

position is that on the approval of the bid by the Settlement Commissioner, a binding contract for the sale of the property to the auction-purchaser comes into existence. Then the provision as to the sale certificate would indicate that only upon the issue of it a transfer of the property takes place."

It is clear from the rules and conditions set out above that the declaration that a person was the highest bidder at the auction does not amount to a complete sale and transfer of the property to him. The fact that the bid has to be approved by the Settlement Commissioner shows that till such approval which the Commissioner is not bound to give, the auction-purchaser has no right at all. It would further appear that even the approval of the bid by the Settlement Commissioner does not amount to a transfer of property for the purchaser has yet to pay the balance of the purchase-money and the rules provide that if he fails to do that he shall not have any claim to the property. This principle, in our opinion, would be applicable to the present case. Unless the highest bid had been accepted by the Collector, the auction purchaser gets no right in the property at all and it cannot be held to be a sale in his favour.

(24) In view of the foregoing discussion the appeals are allowed, the order of the learned Single Judge dated 16th July, 1993 is set aside and both the writ petitions are dismissed. Parties are, however, directed to bear their own costs throughout.

J.S.T.

Before Hon'ble V. K. Bali, J.

MISS RITIKA AND ANOTHER,—Petitioners.

versus

CHAUDHARY CHARAN SINGH AGRICULTURAL UNIVERSITY,
HARYANA, AND OTHERS,—Respondents.

Civil Writ Petition No. 11152 of 1993

January 20, 1994.

Constitution of India, 1950—Art. 226—Admission—Paragraph 27 of Prospectus—10 per cent weightage to be given to students whose parents are residents of Haryana who own and cultivate agricultural land or are landless cultivators—Paragraph 27 quashed as illegal and discriminatory.

Held, that in view of what has been said, these petitions succeed. Paragraph 27 of the Prospectus issued by the respondent—University

to the extent it provides weightage of 10 per cent to children/grand-children (from parental side only) of these residents of Haryana who own and cultivate agricultural land or of landless cultivators and reservation of 5 per cent to the children of employees of Ch. Charan Singh, Haryana Agricultural University, Hissar is quashed. In consequence of quashing of weightage, reservation, as referred to above, a direction is issued to the respondent—University to consider the case of petitioner according to their merit as it would have been if there had been no reservation/weightage in the manner indicated above and if they come in the zone of consideration, they shall be admitted in the course under contention.

(Para 7)

S. K. Sud, Advocate, for the Petitioner.

Ashok Aggarwal, Sr. Advocate with Subhash Goyal, Advocate,
for the Respondent.

ORDER

V. K. Bali, J. (Oral).

(1) This order shall dispose of four connected writ petitions (Civil Writ Petition Nos. 10673 of 1993, 11152 of 1993, 11251 of 1993 and 11282 of 1993) as common questions of law and facts are involved therein. The facts have, however, been extracted from Civil Writ Petition 11152 of 1993 (Miss Ritika Mahajan and another v. Ch. Charan Singh Haryana Agricultural University, Hissar and others).

(2) The prayer in all these petitions is to issue a writ in the nature of certiorari so as to quash weightage of 10 per cent being given to the children/grand-children (from paternal side only) of these residents of Haryana who own and cultivate agricultural land or of landless cultivators as provided in para 27 of the Prospectus issues by the University for the year 1993-94. Second prayer in the writ petitions is to quash reservation of 5 per cent for the children of the employees of Ch. Charan Singh Agricultural University, Hissar.

(3) Insofar as prayer for quashing 5 per cent reservation for the children of employees of the University is concerned, the matter is squarely covered in favour of petitioners by recent judgment of the supreme court in *Chairman/Director, Combined Entrance Examination v. Osiris Dass and others* (1). This is the consistent view of this court as well. No further comments are, thus, required to be made

and reservation of 5 per cent for the children of employees of Ch. Charan Singh Haryana Agricultural University, Hissar is quashed.

(4) The relevant paragraph 27 of the Prospectus issued by the respondent-University for the year 1993-94 providing 10 per cent weightage for children/grand-children of those residents of Haryana who own and cultivate agricultural land or of landless cultivators, runs thus :—

“27. For admission to various programmes there will be weightage for those who fulfil minimum prescribed qualification as under. Those who are eligible for reservation are also eligible for weightage for a particular category, in addition to his placing in the reserved category. All weightage will be given on total marks of qualifying examination and where admission will be made on the basis of merit of a few subjects, weightage shall be allowed on total marks of relevant subjects. A candidate claiming more than one weightage shall be allowed the highest weightage only :—

(i) Children/grandchildren (from paternal side only) of these residents of Haryana who own and cultivate agricultural land or of landless cultivators.”

