

(2019) 02 DEL CK 0380

In the Delhi High Court

Case No : Civil Writ Petition No. 7781 Of 2018, Civil Miscellaneous Application
No. 32141 Of 2018

Bhavya Singh Naruka

APPELLANT

Vs

University Of Delhi And Anr

RESPONDENT

Date of Decision : 21-02-2019

Acts Referred:

Citation : (2019) 02 DEL CK 0380

Hon'ble Judges : C. Hari Shankar, J

Bench : Single Bench

Advocate : Puneet Jain, Abhinav Gupta, Seema Dolo, Amit Bansal

Final Decision : Allowed

Judgement

1. Arguments in this matter were heard in part on 13th February, 2019.
2. The matter was listed, thereafter, on 15th February, 2019, when it was passed over for non-appearance of Respondent No.2, and could not be taken up on second call owing to paucity of time.
3. The matter was again listed on 18th February, 2019, and was called out twice at the end of the Board. The order of the said date also discloses non-appearance on behalf of Respondent No. 2.
4. Today, again, Respondent No. 1 and the petitioner are represented and there is no appearance on behalf of Respondent No. 2. Accordingly, having heard learned counsel, I am proceeding to decide the writ petition.
5. The petitioner claims to be a sportswoman, proficient in the sport of shooting (air pistol).
6. Consequent to passing her XII standard examination, the petitioner sought admission in the Respondent No.2-College (hereinafter referred to as "the College"), in the B.A. (Programme), conducted by the College under the sports quota.

7. It may be noted that the College had advertised 45 supernumerary seats under the sports quota, against one of which the petitioner lays her claim.

8. In response to a query by the Director (Physical Education) of the Delhi University Sports Council, seeking information on the actual number of seats in various sports/games in the College, to which admissions were being made in the sports quota in the under-graduate programme for the Academic Session 2018-2019, the college replied vide the following communication, dated 20th March, 2018:

"Department of Physical Education and Sports Sciences

Hans Raj College

University of Delhi

Mahatma Hans Raj Marg, Malka Ganj, Delhi-110007

March 20, 2018

To

The Director

Physical Education

Delhi University Sports Council

Polo Ground, New Delhi

Sub: Number of Seats under Sports Quota (Supernumerary)

Dear Sir,

This is in reference to your letter no. DUSC / 2018 /1014. dated on 13th March 2018, seeking information on actual number of seats in various sports/games in our college for the admission under sports quota in under-graduate programme 2018-19.

The requirement of seats under sports quota is as follows:

S. No.

Game/Sports

Position/Event

Seats in Sports Quota

In Words

In Figures

1.

Shooting

Air Rifle (Men)

Two

02

Air Rifle (Women)

Two

02

Air Pistol (Men)

Two

02

Air Pistol (Women)

Two

02

2.

Archery

Indian Round (Men)

Three

03

Indian Round (Women)

One

01

Compound (Women)

Two

02

Recurve (Men)

One

01

3.

Swimming

Free Style (Men)

One

01

Back Stroke (Men)

One

01

Butterfly (Men)

One

01

Back Stroke (Women)

One

01

Breast Stroke (Women)

One

01

4.

Basketball

Guard

One

01

Centre

Two

Two

Forward

Two

Two

5.

Tennis

Men

Two

Two

6.

Squash

Men

Two

Two

7.

Chess

Men

Two

02

8.

Badminton

Men

Two

02

9.

Table Tennis

Men

Two

02

Women

Two

02

10.

Yoga

Men

Two

02

Striker

One

01

Stopper

One

01

Goalkeeper

One

01

Total

45

Thanking You,

Yours faithfully,

Sd/-

Sd/-

Dr. M.P. Sharma

Dr. Rama

(Associate Professor)

(Officiating Principal) Hans Raj College, Delhi"

9. A reading of the above document makes it clear that two seats were reserved in the sports quota for girl students, seeking admission on the basis of proficiency in the sport of Shooting (Air Pistol).

10. On 26th June, 2018, trial took place, for students seeking admission on the basis of their proficiency in shooting with air pistol, in which the petitioner also participated. Consequent thereupon, two selection lists were issued. In the second selection list, which was issued on 14th July, 2018, the petitioner's name figured as having been selected against one of the two seats reserved for girl students.

11. The said list, dated 14th July, 2018, including the list of students selected against various sports, merits reproduction, in extenso, thus:

"Hansraj College

Admission 2018-19

July 14, 2018

The following candidates have been selected for admission on the basis of sports. They are required to report to the undersigned with their original and one set photocopy of the below mentioned documents on 16 July 2018, 9:30 AM at sports room.

- 1-Two Passport Size Photo
- 2- 10th Board Mark Sheet / Certificate
- 3-12th Board Mark Sheet
- 4- Provisional Certificate
- 5- Character certificate
- 6- Migration certificate
- 7- Transfer Certificate
- 8- Sports Certificate (Which was uploaded)
- 9- Parents / Guardian Photo ID Proof

Note: - The Candidates Must Accompany with their Parents / Guardian

The admission will be subjected to verification of the documents and minimum eligibility criteria.

