

(2011) 02 DEL CK 0229

In the Delhi High Court

Case No : Writ Petition (C) 1258 of 2011 and CM 2651 of 2011

Ashutosh Chaubey

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 24-02-2011

Acts Referred:

Constitution of India, 1950 — Article 14, 21

Citation : (2011) 02 DEL CK 0229

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Sudhir Nandrajog, Sumeet Sodhi, Rishab Sancheti and Saahila Lamba, for the Appellant; Sachin Datta, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The Petitioner in each of the petitions had appeared for the Common Admission Test 2010 for admission to the Indian Institutes of Management (IIMs) impleaded as Respondents No. 3 to 13. They claim that though each of them have in the result declared of the said test, scored very high marks and are within the top three per cent of all those who had appeared in the admission test, but none of them have been called for interview/group discussion, being the next step in the admission process.

2. It is contended that though the public announcement on 30th August, 2010 for the Common Admission Test 2010 provided that the said test is conducted "only as a pre-requisite for admission to the various IIMs" and further that each IIM follows its own admission process independent of other IIMs and also advised the prospective candidates to visit the websites and/or read advertisement programme of the concerned IIMs to ensure which programme he/she desired to apply for and what are the eligibility requirements and admission process, but none of the IIMs till the declaration of the result of the admission test put the admission criteria on their respective websites. It is further contended that the admission criteria now declared by each of the IIMs is not only different but

arbitrary and owing where to none of the Petitioners in spite of high rank in the admission test have been called for next step in the admission process.

3. Relief, of quashing the short listing/eligibility criteria declared by the IIMs as being discriminatory, capricious and arbitrary and without nexus to any purported objective and violative of Articles 14 and 21 of the Constitution of India and of mandamus directing the IIMs to frame the eligibility criteria uniformly and rationally is claimed in the petition. By way of applications for interim relief, stay of the admission process in each of the IIMs is claimed.

4. Though the opening argument of the senior counsel for the Petitioners is that had the IIMs followed the admission criteria as for the previous year, the Petitioners would have qualified, at least, to be called for the next step in the admission process in some of the IIMs including at Bangalore, but there is no basis whatsoever in the pleadings for the said argument. The senior counsel for the Petitioners also admits so. The counsel for Respondent No. 1/UOI appearing on advance notice and though not appearing for the IIMs on the contrary states that the admission criteria at least for the IIM Bangalore (Respondent No. 4) declared for the current year is identical to the admission criteria for the previous year as appearing on the website of the said IIM. The senior counsel for the Petitioners is not able to dispute the said statement and states that a further affidavit will need to be filed with respect thereto. In the absence of any pleadings, no notice can thus be taken of the said opening argument of Petitioners. However, the said argument demonstrates that as per the Petitioners also, even in the past, each IIM has been following a separate admission criteria and it is not as if for the first time in this year, separate criteria are being followed. The Petitioners having appeared in the admission test with full knowledge of the same, cannot now claim to be aggrieved from non-uniformity in the various IIMs in the admission criteria.

5. Even otherwise, I am not satisfied that any case for directing the IIMs to follow a uniform criteria is made out. The IIMs are institutions of excellence which have established a name not only in the country but world over in the academic environment and without anything substantive being shown, no case for directing them to follow a uniform criteria is made out. The senior counsel for the Petitioners has also not been able to show any such uniform practice/criteria being followed by the Ivy League Universities/Colleges of any other countries.

6. The next contention of the senior counsel for the Petitioners is that the non-declaration of the eligibility criteria before the admission test amounts to changing the rules of the game after the game has begun and is not permissible and the admission process is liable to be set aside for the said reason. The said principle of law relating to elections and extended to service law, at least, to my notice has not been extended to admission in colleges/universities. The senior counsel for the Petitioners in spite of prodding has not been able to show any precedent extending the said principle to admission in academic institutions. I have also enquired as to what prejudice has been caused to the Petitioners by

non-declaration of the admission criteria prior to the admission test. It is contended that had the Petitioners known that the marks scored by them in the 10th Class and the 12th Class examination would also be counted for admission, they would have worked therefore.

7. I do not find the said argument to be acceptable. A student is expected to strive for academic excellence throughout the academic career and cannot be heard to contend that he should have been informed when in school that his marks in school would be relevant for admission to institutions of higher learning. Moreover as aforesaid, there is nothing to show that in the previous year the criteria was any different. The Petitioners are thus not found to have suffered/ been prejudiced in any manner by late publication of admission criteria.

8. The Continuous Comprehensive Evaluation has now been accepted after lengthy debate as best suited for judging merit in academics. Merely because a student has shown a spark of brilliance in the admission test, does not necessarily mean that he is the most meritorious student. I am unable to find any error in the decision taken by the experts manning the IIMs for including the 10th Class and the 12th Class marks in the admission criteria. Moreover, it is common knowledge that whenever in competitive examinations the fight for the last seat is between more than one candidate, the selection is made on the basis of the marks scored in the earlier/qualifying examination. It thus cannot be said that the Petitioners were totally unaware that scores in the school examination are also relevant.

9. I also find that the Petitioners even on their score cards stated to have been issued on 12th January, 2011 were informed that IIMs independently decide how to use the CAT scores on the basis of their own selection policy. The Petitioners were thus fully aware that the score in the admission test was to be merely one of the criteria for selection and the Petitioners merely for the reason of scoring well in the admission test cannot claim a right to admission.

10. The criteria though laid down after the admission test is found to have been applied uniformly to all applicants and it is not the case of the Petitioners also that the criteria has been laid down to suit/benefit any face or any particular class of applicants. There are no allegations of bias. Thus, no case of arbitrariness or discrimination can be said to have been made out.

11. The senior counsel for the Petitioners has also contended that though some of the IIMs in the previous years were giving weight age to the work experience but the weight age given thereto is different by different IIMs. I am of the view that merely because some other admission criteria has been followed in the previous years would not estop the IIMs from evolving from their experience and striving to have the best talent available.

12. For the aforesaid reasons, no case for grant of interim relief is made out. The applications for interim relief are dismissed.

13. However, this Court is a little concerned about the delay by the IIMs in fixing the admission criteria and which can lead to uncertainty and heart burn. For the said reason and since the matter affects a large number of students, issue notice. Counsel for the Respondent No. 1 accepts notice. The Petitioner to serve the remaining Respondents by all modes including Dasti for 18th April, 2011.

CM Nos. 2652/2011, 2656/2011, 2659/2011, 2661/2011 & 2663/2011 (for exemption)

Exemption allowed subject to all just exceptions.