

order as to costs. However, Ram Niwas tenant is allowed two months time to vacate the premises provided all the arrears of rent, if any, are deposited by him along with advance rent of two months with the Rent Controller within a fortnight, with a further undertaking in writing that after the expiry of the said period vacant possession will be handed over to the landlord.

R.N.R.

Before : M. M. Punchhi and A. L. Bahri, JJ.

N. K. BATRA AND OTHERS,—Petitioners.

versus

KURUKSHETRA UNIVERSITY AND OTHERS,—Respondents.

Civil Writ Petition No. 6755 of 1989.

August 16, 1989.

Constitution of India, 1950—Arts. 14, 15 and 226—Equal opportunity in admission—Admission to B. Tech. degree courses in Engineering Colleges in Haryana—Basis of selection changed from entrance test to system of normalisation of marks—Normalisation challenged by students of Central Board of Secondary Education on the ground of granting unfair advantage to students of the Haryana School Education Board by giving institutional preference—System of normalisation—Whether violative of equality clause.

Held, that in the instant case, the basis of selection is not on any normalisation as no standard is recognised by any of the two Boards i.e. Central Board of Secondary Education and Haryana School Education Board. The standard as was inherent would be the standard derived at by drawing an average, whichever was higher in the two boards. The principle involved thus, in our view, can in no event be normalisation, so that it could promote equal chances and opportunities for admission and rather it would go, in our view, to make things abnormal, promoting inequality and denial of equal opportunity for admission.

(Para 9)

Held, that it is plain from the material placed before us that it is the State Government who had enforced the decision on the M. D. University and the Vice-Chancellor of whom thereon had decided to

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adopt the system of normalisation only for one academic year. His understanding of normalisation was to draw the mean out of the two as is clear from the two illustrations given in the letter from the University addressed to the Principle of the College. The normalisation in the admission brochure ultimately is quite different than the normalisation as understood and illustrated by the M. D. University. No formal decision of the University and no formal decision of the State Government in this regard was placed before us. In these circumstances our view that normalisation is improper is strengthened.

(Para 11).

Held, that no discrimination can be practised between the students who passed 10 + 2 examination from the Haryana Board and the students who passed the same examination from the Central Board. Hence the principle of normalisation introduced by the M. D. University is illegal, discriminatory and violative of Arts. 14 and 15 of the Constitution of India, 1950 and deserves to be struck down.

(Para 14)

Held, that the concept and principle of normalisation being violative of Arts. 14 and 15 of the Constitution is quashed and we direct its deletion from the Admission Brochure for joint admission to the B. Tech. course in the regional colleges in Haryana and further direct the respondents to finalise the admission on the basis of the old brochure which held good until recently in the preceding years.

(Para 19).

Civil Writ Petition Under Articles 226/227 of the Constitution of India praying that :—

- (i) complete records of the case be summoned.
- (ii) a writ in the nature of Certiorari quashing Clause 7 and II (viii) of the Rules and Procedure for admission to B. Tech. Degree courses being conducted by respondents 3 and 4 respectively whereby normalisation of marks is to be done by the respondents for the purpose of admission to B. Tech. course, be issued.
- (iii) a writ in the nature of Mandamus directing the respondents to make admissions to the B. Tech. Degree courses Session 1989-90 on the basis of the merit secured in the qualifying examination as is the settled practice in those Colleges, be issued.
- (iv) It is also prayed that in the peculiar circumstances of this case, this Hon'ble Court may be pleased to issue any other appropriate Writ, order or direction as it deems fit.

- (v) Costs of the petition be also awarded to the petitioners.
- (vi) Condition regarding filing of certified copies of the Annexures may kindly be dispensed with.
- (vii) Condition regarding service of advance notice of the writ petition may kindly be dispensed with keeping in view the urgency of the matter.

