
(2014) 09 DEL CK 0222
In the Delhi High Court
Case No : LPA No. 576/2014

Association of Self Financing Institutions	APPELLANT
Vs	
Guru Gobind Singh Indraprastha University	RESPONDENT

Date of Decision : 03-09-2014

Acts Referred:

Citation : (2014) 09 DEL CK 0222

Hon'ble Judges : G. Rohini, C.J.;Rajiv Sahai Endlaw, J

Bench : Division Bench

Advocate : Mohan Parasaran, P.P. Malhotra, Sr. Advs., Kamal Gupta and Vineet Gupta, Advocate for the Appellant; Vaibhav Kalra and R.K. Saini, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

CM No. 14481/2014 and CM No. 14482/2014 (both for exemption).

1. Allowed, subject to just exceptions.
2. The applications stand disposed of.

LPA No. 576/2014 and CM No. 14480/2014 (for directions).

3. This intra court appeal impugns the order dated 1st September, 2014 of the learned Single Judge of this Court (in W.P. (C) No. 5696/2014 filed by the appellant) of not granting the ad interim relief sought by the appellant.

4. The counsel for the respondent University and the counsel for The Self Financing Educational Institutions Association which has applied for intervention in the writ petition and notice of which application was also issued vide order dated 1st September, 2014, appear on advance notice and we have with the consent of the counsels finally heard the appeal.

5. The writ petition from which this appeal arises has been filed impugning the Circular dated 28th August, 2014 of the respondent University announcing the

holding of a special round of online counselling for admission to the following courses/programmes:-

- (a) B. Tech/M. Tech. (Dual Degree)/B. Tech, CET Code 131
- (b) BBA, CET Code 125
- (c) BCA, CET Code 114
- (d) B.Com, CET Code 146
- (e) B.Ed., CET Code 122
- (f) BJMC, CET Code 126
- (g) BA, LLB/BBA, LLB, CET Code 121
- (h) MBA, CET Code 101
- (i) MCA, CET Code 105
- (j) LE to B. Tech., CET Code 128 and 129

6. The appellant claims to be an Association of Self Financing Institutions affiliated to the respondent/University. The challenge by the appellant to the special round of online counselling announced by the respondent University is on the ground that the same is in contravention of the time schedule for admission laid down by the Supreme Court in Parshavanath Charitable Trust and Others Vs. All India Council for Tech. Edu and Others, and in Maa Vaishno Devi Mahila Mahavidyalaya Vs. State of U.P. and Others, . It is contended by the senior counsels for the appellant that as per the said time schedule laid down by the Supreme Court, the last date for admitting the candidates is 30th July and the date fixed for commencement of academic session is 1st August and the last date upto which students can be admitted against vacancies arising due to any reason is 15th August. It is contended that the impugned Circular dated 28th August, 2014 announcing special round of online counselling has been issued after the date of commencement of the academic session on 1st August, 2014 and as per the schedule thereof, the result of the said special round of online counselling is to be announced on 6th September, 2014 and onwards and admissions in pursuance thereto are to be made from 8th to 10th September, 2014 and the students/candidates so admitted are to report on 8th September, 2014. Attention is invited to para 42 of Parshvanath Charitable Trust (supra) where the Supreme Court has directed that all seats should be filled up positively by 15th August, after which there are to be no admissions, whatever be the reason or the ground and has further declared the said schedule of admission to be the law, to be strictly adhered to by all concerned and has directed that none of the authorities shall have the power or jurisdiction to vary the said dates.

7. We have enquired from the senior counsels for the appellant as to how the appellant is aggrieved from the impugned Circular dated 28th August, 2014 in as much as the said Circular gives an opportunity to the members of the appellant

to fill up their vacant seats, which is always in the interest of the Self Financing Educational Institutions.

8. Though the senior counsels for the appellant could not state the grievance of the members of the appellant from the said Circular but the counsel for the intervener in the writ petition contends, that the appellant is not an association of all the Self Financing Educational Institutions affiliated to the respondent University and in fact the intervener The Self Financing Educational Institutions Association is an Association of all the Self Financing Educational Institutions. It is further argued that the grievance of the members of the appellant is that since the said Circular dated 28th August, 2014 also enables the candidates/students already admitted, to opt for vacant seats in other institutions, the members of the appellant are apprehensive that a large number of students already admitted to their institutions would leave the said institutions upon being given admission in institutions which are perceived/considered to be better and superior.

