
(2010) 08 DEL CK 0264

In the Delhi High Court

Case No : Writ Petition (C) No. 4608 of 2010 and CM No. 9106 of 2010

Arunima Chandel

APPELLANT

Vs

University of Delhi and Others

RESPONDENT

Date of Decision : 31-08-2010

Acts Referred:

Citation : (2010) 08 DEL CK 0264

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Arpan Behl and Rakesh Singh, for the Appellant; Mohinder J.S. Rupal and Sonam Gupta for R-1 and 2 and Pawan Kumar Agarwal, for R-3, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The petitioner applied to the respondent No. 1 University of Delhi for admission in Undergraduate Courses under the category of Reservation for Armed Forces. The provision in this regard in the Bulletin of Information-2010 printed by the University of Delhi is as under:

4.2 Reservation for Armed Forces

5% of the total number of seats in each of the course has been reserved for the Children/Widows/Wives of the Officers and Men of the Armed Forces including Para-Military Personnel, killed/disabled in action or those who died/or disabled on duty and the wards of ex-service men personnel and serving personnel who are in receipt of gallantry award and are seeking admission will be required to get their names registered for Science Courses at the Faculty of Science, North Campus, University of Delhi and other than Science Courses at Room No. 220, New Administrative Block, North Campus, University of Delhi (between May 28, 2010 to June 11, 2010 from 10.00 A.M. to 1.00 P.M. excluding Sundays).

Relaxation to the extent of 5% in the minimum marks in the aggregate or in the subject, as the case may be, will be given to the candidates of the below

mentioned categories while determining their eligibility to the course concerned.

? Widows/Wards of Defence personnel killed in action;

? Wards of serving personnel and Ex-servicemen disabled in action;

? Widows/Wards of Defence personnel who died in peace time with death attributable to military service;

? Wards of Defence personnel disabled in peace time with disability attributable to military service;

? Wards of Ex-servicemen personnel and serving personnel including police personnel who are in receipt of Gallantry Awards;

(Above categories are also applicable for Para Military personnel)

2. The respondent No. 1 University issued a Provisional Admission Slip to the petitioner admitting the petitioner in B.Com (Hons.) course in respondent No. 3 Sri Ram College of Commerce (SRCC). The petitioner approached the SRCC College with the said Provisional Admission Slip. Upon the SRCC College refusing to admit the petitioner, the present petition was filed seeking a direction against the SRCC College to admit the petitioner in the 1st Year of the B.Com (Hons.) course for the Academic Year 2010-2011. The petition came up first before this Court on 14th July, 2010 when while issuing notice of the petition, the SRCC College was directed to reserve a seat for the petitioner in B.Com (Hons.) course subject to further orders in this writ petition.

3. The counsel for the respondent No. 1 University on the next date i.e. 21st July, 2010 informed that the respondent No. 1 University had erroneously recommended the petitioner for admission to the SRCC College; it was stated that the mistake occurred because while computing the total number of seats available, the OBC seats were also included; had the said seats been not included, the petitioner would not have qualified for admission into SRCC College. It was further informed that upon mistake being detected, the petitioner as per her entitlement was recommended for admission to Hansraj College and had already taken admission therein. An affidavit to the said effect was also subsequently filed. The factum of having taken admission in Hansraj College is not disputed by the petitioner also. The SRCC College has also filed a counter affidavit stating that the sanctioned seats in B.Com (Hons.) course in the year 2007-2008 were 325; that the seats were increased in view of The Central Educational Institutions (Reservation in Admission) Act, 2006 to admit OBC students; that 5% of the seats reserved for the Armed Forces category were wrongly calculated by the respondent No. 1 University on the basis of the said increased strength when according to the Rules of the respondent No. 1 University, the said 5% seats were to be computed on the basis of the sanctioned strength pre-enhancement stage. It is stated that on this basis only 4 seats were available for reservation for Armed Forces category and the said four seats were filled up by admitting students above the petitioner in the list published by the

University of candidates entitled to admission in the Armed Forces category.

4. Though the petitioner has filed a rejoinder to the counter affidavit of the respondent No. 1 University, invoking the principles of promissory estoppel and law of legitimate expectation but has not been able to controvert the Rules on the basis whereof 5% of the seats for Armed Forces are to be computed.

5. The counsel for the petitioner however sought to agitate the right of the petitioner by contending that the SRCC College has admitted students in the Armed Forces category having marks lower than that of the petitioner. Even though the same did not form the basis of challenge in the writ petition but in the circumstances aforesaid, the said plea has been considered. The counsels for the respondent No. 1 University and the SRCC College have explained that the students who have been admitted, though having marks lower than that of the petitioner but are in a category (within Armed Forces) higher than the petitioner and were thus entitled to preference over the petitioner.

6. I may mention that though the Bulletin of Information published by the respondent No. 1 University of Delhi and relevant portion of which has been quoted hereinabove does not so provide but I had an occasion to deal with the subject in W.P.(C) No. 5015/2010 titled Miss Harleen K. Bains v. The University of Delhi pronounced on 17th August, 2010; the instructions issued by the University to the colleges for admission to Undergraduate Courses as well as the Minutes of the Academic Council of the University relating to admission in Armed Forces category were examined therein. It was found that the reservation for Armed Forces is priority-wise with highest priority to the candidate in the first category i.e. highest preference being given to widows/wards of Defence personnel killed in action and the lowest preference being of wards of ex-servicemen personnel and serving personnel in receipt of Gallantry Awards. Thus wards of Defence personnel disabled in peace time with disability attributable to military service are in a higher category than the wards of ex-servicemen personnel and serving personnel who are in receipt of Gallantry Awards.

7. The counsels for the respondent No. 1 University and the SRCC College explain that the four students who have been admitted are of a category above that of the petitioner and as is also apparent from the list drawn up by the respondent No. 1 University.

8. The counsel for the petitioner of course contended that the Bulletin of Information of the respondent No. 1 University did not provide for such priority to be given. However the reservation for Armed Forces is not based on the Bulletin of Information but is based on the instructions issued by the Ministry of Defence and if the said instructions give preference in reservation to one category over other, the respondent No. 1 University is bound by the same. There is no challenge to that in the present petition.

9. I am therefore satisfied that the petitioner was not entitled to admission in the SRCC College and the petitioner was mistakenly issued the Provisional Admission

Slip aforesaid. No case of promissory estoppel or legitimate expectation is made out. Promissory estoppel cannot be used to compel the Govt. or a public authority to carry out a representation or promise which is prohibited by law or which was devoid of the authority or power of the officer of the Govt. or the public authority to make. See Vasantkumar Radhakisan Vora Vs. The Board of Trustees of the Port of Bombay, The Supreme Court in Union of India and others Vs. Hindustan Development Corpn. and others, with respect to the legitimate expectations also held that legitimacy of an expectation can be inferred only if it is founded on the sanction of law or custom or an established procedure followed in natural and regular sequence. The petitioner as it is availing the benefit of reservation cannot displace another candidate also entitled to reservation and in a category higher than the petitioner as per the reservation Policy.

The petition is therefore dismissed. No order as to costs.