H. L. Sibal, Sr. Advocate with Mr. P. S. Patwalia, Advocate, for the petitioners.

S. C. Mohunta, Sr. Advocate with Mr. A. Mohunta, Advocate, for the Respondents.

S. P. Jain, Advocate, for added respondents.

JUDGMENT

M. M. Punchhi, J.

(1) In this writ petition preferred by 67 petitioners, challenge has been made to the newly introduced phenomenon of 'Normalisation' as the basis of selection for admission to 4-Year Under-graduate Engineering Degree Courses at all the Regional Engineering Colleges in the State of Haryana and the Chhotu-Ram State College of Engineering, Murthal (Haryana).

(2) Most of the petitioners herein are minors and have approached this Court through their parents or guardians. The petitioners are residents of the State of Haryana and are students in various schools in the State of Haryana. They had appeared in the examination of the 12th class of the 10 + 2 system in the All India Senior School Certificate Examination conducted by the Central Board of Secondary Education, Delhi (for short, referred to as 'the Central Board'), since their schools were affiliated to that Board. Another system which is akin to the Central Board system is afloat in the State of Haryana through other schools. Students thereof appear in the Senior Secondary Certificate Examination conducted by the Haryana School Education Board (for short, referred to as 'the Haryana Board'), as their schools are affiliated to that Board. Both the Central Board and the Haryana Board have adopted the same syllabi and the same pattern of examination. Students clearing these two examinations from the schools situated within the State of Haryana are eligible to apply for the Course known as B. Tech. These examinations are considered equivalent for the purposes of

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admission to the Regional Engineering College, Kurukshetra, respondent No. 3, affiliated to the Kurukshetra University, respondent No. 1, and Chhotu Ram State College of Engineering, Murthal, respondent No. 4 affiliated to the Maharishi Dayanand University, respondent No. 2.

(3) According to the petitioners, there are a total number of 310 seats for the B. Tech Courses in the Regional Engineering College, Kurukshetra, out of which 155 (one-half), are kept for the students of Haryana and the other 155 are thrown open to the students from the entire country. Similarly, in Chhotu Ram State College of Engineering, Murthal, there are 150 seats kept for the students of Haryana. In addition to these 305 seats, 58 other seats are allocated to the students of Haryana in the other Regional Engineering Colleges in the other parts of the country. In this manner there are 363 seats for the students of Haryana. Uptill the year 1989 these seats were filled on the basis of merit determined from the qualifying marks obtained by the candidates in the Central Board and Haryana Board examinations on the basis of equivalency. With effect from the current academic session 1989-90 the two colleges, afore-referred to, made a decision to follow a system of Normalisation of marks obtained by the candidates of the two Boards. The petitioners assert that the Board of Governors of the M. D. University, Rohtak, in their meeting held on November 4, 1988, decided to follow the system of normalisation of marks. But this fact appeared in the press in April 1989 only, both in the Hindi as also English Sections though it was somewhat discrepant. The petitioners further assert that the Government of India, on the other hand,—vide advertisement Annexure P-3 dated March 15, 1989, had given out that the admission procedure as before would continue for the Session 1989-90 in the Regional Engineering Colleges. In May 1989 came out the Admission Brochure for joint admission in both the Colleges in which by means of clause 7 the basis of selection was laid, adopting the concept known as 'Normalisation'. It would be worthwhile to reproduce at this stage clause 7 :

“(7) Admission to all the Regional Engineering Colleges, listed in para 1 above, will be made on the basis of merit of normalized marks as per the procedure given below :—

1. The marks obtained by the top (X) students, as detailed in para 2 below, in the subject of say Physics, appearing in the 10 + 2 Examination of the All India Senior

School Certificate Examination of CBSE, New Delhi and Senior Secondary Certificate Examination of Board of School Education, Haryana, Bhiwani will be obtained and the average worked out separately for each of the two examinations. Let these be P1 for All India Senior School Certificate Examination of CBSE, New Delhi and P2 for Senior Secondary Certificate Examination of Board of School Education, Haryana, Bhiwani. Similarly the averages will be worked out in the subjects of Chemistry and Mathematics. Let these be C1 C2 in Chemistry M1, M2 in Mathematics for the two Boards respectively.

