

(2021) 11 DEL CK 0203

In the Delhi High Court

Case No : Civil Writ Petition No. 13525 Of 2021

Alkeshwari Negi

APPELLANT

Vs

University Of Delhi & Anr

RESPONDENT

Date of Decision : 30-11-2021

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2021) 11 DEL CK 0203

Hon'ble Judges : Prateek Jalan, J

Bench : Single Bench

Advocate : Shubham Jain, Mohit Mudgal, Mohinder JS Rupal, Anjun Kaur, Apoorv Kurup

Final Decision : Dismissed

Judgement

Prateek Jalan, J

The proceedings in the matter have been conducted through video conferencing.

CM APPLs. 42644-45/2021 (for exemptions)

Exemptions allowed, subject to all just exceptions.

These applications stand disposed of.

W.P.(C) 13525/2021 & CM APPL. 42643/2021 (for interim directions)

1. The petitioner assails the decision of the respondent No. 1- Univeristy of Delhi ["the University"] to the effect that she is ineligible for allotment of a seat in the M.A. Geography course.

2. The petitioner is a graduate of Himachal Pradesh University. She completed her undergraduate studies in the Choice Based Credit System ["CBCS"] and obtained a B.Sc. (Hons.) degree with a major in Chemistry and minors in Mathematics and Geography. The University released a Bulletin of Information ["the Bulletin"] for admissions to postgraduate courses in July, 2021, pursuant to

which the petitioner applied for admission to the M.A. Geography course in the Scheduled Tribe ["ST"] category. She participated in the entrance examination on 30.09.2021, and the result of the examination was declared on 10.11.2021. The first merit list was issued on 16.11.2021, wherein she secured second place in the ST category. However, the University refused to admit her, pursuant to which she made various representations, which have been rejected.

3. It appears from the documents placed on record that the rejection was on account of the fact that the eligibility criteria mentioned in the Bulletin require a candidate to have a minimum of 24 credits in Geography with at least four courses of six credits each, whereas the petitioner's qualifying degree did not include any course of six credits. The petitioner does appear to have 24 credits in Geography, but those were earned by taking six courses of only four credits each.

4. Mr. Shubham Jain, learned counsel for the petitioner, draws my attention to a document published by the respondent No. 2-University Grants Commission ["UGC"] entitled "Minimum Course Curriculum for Undergraduate Courses under Choice Based Credit System" ["the Minimum Course Curriculum"]. He points out that while introducing the CBCS for undergraduate courses, the UGC provided as follows:-

"11. Wherever a University requires that an applicant for a particular M.A./M.Sc. / Technical/Professional course should have studied a specific discipline at the undergraduate level, it is suggested that obtaining 24 credits in the concerned discipline at the undergraduate level may be deemed sufficient to satisfy such a requirement for admission to the M.A./M.Sc./Technical/Professional course." [Extracted from page 153 of the writ petition; emphasis supplied.]

"15. The new scheme of UG courses should be given due consideration while framing the admission eligibility requirement for PG/ Technical courses in Indian Universities/Institutions to ensure that students following inter and multi-disciplinary format under CBCS are not at a disadvantage. It is suggested that wherever required, obtaining 24 credits in particular discipline may be considered as the minimum eligibility, for admission in the concerned discipline, for entry to PG/Technical courses in Indian Universities/Institutions." [Extracted from page 162 of the writ petition; emphasis supplied.]

5. Mr. Jain's submission is that the UGC has not specified any particular combination of credits and courses which must be taken into account to qualify for admission to postgraduate courses, and that the insistence of the University upon four courses of six credits each is, therefore, arbitrary and capricious.

6. Mr. Mohinder J.S. Rupal, learned Standing Counsel for the University, appearing on advance notice, takes a preliminary objection as to the maintainability of the writ petition on the ground of delay. He submits that the petitioner has participated in the application process pursuant to the Bulletin. She was fully aware of the eligibility criterion, but did not challenge the same at any stage and has only come to the Court after the declaration of the first and

second admission lists. Mr. Rupal further submits that fixation of eligibility criteria is a matter of academic policy which the writ court ought not to interfere with.

7. Having heard learned counsel for the parties, I am of the view that the relief sought by the petitioner cannot be granted. The petitioner applied pursuant to the Bulletin, which clearly contains the following stipulation:-

Merit and Entrance Based

Eligibility in Entrance Category

Category Id

Course Requirements

Marks Requirements

1

B.A (Hons.)/B.Sc. (Hons.) in geography from University of Delhi or any other University recognised by University of Delhi

55% or above marks in aggregate or an equivalent grade

2

B.A./B.Sc./B.Ed. with Geography or its equivalent University of Delhi or any other University recognised by University of Delhi. The candidate should have done at least four courses of six credit each in Geography total minimum 24 credits. Emphasis supplied.

