
(2010) 08 AHC CK 0100
In the Allahabad High Court
Case No : Special Appeal No. 1368 of 2010

Bhawna Maheshwari	Vs	APPELLANT
State of U.P. and Others		RESPONDENT

Date of Decision : 27-08-2010

Acts Referred:

Citation : (2010) 6 AWC 5834

Hon'ble Judges : Ferdino Inacio Rebello, C.J.;Amreshwar Pratap Sahi, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Ferdino Inacio Rebello, C.J. and Amreshwar Pratap Sahi, J.—Heard learned Counsel for the Appellant and learned standing counsel.

2. The Appellant sought admission in B.T.C. Course, 2004 and the application Form filled up by her indicates that the total number of marks as reflected in the Form was 600 instead of 1000. However, the percentage of the marks were correctly reflected by her as 60 per cent. The results were declared in February 2009 and the notification indicates that in the female general Art category, the minimum cut off merit is 199.02. The Petitioner has not been granted admission and, therefore, she filed the writ petition giving rise to this appeal.

3. Counter-affidavit filed on behalf of the State indicates that the Petitioner had filled up her application Form wrongly in which the total marks have been mentioned incorrectly as such there is a substantial variation in the calculation of quality point marks. The counter-affidavit discloses the incorrect quality point marks as 243.27 whereas on a correct calculation it is 203.33. Her candidature was accordingly rejected on account of such incorrect description.

4. Learned Counsel contends that there was no deliberate attempt on the part of the Appellant to disclose incorrect information and that she has rightly indicated 60% in the application form itself. However, the Petitioner has filed an affidavit before the authority explaining the error, and in view of the minimum cut off

merit of 199.02, she is still entitled for admission as her correct quality point marks are 203.33.

5. The learned single Judge dismissed the petition holding that incorrect disclosure in the form by the Petitioner disentitles her for any relief. For the reasons given hereunder, we are unable to agree.

6. We have examined the records and having heard learned Counsel for the parties, we are of the opinion that the Appellant deserves to be admitted even on the calculation upon reduction as reflected by her inasmuch as her quality point marks is higher than the last cut off merit in the female general Art category claimed by her. In our opinion, the Appellant would not have stood to gain anything by reflecting an incorrect total, moreover, when she correctly reflected the percentage as 60. We, therefore, set aside the order of the learned single Judge dated 22.7.2010 and allow the appeal with a direction to the Respondent No. 3 to reconsider the claim of the Petitioner in the light of the observations made hereinabove and pass appropriate orders within 6 weeks from the date of production of a certified copy of this order before him.