongly, it will have to be directed that the names of students who are wrongly admitted should be removed from the rolls of the institution." [804 H, 805 A-B]

2:1 The contention that the seats cannot correspondingly be increased since the State Government cannot meet the additional expenditure which will be caused

by increasing the number of seats or that the institution will not be able to cope up with the additional influx of students cannot be accepted. [805 C-D]

2:2 Those who infringe the rule must pay for their lapse and the wrong done to the deserving students who ought to have been admitted has to be rectified. The best solution under the circumstances is to ensure that the strength of seats is increased in proportion to the wrong admissions made. [805 E-F]

The court directed that 8 seats should be for the students from the Chandigarh list and the other 8 seats from the General List of students which were prepared for the academic year 1982-83. [805 G-H]

3. The reservation of the sixteen seats are not open exclusively to the writ petitioners. The circumstance that they filed writ petitions in the High Court but others similarly aggrieved did not, will not justify the granting of admission to them by ignoring those others who were higher up in the merit list. [806 A-B]

[The Court directed the authorities to fill up the additional vacancies "on the basis of open merit"]

State of Kerala v. Kumari T.P.Roshana, [1979] 2 SCR 974; Ajay Hasia etc. v. Khalid Mujib Sehrawardi, [1981] 2 SCR 89; Arti Sapru v. State of Jammu and Kashmir and Ors., [1981] 3 SCR 34, followed.

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 3779, 3653-66, 3524-3528, 3054 of 1982 & C.A. No. 4066 of 1983.

Appeals by Special leave from the Judgment and Order dated the 14th September, 1982 of the Punjab & Haryana High Court in C.W.P. Nos. 3669, 3706, 3499, 3443, 3498, 3919, 3958, 3525, 3750, 3912, 3572, 3663, 3680, 3731, 3566 & 3750 of 1982 respectively.

Kapil Sibbal, R.C. Pathak and Atul C. Jain for the Appellant in CA. 3779/82, CAs. 3653-67/82 & for the Respondents in rest of the Appeals.

P.R. Mridul and R.K. Anand for the Appellant in CAs. 3524-26 of 1982.

Prem Malhotra and Sarva Mitter for the Appellant in CA. 3527/82.

Rameshwar Dayal for the Appellant in CA. 3528/82. Mrs. J. Wad for the Appellant in CA. 3054/82. Randhir Jain for the Intervener.

Wadhwani, A. Minocha, P.C. Khunger, Harbans Lal, N.K. Aggarwal for the Appellants in CA. 4065/83 R.K. Jain, P.K. Jain, A.K. Goel, K.K. Mohan, Randhir Jain, P.R. Mridul, Ravi Kant Chadha

and K.B. Rohatgi, for the appearing Respondents.

The Judgment of the Court was delivered by CHANDRCHUD, CJ. Eight candidates were admitted to the Punjab Engineering College, Chandigarh for the academic year 1982-83, by what is described as the "spot test". Their admission has been struck down by the Punjab and Haryana High Court on the ground that it is contrary to the rules and regulations governing admissions to the institution. We are of the opinion that since these students have already completed one or two semesters, it will be unjust to cancel their admission at this stage and to remove their names from the rolls of the College. We therefore direct that they will be allowed to continue their further studies in the College uninterrupted.

By the same standard, even though the admission of seven wards of the employees of the Punjab Engineering College has been quashed by the High Court on the ground that such admissions are contrary to the relevant rules of admission, it will not be fair to cancel their admission at this stage. They have also, like the eight "spot test"

students, completed either one or two semesters of the academic year 1982-83. They will be allowed to continue their further studies in the College uninterrupted.

The admission granted to the candidate Ashok Kumar Kaushik has also been struck down by the High Court, but he too will be allowed to continue his further studies in the College. We cannot apply to him a different standard than the one which we have applied to the fifteen candidates referred to above, who are being allowed to continue their studies as if their admission to the College suffered from no defect of illegality.

Cases like these in which admissions granted to students in educational institutions are quashed raise a sensitive human issue. It is unquestionably true that the authorities who are charged with the duty of admitting students to educational institutions must act fairly and objectively. If admissions to these institutions are made on extraneous considerations and the authorities violate the norms set down by the rules and regulations, a sense of resentment and frustration is bound to be generated in the minds of those unfortunate young students who are wrongly of purposefully left out. Indiscipline in educational institutions is not wholly unconnected with a lack of sense of moral values on the part of the administrators and teachers alike. But the problem which the courts are faced with in these cases is, that it is not until a period of six months or a year elapses after the admissions are made that the intervention of the court comes into play. Writ Petitions involving a challenge to such admissions are generally taken up by the High Courts as promptly as possible but even then, students who are wrongly admitted finish one or two semester of the course by the time the decision of the High Court is pronounced. A further appeal to this Court consumes still more time, which creates further difficulties in adjusting equities between students who are wrongly admitted and those who are unjustly excluded. Inevitably, the Court has to rest content with an academic pronouncement of the true legal position. Students who are wrongly

admitted do not suffer the consequences of the manipulations, if any, made on their behalf by interested persons. This has virtually come to mean that one must get into an educational institution by means, fair or foul: once you are in, no one will put you out. Law's delays work their wonders in such diverse fashions.