9. The senior counsels for the appellant could not dispute the said position.

10. Upon our asking the counsel for the respondent University as to why the Circular, apparently in violation of the schedule laid down by the Supreme Court and declared to be the law, has been issued, it is informed, that the same schedule also fixes 10th April and 15th May as the last date for grant or refusal of approval by the AICTE and the State Government respectively; however the AICTE did not grant or refuse approvals by the said date and rather continued to do so till 20th July, 2014. It is further contended that as per the schedule laid down by the Supreme Court, the University was to have a clear three months time for the admission process; however owing to the delay on the part of the AICTE in granting/refusing the approval, the respondent University was left with very little time for completing the admissions and which has led to nearly 6000 seats in Institutions of the University/Self Financing Institutions affiliated to the University remaining vacant, to the detriment not only of the University and the Institutions affiliated to it but also to the detriment of a large number of students who were left without admission. It is further stated that the Supreme Court itself in two cases i.e. order dated 26th June, 2014 in W.P. (C) No. 538/2014 titled Jayamatha Engineering College Vs. Union of India and in order dated 7th July, 2014 in W.P. (C) No. 479/2014 titled Association of Management of Coimbatore Anna University Affiliated Colleges Vs. The State of Tamil Nadu, as admitted by the appellant also, has varied the said schedule.

11. We may in this regard also notice that the Supreme Court in Asha Vs. Pt. B.D. Sharma University of Health Sciences and Others, , in relation to the time schedule for admission to MBBS courses also fixed by the Supreme Court, held that though the authorities cannot grant admission beyond the cut-off date postulated in the schedule but where no fault is attributable to a candidate and the candidate is denied admission for arbitrary reasons, the cut-off date cannot be permitted to operate as a bar to admission to such students particularly when it would result in complete ruining of the professional career of a meritorious

candidate.

12. We may also note that AICTE in other matters coming up before this Bench has been attributing the delays this year in grant/refusal of approval, to various reasons including of the general elections held this year.

13. The counsel for the respondent University at this stage states that the respondent University, to avoid any ambiguity, will make an application/petition to the Supreme Court seeking variation of the schedule.

14. We have also enquired from the counsel for the respondent University as to how the students admitted in the special round of counselling aforesaid would be compensated for the classes already held after the commencement of the academic session.

15. The counsel for the respondent University states that the University has a provision for holding special classes for such students, to make up for the classes missed by them.

16. We accept the said statement of the counsel for the respondent University.

17. The counsel for the respondent University also states that the schedule laid down by the Supreme Court in the judgments aforesaid applies only to such of the courses/programmes which require the approval of the AICTE and does not apply to the other courses/programmes which do not require the approval of the AICTE. It is stated that only the courses/programmes at serial Nos. (a), (h) and (i) of para 5 hereinabove require AICTE approval and thus the admission through special online counselling to the other courses is not governed by the judgments aforesaid of the Supreme Court.

18. Though the senior counsels for the appellant agree but contend that the courses/programmes mentioned at serial No. (j) of para 5 hereinabove also require the approval of the AICTE. It is further contended that the judgments aforesaid of the Supreme Court also apply to the courses/programmes requiring the approval of the State Government.

19. The counsel for the respondent University controverts but states that the approvals of the State Governments were also delayed.

20. Though in the facts and circumstances disclosed hereinabove, we do not deem it appropriate to grant the interim relief claimed by the appellant of restraining the respondent University from going ahead with the admissions pursuant to the special round of online counselling for the academic session 2014-2015 in accordance with the Circular dated 28th August, 2014, but direct that the admissions in pursuance thereto to such of the courses/programmes which are governed by the judgments aforesaid of the Supreme Court, shall be subject to the outcome of the application/petition to be filed by the respondent University before the Supreme Court seeking extension/variation of the time schedule as laid down in the said judgments, for admissions to the academic

year 2014-2015.

21. The appeal is disposed of. No costs.

Copy of this order be given dasti under the signatures of the Court Master.