

(2011) 10 DEL CK 0104
In the Delhi High Court
Case No : Writ Petition (C) 6933 of 2011

Anuj Sharma and Others

APPELLANT

Vs

University of Delhi

RESPONDENT

Date of Decision : 03-10-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 10 DEL CK 0104

Hon'ble Judges : Kailash Gambhir, J

Bench : Single Bench

Advocate : Kush Chaturvedi and Priyanka Priyadarshini, MJS. Rupal and Shawana Bari, for the Appellant;

Judgement

Kailash Gambhir, J.—By this petition filed under Article 226 of the Constitution of India, the Petitioners seek directions to direct the Respondent to convert the OBC category seats to the general category which have remained unfilled after 31.8.2011.

2. Mr. Kush Chaturvedi, Learned Counsel for the Petitioners submits that 50 seats of the OBC category are still lying vacant which were never converted to the general category by the Respondent University after filling the seats in the OBC category as directed by the Apex Court in P.V. Indiresan v. Union of India, Civil Appeal No. 7084/2011 decided on 18.8.2011. Counsel submits that there is a clear defiance on the part of the Respondent University of the directions given by the Apex Court in the matter of P.V. Indiresan (Supra), as in terms of the said judgment the Respondents were legally bound to convert the vacant OBC category seats into the general category seats. Counsel also submits that the rank of some of the Petitioners in the present petition are immediately after the rank of the last candidate who was granted admission in the general category. The contention of the counsel for the Petitioners is that if all the unfilled seats of OBC category are converted into the general category, then certainly the Petitioners would have a chance to get admission in the LLB first year course in

the 2011-12 session.

3. Mr. M.J.S. Rupal, Learned Counsel for the Respondent very fairly admits that there are still 50 unfilled OBC seats in the first year of the LLB course of the Respondent University. Counsel, however, submits that since the academic session has already begun from 1.8.2011 and will close on 13.11.2011, therefore the Petitioners have belatedly approached this Court to seek their admissions in the LLB first year course.

4. I have heard Learned Counsel for the parties.

5. The following directions were given by the Apex Court in the case of P.V. Indiresan (*supra*):

41. We therefore, dispose of this appeal, affirming the decision dated 7.9.2010 of the learned Single Judge of the High Court, subject to the clarifications/observations above, and subject to the following conditions:

(i) In regard to the admissions for 2011-2012, if any Central Educational Institution has already determined the "cut-off marks" for OBCs with reference to the marks secured by the last candidate in the general category, and has converted the unfilled OBC seats to general category seats and allotted the seats to general category candidates, such admissions shall not be disturbed. But where the process of conversion and allotment is not completed, the OBC seats shall be filled by OBC candidates.

(ii) If in any Central Educational Institution, the OBC reservation seats remain vacant, such institutions shall fill the said seats with OBC students.

Only if OBC candidates possessing the minimum eligibility/qualifying marks are not available in the OBC merit list, the OBC seats shall be converted into general category seats.

(iii) If the last date for admissions has expired, the last date for admissions shall be extended till 31.8.2011 as a special case, to enable admissions to the vacant OBC seats.

There is not even an iota of doubt that the Respondent is in clear defiance of the above directions given by the Hon"ble Apex Court. No explanation has come forth from the side of the Respondent University as to why the unfilled 50 OBC seats were not converted into the general category after the same remained unfilled after the counseling for the OBC candidates. The Respondents were no doubt awaiting for the directions of the Hon"ble Apex Court and due to that reason the counseling process to fill the OBC seats was deferred. As per the Respondent, an open house counseling was held on 20.8.2011 and even after granting admission to OBC candidates who had participated in the said counseling, still 50 seats of OBC category were left unfilled.

6. It is quite shocking that the non compliance of the directions of the Apex Court is not by any other institution but by a Faculty of law, University of Delhi,

which is considered to be one of the premier law institutions in the country. The Admission Committee of the Law Faculty must be comprising of law teachers and how can they who teach and impart education to the students who would become future lawyers, the means of dispensation of justice of the society, ignore the directions passed by the Apex Court of the country is baffling and alarming to say the least. To obey the mandate of the highest Court of the country is the bounden duty of all and by adopting a cavalier approach, the Respondents in a most brazen and outrageous manner have given a go by to the directions of the Apex Court.

7. The plea taken by the Respondent that the academic session of the LLB first year course has already begun does not cut any ice in view of the fact that the Petitioners cannot be made to suffer for no fault on their part. Ordinarily, the mid stream admissions are not the preferred norm, but in the case like the present one where there is a sea of opportunity but is not open to the ones willing to avail, due to the unreasonableness and high handedness of the Respondents, the court will lean in the favour where justice can be done and the principles of equity and good conscience are the torch bearers.

8. The Courts have also consistently held that every endeavour by the University and all other institutions should be made to fill all the seats as wastage of seats is not only at the cost of the public exchequer but at the cost of depriving a number of aspiring students struggling to get admission in coveted institutions and universities such as the Delhi University, which is a dream of many. Hence, considering the aforesaid circumstances, the Respondent is hereby directed to hold a special counseling to fill the vacant 50 OBC after converting the said vacant 50 OBC seats into the general category in terms of the directions of the Hon'ble Apex Court in the matter of P.V. Indiresan (Supra). The said special counseling shall be conducted by the Respondent university after duly notifying the candidates belonging to the general category through notice board and through their website. At least seven days time shall be given to the candidates through such a notice inviting them to participate in the said special counseling. The Respondent is also directed to publish an advertisement to this effect in a national daily so that the candidates can be made aware that the admissions have yet not been closed so that not only the present Petitioners but the other candidates standing higher in rank can try their luck to seek admission against the unfilled vacant seats. It is further directed that after filling the said 50 seats, the Faculty of Law shall conduct special classes for such students so that they can cover their curriculum to appear in their first semester examination. The attendance of such students shall also be reckoned from the date of their admission in the course and not from the date when the current academic session had begun.

9. With the above directions, the present petition stands disposed of.