We find that this situation has emboldened the erring authorities of educational institutions of various States to indulge in violating the norms of admission with impunity. They seem to feel that the Court will leave the admissions in fact, even if the admissions are granted contrary to the rules and regulations. This is a most unsatisfactory state of affairs. Laws are meant to be obeyed, not flouted. Some day, not distant, if admissions are quashed for the reason that they were made wrongly, it will have to be directed that the names of students who are wrongly admitted should be removed from the roll of the institution. We might have been justified in adopting this course in this case itself, but we thought that we may utter a clear warning before taking that precipitate step. We have decided, regretfully, to allow the aforesaid sixteen students to continue their studies, despite the careful and weighty finding of the High Court that at least eight of them, namely, the seven wards of employees and Ashok Kumar Kaushik, were admitted to the Engineering Course in violation of the relevant rules and regulations.

It is strange that in all such cases, the authorities who make admissions by ignoring the rules of admission contend that the seats cannot correspondingly be increased, since the State Government cannot meet the additional expenditure which will be caused by increasing the number of seats or that the institution will not be able to cope up with the additional influx of students. An additional plea available in regard to Medical Colleges is that the Indian Medical Council will not sanction additional seats. We cannot entertain this submission. Those who infringe the rules must pay for their lapse and the wrong done to the deserving students who ought to have been admitted has to be rectified. The best solution under the circumstances is to ensure that the strength of seats is increased in proportion to the wrong admissions made.

Since in this case eight students, and perhaps sixteen were wrongly admitted, we direct that over and above sanctioned strength for the next academic year commencing in July 1983, sixteen additional seats shall be created, to which sixteen students shall be admitted to the Punjab Engineering College from the lists which were prepared for the 1982-83 academic year. These sixteen seats shall be apportioned in an equal measure between the local students belonging to Chandigarh and the general group of students belonging to areas outside Chandigarh. That is to say, eight students will be admitted from the Chandigarh List of students and eight from the General List of students, which were prepared for the last academic year, viz, 1982-83.

The only question which survives is whether the sixteen writ petitioners should be admitted to those sixteen seats or whether admission to those seats should be strictly

in accordance with merit. We are unable to accept the submission made by the petitioners that they should be preferred for admission irrespective of merit. The circumstance that they filed writ petitions in the High Court but others similarly aggrieved did not, will not, justify the granting of admission to them by ignoring those others who were higher up in the merit list.

When a similar question arose before this Court in *State of Kerala v. Kumari T.P. Roshana*,⁽¹⁾ the Court directed the State Government to admit thirty more students. Krishna Iyer, J. observed:

"The selection of these 30 students will not be confined to those who have moved this Court or the High Court by way of writ proceedings or appeal. The measure is academic excellence, not litigative persistence. It will be thrown open to the first 30, strictly according to merit measured by marks secured."

In *Ajay Hasia etc. v. Khalid Mujib Sehravardi*, ⁽²⁾ the State Government the College, and the Society which was running the College, all agreed before this Court that the best fifty students out of those who had applied for admission for the academic year 1979-80 and who had failed to secure admission, would be granted admission for the academic year 1981-82 and that the seats allocated to them would be in addition to the normal intake of students in the College. In *Arti Sapru v. State of Jammu and Kashmir & Others*,⁽³⁾ after allowing the writ petitions of candidates who were wrongly denied admission to the Medical Colleges, it was observed by one of us Pathak, J., that:

"The candidates who will be displaced in consequence have already completed a few months of study and in order to avoid serious prejudice and detriment to their careers it is hoped that the State Government will deal sympathetically with their cases so that while effect is given to the judgment of this Court the rules may be suitably relaxed, if possible by a temporary increase in the number of seats, in order to accommodate the displaced candidates."

The authorities were directed by this Court to fill up the additional vacancies "on the basis of open merit."

Following these decisions, we direct that admission to the 16 additional vacancies for the academic year 1983-84 shall be made in accordance with merit on the basis of the lists which were prepared for the academic year 1982-83 for the Chandigarh group of students and the general group of students.

We must add that though we are satisfied that the admission of seven wards of employees of the College and of Ashok Kumar Kaushik is contrary to the rules and regulations, we have not examined the correctness of the finding of the High Court in regard to the alleged illegality of the admission of the eight students who were admitted by the test of "spot selection". We will only reiterate as to this latter class of admissions that the conduct of the authorities charged with the duty of making admissions to educational institutions has to be above suspicion. They cannot play with the lives and

careers of the young aspirants who, standing at the threshold of life, look to the future with hope and expectations.

The appeals will stand disposed of in accordance with this order.

S.R.