

(2012) 08 DEL CK 0020

In the Delhi High Court

Case No : Writ Petition (C) 4682 of 2012

Arunima Gupta and Another

APPELLANT

Vs

University of Delhi and Others

RESPONDENT

Date of Decision : 06-08-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 08 DEL CK 0020

Hon'ble Judges : G.S. Sistani, J

Bench : Single Bench

Advocate : Ravindra Narayan and Mr. Anil Batra, for the Appellant; Mohinder J.S. Rupal, for respondent no.1. Mr. Amit Bansal and Ms. Ritika Nagpal for respondent no.2, Ms. Sweety Manchanda, for respondent no.3. Mr. Ashish Kumar and Mr. Rajeev Aggarwal for respondent no.4, for the Respondent

Final Decision : Dismissed

Judgement

G.S. Sistani, J

CM 9690/2012

1. Exemption allowed, subject to all just exceptions. Application stands disposed of.

W.P.(C) 4682/2012

2. Present petition has been filed by petitioner under Article 226 of the Constitution of India seeking a writ, order or direction in the nature of mandamus directing respondents more particularly respondent no.1 to make out a merit list out of the All India Pre Medical Test List of successful candidates, who had opted Delhi as the State to which they belong in the form of AIPMT-2012, conducted by respondent no.2.

3. As per the petition, respondent no.2 had invited applications from eligible students for admission to MBBS/BDS seats under 15% quota on All India basis

by conducting All India Pre-Medical/Pre-Dental Entrance Examination, 2012. The petitioners filled up their respective forms as per the Bulletin of Information and in the column of State they had filled up "Delhi" as the State. The said examination was held in two phases i.e. preliminary and final examination. Further as per the petition, the petitioners succeeded in the said examination and obtained very high percentage in the preliminary examination and they were called for final examination. The petitioners appeared in the final examination on 13.5.2012 and result of the final examination was also declared.

4. Learned counsel for the petitioners submits that respondent no.1 has called the successful candidates, out of the AIPMT 2012, to fill up the form for the Delhi State quota but have illegally and arbitrarily taken the passing of 11 and 12 examination from Delhi as the only eligibility criteria for filling up 85% seats of Delhi quota although in other States the criteria is of three years' domicile or education for three years i.e. 10, 11, and 12. Counsel further submits that only those candidates who have filled Delhi as their State in the AIPMT Examination, 2012, form should be considered for admission in the Delhi State quota and no other students belonging to other State should be considered. Counsel also contends that petitioners are the residents of Delhi and fulfill all the necessary criteria for being considered for admission in the MBBS/BDS Examination, which was conducted in the year 2012. Counsel next contends that some of the students who do not belong to Delhi State will derive benefit of the 85% quota which is fixed for students of Delhi. Counsel also submits that even those students, who are entitled for admission in Haryana State or any other State, would be given benefit of an option of applying both in Delhi and in any other State where they belong.

5. Mr. Mohinder J.S. Rupal, Advocate, enters appearance on behalf of respondent no.1; Mr. Amit Bansal, Advocate, enters appearance on behalf of respondent no.2; Ms. Sweety Manchanda, Advocate, enters appearance on behalf of respondent no.3; and Mr. Ashish Kumar, Advocate, enters appearance on behalf of respondent no.4 on an advance copy.

6. Mr. Mohinder J.S. Rupal, learned counsel for respondent no.1 Delhi University, and Mr. Amit Bansal, learned counsel for respondent no.2 CBSE, have opposed the present petition primarily on the ground that the Bulletin of Information (BOI) has fixed the criteria which is to be fulfilled by all the candidates before being granted admission to the MBBS/BDS course. Counsel further submits that filling up the name of a State in the application form is a mere formality as two States i.e. Andhra Pradesh and Jammu and Kashmir are not included in the All India Examination. Counsel also contends that merely filling of a State by itself cannot be a ground for granting admission as the candidate has to fulfill the eligibility criteria, which is stated in the Bulletin of Information. Mr. Rupal has drawn the attention of the Court to Clause 2.4.2. of the Bulletin of Information, Under-Graduate Degree Course (MBBS/BDS), Session 2012-2013, which reads as under:

1.4.2 Candidates, who have passed 12class examination under 10+2 system conducted by the C.B.S.E./Council of the Indian School Certificate Examination/ Jamia Milia Islamia, New Delhi with required subjects i.e. Physics, Chemistry, Biology and English from the recognized schools conducting regular classes situated within the National Capital Territory of Delhi only, will be eligible for admission. The candidate must have studied 11and 12classes regularly from a recognized school within the National Capital Territory of Delhi. Further the candidate must have passed in the subjects of Physics, Chemistry, Biology and English separately and must have obtained a minimum of 50% marks (40% marks in case of SC/ST category candidates and 45% marks in case of OBC category) taken together in Physics, Chemistry and Biology.

7. It is contended by Mr.Rupal that Clause 2.4.9, as referred to by counsel for the petitioner, is to be read along with Clause 2.4.2. It is also contended that the rule fixing eligibility criteria is not subject to challenge and, thus, this ground cannot be agitated by the petitioners in these proceedings.

8. I have heard learned counsel for the parties, considered their rival contentions and also perused the material placed on record including the Bulletin of Information. Having regard to the fact that since the eligibility criteria has been fixed as per the Bulletin of Information since the year 2001 and further taking into consideration that filing up the name of a State in the application form is a mere formality as two States i.e. Andhra Pradesh and Jammu and Kashmir are not included in the All India Examination, merely because a candidate fills up the name of a State in the application form that by itself would not make the candidate eligible for admission. The candidate must qualify and be eligible as per Clause 2.4.2 of the Admission Bulletin. It has been repeatedly held that the terms of prospectus are binding and are strictly construed. Para 14 of Varun Kumar Agarwal Vs. Union of India (UOI) and Others, , reads as under:

14. Presently we shall refer to certain authorities in the field that have dealt with sanctity of a prospectus or brochure and the legal impact when it is changed in the midstream. In Dr.M. Vannila v. Tamil Nadu Public Services Commission, 2008 (3) CTC 69, a Division Bench of the High Court of Madras has opined thus:

19.The principle that the prospectus is binding on all persons concerned has been laid by the Supreme Court in Punjab Engineering College Chandigarh through its Principal Vs. Sanjay Gulati and Others, . Following the same, a Divison Bench of this Court has also observed in Rathnaswamy, Dr. A. v. Director of Medical Education (1986 WLR 207) that the rules and norms of the prospectus are to be strictly and solemnly adhered to. The same view is also taken by another Division Bench of this Court in Nithiyan P. and S.P. Prasanna v. State of Tamil Nadu (1994 WLR 624). The same principle is reiterated in the case of Dr.M. Ashiq Nihmathullah v. The Government of Tamil Nadu and Ors. reported in 2005 WLR 697. It is clear that the prospectus is a piece of information and it is binding on the candidates as well as on the State including the machinery appointed by it for identifying the candidates for selection and admission.

9. In view of above, I find no ground to entertain the present petition and the same is accordingly dismissed.

CM 9710/2012 (STAY).

Application stands dismissed in view of the order passed in the writ petition.