This list is valid from 16th July.2018 to 17th July 2018 till 1:30 PM

S. No.

Name/ Reg. No.

Position/ Event

Course

Certificate Marks

Trial Marks

Total

1.

Vishwas Gulia 180156429

Guard

Comp SCI

27

49.33

76.33

2.

Harsh Rao 180353021

Centre

BAP

27

48.33

75.33

3.

Sarthan Gosain 180079549

Forward

B.Com (H)

25

43.66

68.66

ARCHERY (WOMEN)

S. No.

Name/Reg. No.

Position/ Event

Course

Certificate Marks

Trial Marks

Total

1.

Arushi Saxena 180226572

Compound

ECO(H)

21

50.3

71.3

BADMINTON (MEN)

S. No.

Name/Reg. No.

Position/ Event

Course

Certificate Marks

Trial Marks

Total

1.

Nikhil Mahlawat 180325435

-

B.A.P

08

60

68

SHOOTING (MEN)

S. No.

Name/Reg. No.

Position/ Event

Course

Certificate Marks

Trial Marks

Total

1.

Ritesh Tanwar 180086297

Air Rifle

B.A.P

19

57.18

76.18

SHOOTING (WOMEN)

S. No.

Name/Reg. No.

Position/ Event

Course

Certificate Marks

Trial Marks

Total

1.

Swati Kadiyan 180025865

Air Rifle

History

19

57.6

76.6

2.

Bhavya Singh Naruka

Air Pistol

B.A.P

19

43.1

72.1

TENNIS (MEN)

S. No.

Name/Reg. No.

Position/ Event

Course

Certificate Marks

Trial Marks

Total

1.

SANKET TOMAR 180102998

-

B.A.P

23

48

71

SHOOTING (WOMEN)

S. No.

Name/Reg. No.

Position/ Event

Course

Certificate Marks

Trial Marks

Total

1.

JASMINE CHAWLA 180011648

Freestyle

B.A.P

27

49

76

2.

RIYA YADAV 180112546

Breast stroke

27

47

74

FOOTBALL (MEN)

S. No.

Name/Reg. No.

Position/ Event

Course

Certificate Marks

Trial Marks

Total

1.

SHIVAM BHAKER 180039775

Striker

History

19

47

67

2.

RISHIRAJ SINGH 180017675

Goal Keeper

B.A.P

19

50

50

TABLE-TENNIS (MEN)

S. No.

Name/Reg. No.

Position/ Event

Course

Certificate Marks

Trial Marks

Total

1.

HARSH SRIVASTAVA 180310552

-

B.A.P

19

52.5

71.5

2.

SUNIL KUMAR 180288202

-

HINDI (H)

19

46.5

65.5

TABLE-TENNIS (WOMEN)

S. No.

Name/Reg. No.

Position/ Event

Course

Certificate Marks

Trial Marks

Total

1.

JIYA JAIN 180054899

-

B.(COM)(H)

27

49.5

76.5

2.

SUNIL KUMAR 180288202

-

HINDI (H)

27

49.5

76.5

Sd/-

Sd/-

Sd/-

(Dr. M.P. Sharma)
(Dr. Monica Dinodia)

(Dr. Sharmial Srivastava)

Convener
Convener

Convener

Sports Admission Arts & Commerce
Sciences

14.07.2018

Sd/-

Dr. Rama

Officiating Principal"

12. The petitioner's grievance is that despite her name having figured in the aforementioned list, as having been selected for admission, on the basis of proficiency in air pistol shooting, she was refused admission, by the College, on 17th July, 2018, on the ground that all seats in the B.A. (Programme) stood filled.

13. On the said date, the aforementioned second list, dated 14th July, 2018, was also withdrawn, by the College, by way of a Corrigendum, which reads; "The second list for the sports category in the B.A. (Programme) has been withdrawn with immediate effect due to inadvertent mistake. Inconvenience is regretted".

14. The writ petition takes exception to the aforementioned decision, of the College, to withdraw the second list, pointing out the fact that two seats had expressly been reserved, for girl students, seeking admission on the basis of proficiency in shooting with air pistol and that, therefore, there was no occasion or justification for the College to withdraw the said list.

15. Consequent to issuance of notice, counter affidavits have been filed by the University of Delhi as well as by the College. The counter affidavit of the University of Delhi does not answer any of the contentions of the petitioner, though it draws attention to Clause 9.10 of the Bulletin of Information of the University, which reads thus :

"9.10 Sports/ECA Quota (Supernumerary Seats)

It is mandatory for Colleges to provide sports facilities and encourage all students to participate in sports and extracurricular activities by introducing inter-class competitions and mass sports.

The existing provision of not more than 5% Sports/ECA quota (subject-wise) be continued. The Colleges should be free to decide the actual number of seats to be filled on sports basis (not more than 5%) keeping in view the facilities

available, requirement of the College and other relevant factors. The Colleges are encouraged to provide the information on their website well in advance.

The guidelines for Admissions under Sports/ECA categories will be carried in accordance with the guidelines notified by the University from time to time."

