

(1998) 08 DEL CK 0014
In the Delhi High Court
Case No : CW No. 3676 of 1998

Aprajita

APPELLANT

Vs

School of Planning and Architecture and Others

RESPONDENT

Date of Decision : 21-08-1998

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1998) 08 DEL CK 0014

Hon'ble Judges : Cyriac Joseph, J

Bench : Single Bench

Advocate : Mr. N.N. Aggarwal, for the Appellant; Mr. R.K. Singh, Mr. A.C. Jain and Mr. Anil Kumar, for the Respondent

Judgement

Cyriac Joseph, J.—The petitioner is an applicant for admission to Bachelor's Degree course in Architecture and planning in the School of planning and Architecture, New Delhi (respondent No. 1) for the session 1998-99. Her grievance is that in spite of her passing the entrance examination with 11th rank in the general category, she has been denied admission on the ground that she has not passed in Mathematics in the All India Senior School Certificate Examination 1998. According to the petitioner, she has applied for revaluation and she has also appeared in the re-examination in Mathematics, the results of which have not been declared. The petitioner is confident that she will come out successful in the re-examination, if not, in the revaluation. The prayer in the writ petition is for a direction to respondent No. 1 to give provisional admission to the petitioner pending the declaration of the results of revaluation and re-examination.

2. Originally there were only two respondents in the writ petition, namely, the School of planning and Architecture, New Delhi and the Union of India. On 3.8.98 this Court allowed an oral application of the learned counsel for the petitioner to implead the Central Board of Secondary Education as respondent No. 3.

3. Mr. Anil Kumar, advocate appearing for the CBSE (respondent No. 3)

submitted that there was no provision for revaluation of the answer sheets of the AISSC Examination and that there was provision only for rechecking of the marks. He also submitted that in the case of the petitioner though rechecking was done there was no change in the marks. It was further submitted that the result of rechecking had been communicated to the petitioner. According to the learned counsel the result of the re-examination conducted on 1st August, 1998 is expected to be declared only by 1st September, 1998.

4. Respondent No. 1 has filed a counter affidavit opposing the prayer in the writ petition. According to respondent No. 1, though the petitioner's name was included in the list of candidates provisionally selected for admission to the Bachelor of Planning Course, she did not fulfill the eligibility conditions for admission to the Course and hence she was denied admission to the course. As per the eligibility criteria for admission to the Bachelor of Planning Course, the candidate should have passed the Senior School Certificate Examination of CBSE or any other examination recognised as equivalent, with at least 60% marks in aggregate in English (Core or optional), Physics, Mathematics and one more optional subject in which the candidate has secured maximum marks at 10+2 stage provided all the subjects have been passed separately. However, the marksheets produced by the petitioner showed that she had failed in Mathematics and hence she was not eligible for admission. It is also stated in the counter affidavit that the petitioner had submitted her application to appear in the Entrance Test on 31.5.98 when the result of the Senior School Certificate Examination 1998 was still awaited. The result came out on 10.6.1998 and she must have come to know that she had failed in Mathematics. She also received the marksheet but she deliberately did not submit it to respondent No. 1. Had the petitioner submitted the result to the respondent she would not have been given the admit card for appearing in the Entrance Test held on 12.7.98 and 14.7.98. It is also stated that having failed in Mathematics, the petitioner was not eligible to appear in the Entrance Test. It is further stated that in several other cases wherein the candidates submitted their marksheets and were found ineligible, the admit cards for the Entrance Test were cancelled and withdrawn. But the petitioner did not produce the marksheet and concealed the fact that she was not eligible for admission and quietly appeared in the Entrance Test. According to respondent No. 1, the petitioner dishonestly secured admit card and appeared in the Entrance Test.

5. It is also stated in the counter affidavit of respondent No. 1 that the petitioner was provisionally selected for Bachelor of Planning Course vide List I notified on 20.7.98 subject to her submitting the marksheet of the qualifying examination. Since she failed to secure pass marks in Mathematics her provisional admission was liable to be cancelled. According to respondent No. 1, the fact that the petitioner has appeared in the Compartmental/ re-examination in Mathematics, which is her second attempt for passing in the subject, will not entitle her for admission in the Bachelor of Planning Course during 1998-99.

6. Admittedly, only a candidate who has passed in Mathematics in the Senior School Certificate Examination is eligible for admission to the Bachelor of Planning Course. Admittedly, the petitioner had applied for admission to the course when the result of the Senior School Certificate Examination 1998 was awaited. Candidates who were awaiting the result of the qualifying examination were eligible to apply for admission subject to their becoming eligible for admission when the results are declared. In the case of the petitioner when the result of the qualifying examination was declared, she was found to be ineligible for admission since she had failed in Mathematics.

