

(2013) 07 DEL CK 0404

In the Delhi High Court

Case No : Writ Petition (C) 4741 of 2013 and CM 10821 of 2013

Danish Habib Khan

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 29-07-2013

Acts Referred:

Citation : (2013) 07 DEL CK 0404

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : Rana Ranjit Singh, Mr. Jaswant Singh and Mr. Vivek Kumar Singh, for the Appellant; Archana Gaur, for R-1/UOI, Mr. Amitesh Kumar and Ms. Mamta Tiwari for UGC, Ms. Ekta K. Sikri and Mr. Sudeep Dey for R-2, for the Respondent

Final Decision : Dismissed

Judgement

V.K. Jain, J.—The petitioner before this Court appeared in the National Eligibility Entrance Test (NEET), 2013, conducted for admission to MBBS Course. The petitioner claims to have secured 95.956 percentile in the said test. He applied for admission to respondent-Jamia Hamdard University in terms of the information bulletin and prospectus for the year 2013-2014. The result of NEET was published on the website on 5.6.2013 and the petitioner received an SMS Alert from the respondent-Jamia Hamdard University on 7.6.2013 reminding him update his NEET scores and All India rank in Jamia admission, so as to complete the application and avoid rejection. Accordingly, the petitioner up-dated his percentile in NEET, 2013 on the website of the university on 7.6.2013. The respondent-university uploaded on 21.6.2013, the notice containing dates for counseling as also cut-off percentile scores and NEET, 2013 of All India rank of the candidates who had applied for admissions to MBBS Course of the said university. The counselling was conducted from 21.6.2013 to 29.6.2013. Since the petitioner did not appear in the said counselling, he could not get admission to MBBS Course of Jamia Hamdard University. The case of the petitioner is that he was under an impression that he would get alert message from the university,

conveying the dates of counselling to him, but no such alert was received by him. According to him, he was suffering from viral fever and lock knee from 20.6.2013 to 4.7.2013. He claims to have downloaded the notice containing counselling dates from the website of the university after 6.7.2013 and is now before the Court by way of this writ petition.

Clause 6 and 8 of the Information Bulletin and Prospectus for the Academic Year 2013-2014 read as under:

6. All the intimation regarding admission in MBBS course shall be displayed on the University website of Jamia Hamdard <http://www.jamiahardar.edu> and no separate intimation shall be given to individual candidate. The candidates seeking admission are required to see the website of Jamia Hamdard regularly. The University shall not be responsible if a candidate fails to get/access information regarding his/her selection/admission process for any reason whatsoever.

7. xxx

8. The University takes no responsibility for any delay in email transmission through website of intimation/selection List etc or any other communication related to admission as per regulations.

2. It is thus evident that the university undertake no responsibility to send any individual intimation or alert to any applicant with respect to the dates of counselling. The university was required to display all the intimation regarding admission to MBBS Course on its website and had specifically stated in the information bulletin and prospectus that no individual intimation shall be given to the individual candidates. Admittedly, the requisite intimation was available on the website of the university. Since the candidates were advised, by way of prospectus to see the website of the university regularly and were also told that the university would not be responsible if a candidate fails to get access/information with respect to his/her selection/admission process, the petitioner had no valid justification to assume that he would get SMS alert or any other intimation from the university, conveying the dates of counselling as well as cut-off list and ranks to the candidates who were called for the counselling. Merely because an SMS alert was sent to all the applicants requiring them to feed their NEET percentile on the website gave no justification to the applicants to assume that they would be getting the same alert with respect to the dates of counselling. This is more so when the university had made it specifically clear to the students that no individual intimation shall be sent to them and they were required to see the website of the university on a regular basis.

3. The learned counsel for the petitioner submits that the petitioner had no access to internet since he is residing in Loni which has no cyber cafe and the petitioner does not have the facility of internet available to him. Such averments cannot be verified in a writ petition. In any case, the reasons given by the petitioner for not being able to access the website of the university are hardly

relevant. If the petitioner did not have internet facilities and there is no cyber cafe in the locality where he is residing, it was imperative for him or for a member of his family to access the website of the university on a regular basis, to ensure that he does not miss the dates of counselling. It would be important in this regard to note that though the counselling commenced on 21.6.2013, considering the percentile obtained by the petitioner, he had enough time at his disposal to access the website and then attend the counselling on the dates fixed for the applicants in reserved category who had obtained percentile between 97.1660 to 95.6553.

4. The learned counsel for the petitioner states that since he was down with fever, he could not access the website during the aforesaid period. This, to my mind, can hardly be a valid ground considering that any member of the colony, including the father of the petitioner who is present in the Court and stated to be a doctor, could have accessed the website of the university even if the petitioner was sick during the aforesaid period. The Court has to keep in mind that in a system of admission through the process of counseling, if the candidate with higher rank is not present at the time of counseling, next applicant in merit gets the seat, which the absent candidate could have got. On his getting admission, a vested right accrues in favour of such a student, and the admission once given to him cannot be withdrawn at the behest of the absent candidate.

For the reasons stated hereinabove, I find no merit in this petition and the same is hereby dismissed. There shall be no orders as to costs.