The addition of P1, C1 and M1 divided by 3 will be the overall average of the marks in Physics, Chemistry and Mathematics of All India Senior School Certificate Examination of CBSE, New Delhi. Similarly by adding P2, C2 and M2 and dividing it by 3 overall average of the Marks in Physics, Chemistry and Mathematics of the Senior Secondary Certificate Examination of the Board of School Education, Haryana, Bhiwani will be obtained. These overall averages will represent the reference marks of the respective Boards for the purposes of normalization.

Let these be A and B such that A is higher of the two.

2. The number of candidates (X) whose marks will be used for the purposes of normalization as above will be restricted to two per thousand, subject to a minimum of 20 and maximum of 100, appearing in the Science Stream of these Boards.
3. Then the actual marks in Physics, Chemistry and Mathematics of an applicant for admission will be normalized as under:—

If the actual PCM marks of a candidate from the Board with lower reference average are 'M' then his

normalized marks will be $M \times \frac{A}{B}$ with reference

to candidates qualifying from the Board with higher reference average.

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4. The normalization in respect of the candidates who have qualified:—

- (a) from a Board/Examining Body other than All India Senior School Certificate Examination of CBSE, and Haryana Board;
- (b) in a year earlier to 1989 from any Board/Examining Body including All India Senior School Certificate Examination, CBSE and Senior Secondary Certificate Examination of Board of School Education, Haryana, shall be done with reference to the higher of the two reference marks i.e. 'A' in the above illustration.

If two candidates secure the same percentage of aggregate marks, the following criteria will be followed :—

- (i) The candidates with a higher qualification will be admitted.
- (ii) If the admission cannot be made under (i) above the candidate who is either a child or dependent brother/sister of Defence personnel or ward/child or Civil GT Coys ASC, who was a civilian Class III or Class IV Government servant and served in the field areas under the same conditions as military personnel and who has been killed or permanently disabled during the hostilities with Pakistan in 1965 or during the war in 1971, will be admitted. While applying, such candidates must submit a certificate from the Secretary, District Soldier's, Sailor's and Airmen's Board of the area concerned in support of their claim.
- (iii) If the criteria at (i) and (ii) above are not applicable, the candidate older in age will be admitted.
- (iv) If the criteria at (iii) also is not applicable, the candidates with higher percentage of marks in the subject of English will be admitted.

Only those examinations which are conducted by a recognised Board/University will be considered."

(4) In the petition, the process of normalization of marks has illustratively been commented to show that better academic calibre was being crushed and the sole object was to provide a weightage to the Haryana Board students since the result of the Central Board students was always higher. Besides, it was asserted that the system of normalization was wholly arbitrary, illegal and violative of Article 14 of the Constitution and it could not be sustained. It was further asserted that when residence requirement was the same and both the examinations were equivalent, unfair discrimination was being made in favour of the Haryana Board students, and this institutional preference in favour of the Haryana Board students was against the various decisions of the Supreme Court. Lastly, it was asserted that for all the Courses in the two Universities catering to the region, it is in B. Tech Course only that the concept of normalization had been introduced whereas in the other Courses, the examinations were kept at par.

(5) The respondents were sent for at the motion hearing. Some Haryana Board students also got permission, to be added as respondents. The Motion Bench admitted the matter to a Division Bench, so that it could be disposed of in July 1989 itself. An interim direction was issued that the entire selection process may continue and the respondents may prepare a list of the candidates to be admitted, but the same shall not be published till further orders. It is pursuant to that order that this petition has been placed before us.

(6) In the return filed by respondent No. 3 it is conceded that both the examinations i.e., Central Board and the Haryana Board, are considered equivalent for the purpose of eligibility to the B. Tech Degree Courses. Despite that, it is maintained by respondent No. 3 that for purposes of working out merit for admission, the marks obtained in the Central Board and Haryana Board examinations are to be normalized in the interest of justice. Respondent No. 3 did not deny that for half the seats mentioned in the respective two Colleges only students who had passed the 10 + 2 examinations from the schools located in the State of Haryana were eligible to seek admission. With regard to the principle of normalization, it was asserted that the Board of Governors of the M. D. University on November 4, 1988, resolved to accept the process, and the matter was sent to the press for publication. The discrepancy in the English and Hindi sections was said to be inadvertent. It was cross asserted that the Government of India had,—vide letter dated May 2, 1989, approved normalization principle as devised by the Government of Haryana.