7. Learned counsel for the petitioner contended that even if the petitioner has failed in Mathematics in the Senior School Certificate Examination 1998, she will be eligible for admission to be course if she passes in Mathematics in the re-examination in which she has already appeared and the result of which is awaited. He also contended that since the petitioner has secured 11th rank in the list of candidates provisionally selected, she should be given provisional admission pending declaration of the result of the re-examination. According to the learned counsel for the petitioner, as per the provisions in the Prospectus respondent No. 1 is bound to give provisional admission to the petitioner pending declaration of the result in the re-examination in Mathematics. The learned counsel relied on the following paragraph in the Prospectus under the title "General Information":-

"Candidates who are awaiting the results of the qualifying examination must submit in person their Marksheets by the last week of July, clearly indicating their Application Number. Candidates who fail to comply with this may be provisionally admitted, subject to the condition that in the event of their not fulfilling the prescribed admission qualifications their provisional admission shall stand automatically cancelled and no claim for refund of fees, deposits, etc., shall be entertained".

It was contended that "qualifying examination" included re-examination also. I am not inclined to accept this contention. Normally only the candidates who have passed the qualifying examination will be eligible to participate in the Entrance Test. However, considering the possible delay in declaring results of the qualifying examination, the need for inviting applications sufficiently early, the time taken for completing the selection process which may include written test, interview etc. candidates who intend to appear or have already appeared in the qualifying examination, are allowed to apply and participate in the Entrance Test subject to the result of the qualifying examination. It is only a favor or concession given to the students with a view to save one year. This concession will be available only to those who pass in the required subjects in the qualifying examination, the result of which was being awaited at the time of submitting the application. The concession cannot be extended to those who fail to qualify in the said qualifying examination, even if they acquire the qualification in a subsequent re-examination. The contention of the petitioner is contrary to the concept and

purpose behind granting the above mentioned concession. Hence in my view the petitioner should have acquired the eligibility for admission to the course in the Senior School Certificate Examination of March 1998 and should have produced the marksheets by the last week of July, 1998. The question of provisional admission arose only till the results of SSC Examination of March 1998 were declared. After the declaration of results of the said examination, there was no scope or need for provisional admission since the petitioner could have submitted the marksheets of the qualifying examination by the last week of July 1998. Learned counsel for the petitioner relied on the judgment of the Hon''ble Supreme Court in *Satish Kumar Vs . State of Bihar and others* to contend that it was not mandatory to acquire the eligibility for admission to the Bachelor of Planning Course, in the Senior School Certificate Examination of March 1998 itself and that it is sufficient if he acquires the said eligibility in the re-examination conducted on 1st August, 1998. In my view the above mentioned judgment of the Hon''ble Supreme Court has no application to the facts of this case.

8. However, in this context, I may observe that in the case of rechecking and revaluation, the position is different. If the result of rechecking/revaluation is available before the last date for submission of marksheet and a candidate is found to have passed in the required subjects during rechecking/ revaluation, he will be eligible for admission to the course even though he was not eligible as per the original marks. This is so because, in the case of rechecking/revaluation there is no further examination whereas in the case of re-examination the candidate gets another chance to appear in the examination. Any how in this case the result of rechecking was communicated and there was no change in the marks obtained by the petitioner for Mathematics. Even after rechecking, the petitioner was not eligible for admission.

9. Even assuming that the result of the re-examination can be considered for determining the eligibility for admission, it is not reasonable or practical to ask the respondent to indefinitely wait for the result of the re-examination before completing the admissions. In this case, as per the Prospectus the classes were to begin on 1st August, 1998. Admittedly, the re-examination was conducted only on 1st August, 1998 and the results are expected only by 1st September, 1998. I am not inclined to exercise the discretionary jurisdiction under Article 226 of the Constitution of India to delay the completion of admissions at the instance of a candidate like the petitioner who failed in the regular examination and is still waiting for the result of the re-examination. It is also relevant that according to the learned counsel for respondent No. 1, all the seats have been filled up and no seats available now.

10. It is also significant that, as pointed out by respondent No. 1, candidates like the petitioner were not allowed to appear in the Entrance Test on the ground that as per the marksheets produced by them, they had not qualified for admission. The petitioner cannot be given any special advantage just because she cleverly

did not produce the marksheets of the regular qualifying examination of March 1998 though it was available and others produced it honestly before the Entrance Test was conducted on 12.7.1998 and 14.7.1998.

11. In the light of the discussions above, there is no merit in the writ petition. No fundamental right of the petitioner has been infringed. The impugned action of the respondent is not in any way illegal or arbitrary. The petitioner has no enforceable right for admission to the course. Hence the writ petition is dismissed. There will be no order as to costs.