55% or above in Geography papers and 50% or above in aggregate or an equivalent grade

8. The petitioner, admittedly, did not possess B.Sc. (Hons.) degree in Geography and, therefore, falls within Category Id 2. The stipulation that candidates should have done at least four courses of six credits each [with a minimum total of 24 credits] in Geography is expressly stated in the Bulletin, and is also stated in the application form signed and submitted by the petitioner.

9. The petitioner's failure to challenge these provisions at the appropriate time comes in her way. Several candidates in a similar position as the petitioner's may have chosen not to apply in view of the eligibility criteria or may have been rejected as a consequence thereof. It is well settled that candidates who participate in a selection process being fully aware of the rules governing the same are generally disentitled from challenging the said process at a belated stage. In *Ramesh Chandra Shah and Others vs. Anil Joshi and Others* (2013) 11 SCC 309, the Supreme Court held as follows:

"17. Those who were desirous of competing for the post of Physiotherapist, which is a Group "C" post in the State of Uttarakhand must have, after reading the advertisement, become aware of the fact that by virtue of the Office

Memorandum dated 3-8-2010, the Board has been designated as the recruiting agency and the selection will be made in accordance with the provisions of the General Rules. They appeared in the written test knowing that they will have to pass the examination enumerated in Para 11 of the advertisement. If they had cleared the test, the private respondents would not have raised any objection to the selection procedure or the methodology adopted by the Board. They made a grievance only after they found that their names do not figure in the list of successful candidates. In other words, they took a chance to be selected in the test conducted by the Board on the basis of the advertisement issued in November 2011. This conduct of the private respondents clearly disentitles them from seeking relief under Article 226 of the Constitution. To put it differently, by having appeared in the written test and taken a chance to be declared successful, the private respondents will be deemed to have waived their right to challenge the advertisement and the procedure of selection.

18. It is settled law that a person who consciously takes part in the process of selection cannot, thereafter, turn around and question the method of selection and its outcome. Emphasis supplied."

10. The aforesaid position has been reiterated by the Supreme Court in *Ashok Kumar vs. State of Bihar* (2017) 4 SCC 357 [paragraphs 13 to 18] as well as by the Division Bench of this Court in *Dr. Ojasvini Agrawal vs. Union of India and Others* 2020 SCC OnLine Del 607 [LPA 147/2020, decided on 27.05.2020].

11. In any event, the petitioner's arguments on merits also do not appeal to me. The University has laid down the particular manner in which 24 credits should be earned for a candidate to be admitted to postgraduate courses. Whether six courses of four credits each are sufficient, or four courses of six credits should be required, is a matter of policy. The writ court is generally loathe to interfere with eligibility criteria laid down by academic experts, unless they are shown to be manifestly arbitrary or unreasonable.

12. In *Basavaiah (Dr.) v. Dr. H.L. Ramesh* (2010) 8 SCC 372, the Supreme Court has held as follows:

"38. We have dealt with the aforesaid judgments to reiterate and reaffirm the legal position that in the academic matters, the courts have a very limited role particularly when no mala fides have been alleged against the experts constituting the Selection Committee. It would normally be prudent, wholesome and safe for the courts to leave the decisions to the academicians and experts. As a matter of principle, the courts should never make an endeavour to sit in appeal over the decisions of the experts. The courts must realise and appreciate its constraints and limitations in academic matters."

13. The observations in *Basavaiah Supra* (note 8) have been followed by the Supreme Court inter alia in the recent judgments in *Rachna and Others vs. Union of India and Others* 2021 SCC Online SC 140 [paragraphs 43 and 47] and *Indian Institute of Technology Kharagpur and Others vs. Soutrik Sarangi and Others*

2021 SCC Online SC 826 [paragraph 19].

14. The University's decision requiring a candidate for a postgraduate course to have completed a certain number of undergraduate courses in the same subject with a higher credit level cannot be characterised as arbitrary or unreasonable in this context.

15. Mr. Jain's reliance on the Minimum Course Curriculum published by the UGC is also not dispositive of the matter. The provisions pointed out by him only suggest that the eligibility should be pegged at 24 credits, but do not require all universities to prescribe a uniform manner in which the 24 credits can be obtained. The University has complied with the requirement of 24 credits, but made a specification as to the minimum number of courses and credits in each course. I do not find any violation of the Minimum Course Curriculum in this regard.

16. Mr. Jain lastly submits that the Himachal Pradesh University, from which the petitioner graduated, did not, at the relevant time, offer courses of six credits each for the elective courses, which renders it impossible for the petitioner to gain admission to the postgraduate course in the University. In my view, as stated above, the fixation of eligibility criteria is a matter for the University to decide. It may visit an unfortunate consequence upon students from a particular university, but that by itself does not render the eligibility criteria arbitrary¹². There is no suggestion in the writ petition that other universities do not offer six credit courses or that the criterion is such that it results in an impossibility.

17. For the aforesaid reasons, this Court is unable to come to the aid of the petitioner. The writ petition, alongwith the pending application, is accordingly dismissed.