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It was stated that it was the Government of Haryana who had desired that the admission may be made by the process of normalization of marks. Respondent No. 3 was emphatic in its return that the new criteria is equitable, just and ensures equal chances and opportunities for admission to all the students of the State. The reason for such a step was also disclosed. It was stated that there was great resentment amongst the students passing from the Haryana Board that they were not being treated equally by giving equal opportunities in the matter of admission because there was no common reference, as the two Boards were different bodies of examinations. Thus, in order to remove the anomaly the process of normalization was being adopted so that there was a common reference giving equal opportunities in the matter of admission to the candidates from the two Boards.

(7) It would be worthy of mention here that the parties were in Court even before the declaration of results by both the Boards. It was suggested that the petitioners could not assume the value of the result at that stage, and the comment of the petitioners on previous results was hypothetical and far-fetched. Both the suggestions of the petitioners that any weightage was given to the students qualifying from the Haryana Board or any institutional preference in that regard was given, were strongly refuted in the return.

(8) In the replication filed by the petitioners, the claim of the respondents was refuted and a cross assertion was made that the Principals of the Colleges had circulated the admission brochure on May 17, 1989, but the Board of Directors later made a decision on May 26, 1989. The illustration given in the petition to prove crushing of merit was re-emphasised and re-exemplified.

(9) We have heard Mr. H L. Sibal, Senior Advocate, for the petitioners, and Mr. S. C. Mohunta, Advocate-General, Haryana, besides Mr. S. P. Jain for the added respondents, at great length. It was conceded at the Bar that this concept or normalization has nowhere been adopted in the country for the Regional Engineering Colleges, which are ear-marked by the Central Government in various regions in the country. The only instance quoted was that normalization as a principle had been working at the Birla Institute, Pilani, and an extract thereof was produced before us to assert the logic behind it. But before that is taken note of, we need understand what is 'Normalization'. As we see it from diction point of view, the source word of normalization is 'norm'. The

ordinary meanings of the word 'norm' are: a rule: a pattern: an authoritative standard. From 'norm' comes the word 'normal' which in the context means: according to rule or in accordance with authoritative standard. In the same context, the word 'Normalization' would mean: to make it conform to the rule or to bring it to the authoritative standard. From the diction point of view, what clause 7 of the brochure, afore-quoted, says is hardly normalization and the principle adopted therein may be anything else except normalisation. To say the least, it has been titled or christened wrongly. The rules does not envisage any pattern or standard on the basis of which normalisation of another can be accomplished. Now see at this juncture 'Normalisation' referred to above, prevalent in Birla Institute, Pillani :

"Normalisation : That disparity exists between the absolute marks awarded to candidates by the different examining authorities in the country is well known. To bring all such candidates on the same scale of comparison the institute for more than a decade has been practising a time-honoured and well known system known as normalisation. It basically tries to find the relative displacement of a candidate from the candidate who stood first in the public examination which the candidate under review has passed. If the number of candidates in each of these cases is large enough it would be a correct statistical case with the intrinsic merit of the first rank student in one Board being equated to that of the first rank student in any other Board of the similar size. In practice the Institute as an all India Institute recognises the Central Board (which incidentally is the largest single contributor of students year by year) and the Indian School Certificate Examination for normalisation of the percentage marks of an individual candidate based on the percentage marks of the first in student in that board for a stream which consists of at least Physics, Chemistry and Mathematics and English if it is provided in the offerings of that board. In respect of the following situations the Institute reserves the right to do the normalisation on the basis of aggregate percentage marks which is the highest for the current year :

- (a) Where in respect of named boards the correct information is not available within the due date either because it has not been supplied or the information is

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only in respect of a stream which has no affinity to a combination of Physics, Chemistry and Mathematics.