The Division Bench of this court in recent judgment rendered in Civil Writ Petition No. 12406 of 1991 (Manoj Kumar Mathuria and others v. Haryana Agricultural University, Hissar and another) on February 22, 1993, quashed clause 29 (1) of the Prospectus which envisaged that children who had studied in a village school for eight academic years and had in addition passed matriculation or middle examination, as regular students from a village school, of Haryana Board, would be entitled to weightage of 10 per cent of total marks of qualifying examination. While dealing with the matter, the court proceeded to observe thus :—

This is too flimsy a material to sustain classification. We are, therefore, satisfied that the classification is not founded on intelligible differentia and at any rate it has no rational nexus to the object sought to be achieved. The classification is irrational and arbitrary. The reservation based on such classification is constitutionally invalid.

(5) I am in complete and respectful agreement with the view expressed by the Division Bench and further would like to express

that the present case stands on far stronger footing. It could not be disputed during the course of arguments that a person, who even though is self cultivating the land, could be a rich landlord whose children might have throughout studied in best schools available in the country. It is a matter of common knowledge that in this part of the country the rich landlords getting themselves recorded as self-cultivators are residing in best towns and are getting their children admitted in English Public Schools of highest repute in the country. The same can also be true even with regard to landless cultivators, who, it is not disputed, include a tenant, who in a given case, might be holding considerable land under his tenancy. (The matter is once again squarely covered in favour of the petitioners by an authoritative judgment in *Manoj Kumar Mathuria's case* (supra).

(6) Mr. Aggarwal, however, places strong reliance on a Full Bench decision in *Amar Bir Singh and others v. Naha Rishi Dayanand University, Rohtak and others* (2). Suffice it to say that this judgment was considered by the Division Bench in *Major Kumar Mathuria's case* (supra) and in view of the latter decision holding contrary view of the Supreme Court in *Suneel Jaithley v. State of M.P.* (3), the same was rightly not followed by holding the same to have been impliedly overruled.

(7) In view of what has been said above, these petitions succeed Paragraph 27 of the Prospectus issued by the respondent-University to the extent it provides weightage of 10 per cent to children/grandchildren (from paternal side only) of those residents of Haryana who own and cultivate agricultural land or of landless cultivators and reservation of 5 per cent to the children of employees of Ch. Charan Singh, Haryana Agricultural University, Hissar is quashed. In consequence of quashing weightage/reservation, as referred to above, a direction is issued to the respondent-University to consider the case of petitioner according to their merit as it would have been if there had been no reservation/weightage in the manner indicated above and if they come in the zone of consideration, they shall be admitted **in the course under contention. This exercise shall be done by the University within 15 days from today.** It is, however, made clear that the benefit of this judgment would be given to the petitioners only and any one who might take exception to the weightage/reservation, his case would obviously be belated. Admissions already made.

(2) 1980 I.L.R. (P&H) 493.

(3) A.I.R. 1984 S.C. 1534.

Ajit Singh and another v. The Food Corporation of India and 229
others (G. R. Majithia. J.)

in view of the fact that the students have already studied for a period of more than seven months, are protected. There shall, however, be no order as to costs.

(8) Copies of this judgment be given *dasti* to learned counsel for the parties under the signatures of the Reader of this Court.

J.S.T.

Before Hon'ble G. R. Majithia & V. K. Jhanji, JJ.

AJIT SINGH AND ANOTHER,—Petitioners.

versus

THE FOOD CORPORATION OF INDIA AND OTHERS,
—Respondents

Civil Writ Petition No. 13907 of 1993

March 31, 1994.

Constitution of India, 1950—Arts. 226/227—Delay in initiation of disciplinary enquiry—Such delay not causing any prejudice—No ground to quash enquiry.

Held, that mere delay in the issuance of charge-sheet or concluding the disciplinary proceedings would not by itself be sufficient ground to quash the disciplinary proceedings. However, if the delinquent official can establish that the delay has caused him prejudice or deprived him of fair trial, the disciplinary proceedings would be liable to be quashed. Prejudice has to be established before challenging the enquiry on the ground of delay and laches.

(Para 14)

G. S. Bal, Advocate, for the Petitioners.

Hemant Kumar, Advocate with Rajesh Garg, Advocate, for the Respondents.

JUDGMENT

(1) This judgment disposes of two bunches of writ petitions—one comprising of C.W.P. Nos. 13907, 4201, 10715, 12547, 13366, 13793,