16. The College, for its part, has adopted a stand that, against the B.A. (Programme), only three seats were available for sports quota admissions and that, having admitted fifteen students against the sports quota in the B.A. (Programme) in the first admission list, the said quota of three seats already stood exhausted, which was why they had withdrawn the second admission list.

17. This submission is predicated on the premise that the College could not have admitted more than 5% of the sanctioned number of seats available in the B.A. (Programme), as there was a 5% subject-wise cap, on admissions of students against sports quota. This premise is, in turn, based on Clause 9.10 of the Bulletin of Information issued by the University (supra).

18. The "guidelines for admissions under Sports/ECA categories", as notified by the University, to which the last sentence in Clause 9.10 of the Bulletin of Information makes reference, are, in turn contained in Clauses 9.10.1 and 9.10.2 of the said Bulletin of Information. Of these Clauses, Clause 9.10.2 reads thus:

"9.10.2 Guidelines for admission on the basis of Sports

The Colleges shall notify well in advance, the total number of seats under Sports Quota (supernumerary) alongwith requirement of sportspersons in different Games/ Sports with the respective Position / Event / Weight Category on their College Website and Notice Board. The same would also be notified on the website of University of Delhi. All the constituent Colleges will follow the below mentioned guidelines for admission on the basis of Sports in Undergraduate Programmes:

1. The applicants are required to register themselves and fill online application form available on the DU UG Portal.

2. The charges for registration will be Rs.100/- per game/sport in addition to the charges for the main University registration/application. The admission on the basis of sports will be based on: (a) Super Category: Direct admission without Sports Trial (b) Admission on the basis of Sports Trial. The list of Game/Sport of the constituent Colleges is given in Annexure VI and the list of Position/Event/ Weight Category of Game/Sport of the constituent Colleges is given in Annexure VII."

19. It is clear, therefore, that the guidelines for admission on the basis of sports, as issued by the University itself, does not contemplate a subject-wise cap against admissions of students on the basis of proficiency in various sports.

20. Ms. Seema Dolo, learned counsel appearing for the University, is also unable to assist in this regard, and submits that her instructions are only that, probably,

such a subject-wise cap was being adopted in earlier years.

21. This assertion of Ms. Dolo is refuted by Mr. Puneet Jain, learned counsel for the petitioner, who draws attention, in this context, to the list of the candidates selected for admission by the college, on the basis of sports, for the 2017-2018 academic session, as issued on 15th July, 2017, which indicates that, against the B.A. (Programme), twenty-two students had been selected, of which four had been selected under the Archery quota for men and women, four under the Basketball quota for men and women, two under the Badminton quota for men and women, one under the Chess quota for men, two under the Swimming quota for men, one under the Swimming Olympian direct admission quota, two under the Shooting Air Pistol quota for men and women, three under the Shooting Air Rifle quota for men and women, two under the Shooting TRAP direct admission quota for men and one under the Table-Tennis for men/women. As such, Mr. Jain submits, the contention of the College that it had to withdraw the second admission list, and was handicapped from granting admission to the petitioner on account of its having exceeded the quota of three seats available for admission of women students under the Shooting (Air Pistol) category, is completely misconceived on facts and law.

22. Mr. Jain also submits that, as a matter of fact, the seats reserved for admission of women students on the basis of proficiency in shooting with air pistol, continue to remain vacant and could not be filled.

23. In the absence of any appearance on behalf of the College and on the basis of the material on record, it appears that the contention of the petitioner is well founded. The guidelines applicable for effecting admissions under the sports quota do not indicate that there was a cap on the number of seats reserved subject-wise, for various sports. Rather, the use of the word "Supernumerary" itself indicates that these seats were in excess of the sanctioned strength of seats in the College. The second admission list, issued by the College, clearly showed that the petitioner had been selected for admission against one of the seats reserved for women students on account of proficiency in Shooting using air pistol. The withdrawal of the said list having been based on the premise that only three seats, constituting 5% of the number of sanctioned seats for the B.A. (Programme), were available for admission of students against the sports quota, was obviously misconceived.

24. In view of this judgment, the petitioner would be entitled to admission to the B.A. (Programme) in the College, consequent on the selection list dated 14th July, 2018 (supra).

25. Owing to her non-admission by the College, the petitioner has, I am informed, undertaken the first year course in B.A. (Programme) in the Indraprastha College for Women. Mr. Jain submits that she would, therefore, apply for migration to the College, and seeks a direction to the college to consider her application for migration uninfluenced by the cancellation, by the

College, of the second selection list which was issued by it on 14th July, 2018.

26. I am of the view that this relief necessarily has to be granted in view of the discussion hereinabove.

27. Accordingly, the petitioner would be entitled to apply for migration to the College, in the second year of B.A. (Programme) conducted by it, consequent to her having been selected for admission to the said programme, as reflected in the selection list issued by the College dated 14th July, 2018, having been wrongfully denied admission to the said course.

28. On such an application being made, the College is directed to process and consider the application, uninfluenced by the fact of the withdrawal, by it, of the selection list, issued by it on 14th July, 2018, which is therefore quashed, and treating the said selection list as continuing to be in operation.

29. The writ petition stands allowed to the above extent, with no order as to costs.