- (b) Where a State Board or its equivalent does not exist and the task is shared by several examining authorities of the state without any one of them being large enough to meet the statistical requirement.
- (c) Where admission is being considered on the basis of performance in a public examination which is other than the current year main examination."

It is evident therefrom that the first ranking student in the Central Board for a stream which consists of at least Physics, Chemistry, Mathematics and English is considered the model for normalisation of marks obtained by students in Boards other than the Central Board. That is the reason, for providing that if the number of candidates in each of such cases was large enough, it would be a correct statistical case with the intrinsic merit of the first rank student in one Board being equated to that of the first rank student in any other Board of the similar size. But in the instant case, the basis of selection is not on any normalisation as no standard is recognised of any of the two Boards. Rather it was conceded by the learned Advocate-General, Haryana, that the standard as was inherent would be the standard derived at by drawing an average, whichever was higher in the two boards. The principle evolved thus, in our view, can in no event be normalisation, so that it could promote equal chances and opportunities for admission and rather it would go, in our view, to make things abnormal, promoting inequality and denial of equal opportunity for admission.

(10) It would be useful to add here that besides asserting what was stated in the return, the Advocate-General, Haryana, could not, despite our repeated asking, produce before us any valid material which would have gone to persuade the respondents adopt this normalisation principle. However, he placed before us photostat copies of two letters, one of which is from the Education Secretary (Technical Division) dated August 26, 1988, wherein respondent No. 4 was directed that in the coming academic year the College may resort to normalisation instead of an entrance test, regarding which he had already talked verbally to the Principal. Now it is nobody's case that there ever was any entrance test for the purpose.

It appears that the Government was wrongly fed with such information. Entrance test is one of the accepted modes to cover up a situation where candidates come from various Universities and different parts of the country, having different qualifying marks based on standards of education and marking divergent in the nature of things. The second letter is from the Assistant Registrar (Academic) of the M.D. University, Rohtak, to the Principal of the College-respondent No. 4, to the following effect :—

“ ”

I am desired to refer to your letter No. ECM/1752 dated 28th April, 1988 on the above subject and to inform you that keeping in view the decision to the State Government, the matter regarding admission procedure for Bachelor of Engineering Courses has been considered by the Vice-Chancellor and it has been decided that the admission to the Bachelor of Engineering Course will be made on the basis of merit, after NORMALISATION of marks only for the session 1988-89. The mode of admission from the next session will be reviewed by the Academic Council of the University.

The procedure of normalisation of marks is illustrated below

“The highest aggregate marks obtained by a candidate in Pre-Medical/10+2 (or equivalent) of University ‘X’ in a particular academic session = 90 per cent. Aggregate marks obtained by another candidate of University ‘X’ (in all subjects) = 65 per cent

Normalised marks of another candidate

$$\frac{65}{90} \times 100 = 72.22 \text{ per cent}$$

The highest aggregate marks obtained by a candidate in Pre-Med/10+2 (or equivalent) of University ‘Y’ = 80 per cent. Aggregate marks obtained by another candidate of University ‘Y’ (in all subjects) = 60 per cent
Normalised marks of another candidate

$$\frac{60}{80} \times 100 = 75 \text{ per cent}$$

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As a matter of fact, to decide the criteria for admission to various courses in the University, is the sole function of the University.

Further action may be taken in the matter accordingly."

It is plain from the above letter that it is the State Government who had enforced the decision on the M. D. University and the Vice-Chancellor of whom thereon had decided to adopt it only for one academic year. His understanding of normalisation was to draw the mean out of the two, as is clear from the two illustrations given therein. The normalisation in the Admission Brochure ultimately is quite different than the normalisation as understood and illustrated by the M. D. University. No formal decision of the University and no formal decision of the State Government in that regard or any other correspondence on the subject was placed before us by the Advocate-General, Haryana. In these circumstances, our view above taken stands strengthened but would still be, required to be examined on the strength of some judicial decisions,

