

44. **Aryan Raj v. Chandigarh Administration and Others**

Civil Appeal No. 2718 of 2020

(Arising out of SLP (Civil) No. 21429 of 2019)

Date of Decision: 8 July, 2020

Court: Supreme Court

Coram: Rohinton Fali Nariman, Navin Sinha & B. R. Gavai, JJ.

ORDER

1. Leave granted. The present appeal has become infructuous by reason of the seat that was reserved for the handicapped having already been given to respondent No. 5. In any case, the application that was made pertained to the previous year. However, Shri Colin Gonsalves, learned senior counsel appearing on behalf of the appellant, states that the impugned judgment dated 31.07.2019 will come in his way even if he has to apply afresh for the current year.
2. The impugned judgment has held against Shri Gonsalves's client-the appellant on two points, viz., that the bifurcation process under Section 34 of the Rights of Persons with Disabilities Act, 2016, would not apply, and that the aptitude test must be passed and cannot be exempted insofar as the appellant is concerned.
3. We are of the view that the High Court is correct on the bifurcation aspect. Further, insofar as the aptitude test having to be passed is concerned, the High Court is correct in saying that no exemption ought to be granted, but we follow the principle laid down in the Delhi High Court's judgment in **Anamol Bhandari (Minor) through his father/Natural Guardian v. Delhi Technological University 2012 (131) DRJ 583** in which the High Court has correctly held that people suffering from disabilities are also socially backward, and are therefore, at the very least, entitled to the same benefits as given to the Scheduled Castes/Scheduled Tribes candidates.
4. In the advertisement issued by the Government College of Art dated 31.05.2019, the relevant paragraph, insofar as the aptitude test is concerned, is as follows:

[Quote Begins]

“Method of Selection:

(i) Candidates obtaining 40 percent aggregate (in case of SC/ST 35%) marks in the aptitude test will qualify for admission to any of the courses offered.....”

[End of Quote]

5. In our view, considering that Scheduled Castes/Scheduled Tribes candidates require 35 per cent to pass in the aptitude test, the same shall apply so far as the disabled are concerned in future. Shri Gonsalves’s client is, therefore, at liberty to apply afresh for the current year, in which the requisite certificate that is spoken about in the advertisement dated 31.05.2019, is furnished stating that he is fit to pursue the course in Painting or Applied Art. Further, it is clear that aptitude test pass mark, so far as disabled are concerned, is now 35 per cent.
6. We may also advert, at this stage, to paragraph 15 of the impugned judgment which states as follows:

[Quote Begins]

“15. We can however, not lose sight of the fact that intellectually/mentally challenged persons have certain limitations, which are not there in physically challenged persons. The subject experts would thus, be well advised to examine the feasibility of creating a course which caters to the specific needs of such persons. They may also examine increasing the number of seats in the discipline of Painting and Applied Art with a view to accommodating such students.”

[End of Quote]

7. Shri Walia, learned counsel appearing for respondent Nos. 1 and 4, assures us that steps have been taken in accordance with this paragraph. We record the same. We direct the authorities to act in compliance with the said paragraph.
8. The appeal stands disposed of.

....., J.

[ROHINTON FALI NARIMAN]

....., J.

[NAVIN SINHA]

....., J.

[B. R. GAVAI]

**New Delhi;
July 08, 2020.**