

(2009) 08 DEL CK 0413

In the Delhi High Court

Case No : Writ Petition (Civil) No. 10257 of 2009

Abhishek Saini

APPELLANT

Vs

University of Delhi and Another

RESPONDENT

Date of Decision : 13-08-2009

Acts Referred:

Citation : (2009) 08 DEL CK 0413

Hon'ble Judges : Anil Kumar, J

Bench : Single Bench

Advocate : Anil Karnwal, for the Appellant; Jinu and Amit Bansal, for the Respondent No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioner seeks a direction to the respondent No. 2, Shaheed Sukhdev College of Business Studies to admit him to the course of Bachelor of Business Studies (BBS). The petitioner had applied for course of BBS and appeared in the entrance examination by roll No. 10619 on 7th June, 2009.

2. The bulletin of information for admission to the course of BBS detailed the eligibility conditions and the selection process. After the entrance exam the list of successful candidates in the written test had to be displayed on the college website. Based on the performance in the written examination shortlisted candidates were liable to appear for group discussion and interview and on the day of interview the candidates were liable to submit confirmed result of the qualifying exam and proof of other eligibility requirements. The bulletin of information categorically stipulated that in case the candidate will fail to produce the result of qualifying exam and proof of other eligibility requirements, such a candidate will lose claim to admission.

3. To be eligible for interview, the candidate, therefore, had to produce original certificates including Class 10 certificate as evidence of date of birth, marks statement of Class 12 and category certificate (for reserved category).

4. The plea of the petitioner is that in the entrance examination petitioner was placed at serial No. 13 and pursuant to that when he appeared for group discussion and interview he was not allowed to participate as he did not have the "OBC Caste Certificate".

5. The petitioner contended that he was able to get the OBC certificate on 2nd July, 2009, however, he has not been allowed to appear in group discussions and interview and has also been denied admission. The petitioners also relied on a news item in the Nav Bharat Times on certificate related problems of OBC candidates.

6. The petition is contested by the respondent No. 2 and affidavit of Dr. (Mrs.) Poonam Verma, Principal has been filed. The respondent No. 2 has asserted that no fundamental right of the petitioner has been violated and the respondent acted in accordance with the rules and regulations of admission to the Bachelor of Business Studies. It is contended that the petitioner does not have a vested right to claim admission in the respondent college de hors its rules and regulations and practice. Reliance was placed by the respondent No. 2 on the stipulation in the bulletin of information that if a candidate will not submit the proof of eligibility requirement, such a candidate will lose claim to admission. The relevant condition is reproduced here for reference:

On the day of the interview the candidates must submit the confirmed result of the qualifying exam and proof of other eligibility requirements, failing which the candidate will lose claim to admission.

7. The respondent No. 2 further asserted that since the petitioner failed to produce the OBC certificate which was an essential eligibility condition, he was not allowed to participate in the interview and group discussion and thereafter, he has not been admitted. The respondent No. 2 also reiterated that for the academic year 2009-2010 written exam was held on 7th June, 2009 and the result was declared on 17th June, 2009 and on the basis of the result of written exam a list of shortlisted candidates was prepared which had four times the number of seats which were offered. The candidates were directed to appear for group discussion and interview from June 19th June, 2009, however, only those candidates who had with them the eligibility certificates were allowed to participate in group discussion and the interview.

8. The plea of the respondent No. 2 is that since the petitioner had not produced the eligibility certificate of OBC he was not allowed to participate in group discussion and interview on 26th June, 2009. The respondents contended that the petitioner failed to produce even the caste certificate issued to his parents in support of his claim or the proof that he had applied for issuance of caste certificate in his name. According to respondents they have followed the policy consistently in not permitting the students who had not produced the eligibility certificates.

9. The respondents also asserted that bulletin of information was put up for sale

from 13th April, 2009 which clearly stipulated the requirement of caste certificate for admission in reserved category. He petitioner, however, did not make any efforts to obtain the caste certificate expeditiously as the petitioner applied for the same before the Divisional Magistrate on 5th June, 2009 only.

10. The writ petition is also contested on the ground that according to the admission schedule the admission process was completed for the reserved category on 5th July, 2009 and final selection list was declared and the vacant seats of the OBC category were transferred to the other eligible candidates on 10th July, 2009 and those have been filled up by the respondent college and, therefore, there are no seats now and consequently the petitioner is not entitled for admission to the said BBS course.

11. The learned Counsel for the respondents has also relied on Samgeeta Sharma Vs. University of Delhi and Others, holding that whoever fails to submit the documents within the stipulated time will have to be ignored in the matter and in that process if a candidate with lesser marks gets admitted, the former cannot complain as for the former it is the penalty for default and for the latter it is the prize for vigil.

12. I have heard the learned Counsel for the parties and have also perused the writ petition, counter affidavits and the documents filed by the parties. This is not disputed that petitioner has applied in the reserved category of OBC. To get admission in the reserved category of OBC petitioner he was liable to produce a certificate that he belongs to OBC category. This has not been disputed and cannot be disputed by the petitioner that the bulletin of information categorically stipulated that on the day of interview the petitioner had to submit the result of qualifying exam and proof of other eligibility requirement which included Class 10 certificate as evidence of date of birth, marks statement of Class 12 and category certificate which was the OBC certificate. This also cannot be denied that the petitioner could not produce the certificate at the time of group discussion and interview. Therefore, the action of the respondents not to permit the petitioner for group discussion and interview cannot be faulted. The petitioner has also failed to explain as to why he applied for the OBC certificate not before 5th June, 2009 when the bulletin of information was put up for sale from 13th April, 2009 which clearly stipulated the requirement of caste certificate for admission in reserved category. In the circumstances, the act of the respondents in not permitting the petitioner to participate in the group discussion and interview on account of non production of eligibility certificate in accordance with the selection process as stipulated in the bulletin of information which has been held to be mandatory cannot be faulted.

13. A Division Bench of this Court while considering similar pleas regarding admission to the LLB course and non production of eligibility documents had held that if admission list cannot be prepared without the eligibility documents and if an deadline or outer limit as prescribed for submission of documents to prove eligibility which is essential for determining whether one should be included in

the admission list or not then it cannot be left to the convenience of each candidate otherwise chaos and confusion will be the result. In this case according to the bulletin of information only a graduate or post graduate with at least 50% marks or equivalent grade point in aggregate was eligible to appear in the entrance test. A candidate seeking admission should have also completed 20 years of age by a particular date stipulated in the bulletin of information. The eligibility document according to the bulletin of information for admission to LLB course had to be submitted within one week from the commencement of test result. In these circumstances, the pleas of the candidates who had not submitted the eligibility documents within one week were held to be not eligible for admission to the LLB course despite passing the entrance examination.

14. The respondents have also categorically stated in their affidavit that on 5th July, 2009 the admission in the reserved category had been completed and the vacant seats in the reserved category had been transferred to other categories and the admission process has been completed. Consequently, it is not possible to admit the petitioner now even if for some reason he is held to be eligible.

15. As the petitioner had not submitted the OBC certificate at the time of group discussion and interview and, therefore, it has been held that he is not eligible for admission. For the foregoing reasons, the petitioner is not entitled for the relief claimed and, therefore, the writ petition is dismissed. The parties are, however, left to bear their own cost.