(12) In the field of admission to Medical Colleges, the Supreme Court had in *Dr. Jagdish Saran and others v. Union of India and others* (1), occasion to test State action on the anvil of Articles 14 and 15 of the Constitution. What is good for medical education supposedly is good for technical education and in some of the cases technical education has been narrated at par with medical education. In the said case, the plea of the Union of India was negatived and its excuse that it had resorted to the University-wise reservation at the high pitch of 70 per cent because it was faced by an agitation. Rejecting the plea of the Union of India in that behalf the Court observed :—

"...While recognising, even reverencing, the role of soul force in quickening the callous conscience of authorities to grave injury and need for urgent remedy, we cannot uphold the Delhi University's 'reservation' strategy merely because Government was faced with student 'fasts' and ministers desired a compromise formula and the University bodies simply said "Amen". The constitutionality of institutional reservation must be founded on facts of educational life and the social dynamics of equal opportunity.

(1) A.I.R. 1980 S.C. 820

Political panic does not *ipso facto*, make constitutional logic."

On the strength of the above reasoning of the Supreme Court, we cannot uphold the action of the Haryana Government or the respondents merely because they discovered that there was great resentment amongst the students passing from the Haryana Board as they thought that they were not being treated equally by giving equal opportunities in the matter of admission because there was no common reference, the two boards being different bodies for the purposes of examination. Resentment by the Haryana Board students *per se* is nothing. And suppose there was a cross resentment and agitation by the Central Board students. That *per se* too would have been nothing. The action of the respondents was required to be defended on facts of educational life and unfortunately none were placed before us. Rather the assertion of the petitioners that since the Haryana Board candidates in the matter of percentages fared less than the Central Board candidates and the impugned action was to give preference or weightage to the Haryana Board candidates, was strongly refuted by the Advocate-General, Haryana, by asserting that the State and the respondents had no preferences for candidates of one or the other Board and that there was no indirect weightage being given to the Haryana Board candidates nor was any institutional preference being practised towards the Haryana Board candidates. Even otherwise, we are of the view how could there be institutional preference when both the Boards were autonomous, not affiliated to any University whether within the State of Haryana or without it. It is only incidental that candidates passing the 10+2 system of examination from both board qualify for seeking admission to the B. Tech Courses in the Regional Engineering Colleges and concededly on the basis of equivalency since long.

(13) In *Jagdish Saran's case* (supra) the Supreme Court also ruled that University-wise preferential treatment may still be consistent with the rule of equality of opportunity where it is calculated to correct an imbalance or handicap and permit equality in the larger sense. In that large sense, the Supreme Court negatived the plea of Jagdish Saran that the Delhi University had no imbalance or handicap to correct in providing 70 per cent seats in the MBBS Courses to students of its own University. The Court based its decision on the fact that the students in Delhi were not 'sons of the soil' but sons and daughters of persons who were willy nilly pulled

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into the capital city for reasons beyond their control and thus the questioned reservation was qualitatively different. In the case in hand, students of both the Boards are 'sons of the soil' and the mere fact that they have qualified from one or the other Board does not classify them apart in the presence of old equivalency for the purposes of admission in the Regional Colleges. The plea of the learned Advocate-General, Haryana, that the classification was reasonable defies the rational answer as to what was the nexus to classify and what was the object sought to be achieved in imposing the so-called normalisation.

(14) The next case in hand is *Dr. Pradeep Jain etc. v. Union of India and others* (2). The Supreme Court upheld in this case, though temporarily, a certain percentage of reservation on the basis of residence requirements, in order to equalize opportunities for medical admission on a broader basis and to bring about real and not formal, actual and not mere legal, equality. But in this percentage of reservation on the basis of residence requirements, an inclusion was made by observing as follows :—

“...The percentage of reservation made on this court may also include institutional reservation for students passing the PUC or pre-medical examination of the same university or clearing the qualifying examination from the school system of the educational hinterland of the medical colleges in the State and for this purpose, there should be no distinction between schools affiliated to the State Board and schools affiliated to the Central Board of Secondary Education.”

Again emphasizing to that effect in the later part of the judgment, the Hon'ble Judges of the Supreme Court observed :

“...for this purpose it should make no difference whether the qualifying examination is conducted by the State Board or by the Central Board of Secondary Education, because no discrimination can be made between schools affiliated to the Central Board of Secondary Education. We may point out that at the close of the arguments we asked the learned Attorney General to inform the Court as to what was the stand of the Government of India in the matter of such reservation and the learned Attorney

General in response to the inquiry made by the Court filed a policy statement which contained the following formulation of the policy of the Government India :

“Central Government is generally opposed to the principle of reservation based on domicile or residence for admission to institution of higher education, whether professional or otherwise. In view of the territorially articulated nature of the system of institutions of higher learning including institutions of professional education. there is no objection, however, to stipulating reservation or preference for a reasonable quantum in under-graduate courses for students hailing from the school system of educational hinterland of the institutions. For this purpose, there should be no distinction between schools affiliated to State Board and schools affiliated to CBSE.”

On the strength of the afore-quoted, it would be legitimate for us to hold that no discrimination can be practised between students who pass the 10+2 examination from the Haryana Board and between students who pass the same examination from the Central Board. This is not only the mandate of the Supreme Court but is the policy of the Government of India as well, as afore-quoted. Because of this circumstance, letter Annexure R-4 with the return filed by the respondents, being a letter from the Assistant Educational Adviser, Government of India, Ministry of Human Resource Development (Department of Education) to the Principal, Regional Engineering College, Kurukshetra, saying that the Ministry had no objection to the adoption of the process of normalisation of qualifying marks indicated thereon for admission to the 4-Year B. Tech Degree Course, for the Session 1989-90, by the College, pales into insignificance and not worthy of any credit. The law laid down by the Supreme Court in putting at par the students of the Haryana Board and the Central Board specifically ruling that they have not to be discriminated *inter se* was law not based on the government policy as submitted by the Attorney General but was rather a view authoritatively expressed before-hand independently. So, in the face of the authoritative pronouncement in *Dr. Pradeep Jain's case* (supra) any effort to disturb equality existing between students of the Haryana and the Central Board in the matter of the marks obtained by them in their respective examinations, would run counter to the decision of the Supreme Court in the said case, and on that account principle of normalisation is illegal,

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discriminatory and violative of Articles 14 and 15 of the Constitution of India. It deserves to be struck down.

(15) Strong reliance was placed by the Advocate General, Haryana, on *Dr. Dinesh Kumar and others v. Motilal Nehru Medical College* (3), to contend that the Supreme Court itself had after *Dr. Pradeep Jain's case* (supra) noticed that there existed difference of standards of judging prevalent from University to University. In particular, paragraph 6 of the report was pressed into service. Therein it was observed as follows :—

“... We cannot, therefore, approve of admissions of 50 per cent non-reserved seats for the post-graduate courses being made on the basis of marks obtained by the students at the different M.B.B.S. examinations held by different Universities. Such admissions would be clearly invalid as constituting denial of equality of opportunity. There can be no doubt that in order to meet the demands of the equality clause, the admission to 50 per cent non-reserved seats for the post graduate courses must be made on the basis of comparative evaluation of merits of the students through an entrance examination.”

Mr. Mohunta stressed that instead of entrance examination, the State of Haryana and the respondents had resorted to normalisation since the entrance test required employment of lot of time, energy and expenses, which could be avoided. The argument of Mr. Mohunta loses sight of the basics that when Universities all over the country were involved in supplying students all over India for Post-Graduate classes after the M.B.B.S. Course, it was inevitable to judicially recognise that the standard of judging would necessarily vary from University to University and because of lack of uniformity some process need be evolved for comparative evaluation of merits of the students and the entrance examination was evolved as the answer. Here, no such situation arises. There is not a word in the return that there was any different standard of judging between the two Boards or that one Board was strict in marking and the other was not. The return is significantly silent about the standard of education, the standard of examination papers or the standard of marking in the two respective Boards regarding the 10 + 2 examinations. This aspect does not require any further elaboration when no entrance

examination is being resorted to and none seemingly can be resorted to in face of *Dr. Pradeep Jain's case* (supra) forbidding any discrimination between students of Haryana Board and the Central Board. It would be useful to add that the Central Board caters to the candidates all over the country: regions which are developed and undeveloped, and it cannot be assumed that its brightest student was the product of the developed areas and not of the undeveloped areas. Human intellect is not a prerogative of any geographical division. And further the Central Board is not Delhi itself and even Delhi, student-wise, is a mini India. From this score also, we find no merit in the contention of Mr. Mohunta and reject the same.

(16) Mr. Mohunta, as a last resort, clung to the issue by saying that if the concept of normalisation as adopted by the respondents did not satisfy our conscience, we could in the judgment propose and order what be done in the circumstances. This argument reminds us of an old saying that "he travels the farthest who knows not where he goes". We do not know what is the problem with the State and the respondents. Why should they resort to normalisation. Just because there was resentment amongst the students of the schools affiliated to the Haryana Board? We have no intention to travel, much less the farthest, for we know not where to go on the subject. Rather a recent decision of the Supreme Court in *Asif Hameet and others v. State of Jammu & Kashmir and others* (4), provides us the answer that we cannot resort to substituting any State action and it must be left to the legislature or the executive to act within its own sphere under the Constitution. So in this regard, we would be unable to issue any direction to the respondents, for they are supposed to know the parameters of their power in the brooding presence of Articles 14 and 15 of the Constitution.

(17) Though two Division Bench cases : *Archana Saxena v. Maharshi Dayanand University, Rohtak and others* (5), and *Manu Bhandari v. Punjab University, Chandigarh* (6), were cited to contend that this Court had recognised the principle of weightages by addition of marks to candidates pursuant to institutional preference, yet these cases do not further the case of either side, for the positive case of the respondents is that the concept of normalisation does not mean an indirect grant of weightages and positively none was intended in the instant case, as is asserted.

(4) Judgments Today 1989(2) S.C. 548

(5) A.I.R. 1989 Punjab and Haryana 189

(6) A.I.R. 19 Punjab and Haryana 193

Patiala (G. C. Mital, J.)

Krishna Cotton and General Mills v. Commissioner of Income Tax,

(18) In another strain, *Municipal Corporation of Greater Bombay and others v. Thukral Anjali Deokumar and others* (7), was cited, to contend that giving a weightage to a candidate on the basis of being an ex-student of the college, was arbitrary capable of being struck down. This case was pressed into service by learned counsel for the petitioners, on the ground that inherent in the concept of normalisation was grant of weightage evidently resulting from the mathematical calculation given in clause 7. In that case, the Supreme Court struck down college-wise institutional preference holding that it had so far recognised only University-wise institutional preference. But in that case weightage of marks given to a candidate on University-wise institutional preference was not challenged but it was the further weightage of marks of college-wise institutional preference which was challenged and was successfully hit. That case is of no assistance to the decision of the case in hand.

(19) For the foregoing reasons, this petition succeeds. Unhesitatingly, we quash the concept and principle of 'normalisation' being violative of Articles 14 and 15 of the Constitution and direct its deletion from the Admission Brochure for joint admission to the B. Tech Courses at Regional Engineering Colleges and Chhotu Ram State College of Engineering, Murthal, as given for the academic year 1989-90, and further direct the respondents to finalise the admission on the basis of the old procedure which held good until recently in the preceding years. The petitioners shall have their costs, which are quantified at Rs. 5,000.

R.N.R.

Before : G. C. Mital and K. S. Bhalla, JJ.

KRISHNA COTTON AND GENERAL MILLS.—Applicant.

versus

COMMISSIONER OF INCOME TAX, PATIALA,—Respondent.

Income Tax Reference No. 143 of 1979

November 3, 1988.

Income Tax Act (XLIII of 1961)—S. 10(2)—Private Limited Company receiving rental income from letting out godown—Such Company—Whether an authority constituted under law—Deduction—Whether can be allowed.

(7) Judgment Today 1989(1) S.C. 468