
(2011) 09 DEL CK 0370

In the Delhi High Court

Case No : Writ Petition (C) No. 4957 of 2011

Deepak Saraswat and Another

APPELLANT

Vs

GNCT Delhi and Another

RESPONDENT

Date of Decision : 13-09-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 9 AD 689

Hon'ble Judges : Kailash Gambhir, J

Bench : Single Bench

Advocate : Anoop Kumar Srivastava, for the Appellant; Mukul Talwar, for GGSIPU and N. Chaudhary, for the Respondent

Final Decision : Dismissed

Judgement

Kailash Gambhir, J.—By this petition filed under Article 226 of the Constitution of India, the Petitioners seek to direct the Respondents to give admission to the Petitioners in the Ph.D programme in the University School of Information Technology.

2. The brief facts of the case as per the petition relevant for deciding the present petition are that the Petitioners applied for admission to Ph.d programme in the discipline of Information Technology to the Respondent University and were selected for the same but were subsequently denied admission. It is the case of the Petitioners that both of them had qualified the GATE examination, which entitled them to be exempted from appearing in the Research Aptitude Test (RAT) conducted by the University for admission in the Ph.d programme but still the Petitioners had appeared in the RAT examination. It is also the case of the Petitioners that they were later called for interview, Petitioner No. 1 on 17.1.2011 and Petitioner No. 2 on 18.1.2011 and thereafter vide notice dated 27.1.2011, they were finally declared selected by the Respondent University and their names were placed in the list of selected candidates at serial No. 4 and serial No. 11, clearly indicating against their names that they were granted

exemption from CET-RAT based on their qualifying the GATE exam. It is also the case of the Petitioners that one candidate, namely E. Bindu was also granted admission in the said Ph.D programme as she along with these Petitioners was also declared selected based on the same fact of qualifying GATE examination. Feeling aggrieved with the said act of the Respondent University, the Petitioners have preferred the present petition.

3. Mr. Anoop Kumar Srivastava, learned Counsel appearing for the Petitioner submits that once the Petitioners were granted exemption from appearing in the RAT test based on their qualifying the GATE examination and were called for interview and thereafter they were finally selected, therefore, the Respondent University cannot now deny the admission on the ground that the University had wrongly not taken into consideration the validity period of GATE examination of the Petitioners. Counsel also submits that once the Petitioners have been duly selected by the University based on their interview then they were treated as exempted candidates from the GATE examination and the University should now be estopped from taking any contrary stand to deny the admission to the Petitioners in the said course. Counsel has also argued that a similarly situated candidate, Ms. E. Bindu was also granted admission in the said course as she was also interviewed by the selection committee based on her GATE qualification. The contention of the counsel for the Petitioner is that the act of the Respondent is discriminatory, non-transparent and the non-disclosure of decision about the final selection wherein the Petitioners were not selected is unfair, unreasonable and arbitrary.

4. Opposing the present petition, Mr. Mukul Talwar, learned Counsel representing the University submits that both the present Petitioners had qualified the GATE examination in the year 2008 but by the time they had applied to seek admission in the Ph.D. programme with the Respondent University, their GATE score had become invalid. Counsel also argued that in the case of Petitioner No. 1 his GATE score was valid up till 15th March, 2010 and so far Petitioner No. 2 is concerned she had not even submitted her GATE score card. Counsel has also argued that these Petitioners had also appeared in the Research Aptitude Test because of their invalid GATE score and in the said RAT examination the rank of Petitioner No. 1 was 363 while Petitioner No. 2 got the rank of 256 out of total 464 candidates who had appeared in the said RAT examination conducted by the Respondent University on 12th December, 2010. Counsel further submits that based on the their said rank, they were ineligible to be called for interview but were erroneously considered and called for interview considering these candidates having qualified the GATE examination and their GATE score being within the validity period. Counsel thus submits that it is only because of the said mistake committed by the officials of the University that the Petitioners were called for interview and they were finally selected to seek admission in the said programme as otherwise they were ineligible; firstly because their validity of GATE score had already expired and secondly their rank position in the RAT was very low. Counsel has also placed reliance on the interim report filed by the

committee of the experts constituted by the Vice Chancellor pursuant to the directions given by this Court to submit that the Petitioners are not entitled to seek admission in the Ph.d programme and have been thus rightly not granted admission.

5. I have heard learned Counsel for the parties at considerable length and gone through the records.

6. The Petitioners herein sought their admission with the Respondent University in the Ph.D programme in the stream of Information Technology and it is not in dispute between the parties that the Petitioners fulfilled the eligibility criteria to seek admission in said course as per the selection procedure laid down by the University in their bulletin. The candidates seeking admission in the Ph.D programme were to be short listed on the basis of UGC/GATE/CSIR/JRF or Research Aptitude Test (RAT) as conducted by the University and after shortlisting the candidates, final selection of the candidates was to take place through the process of interview. In the selection procedure, it was also clearly specified that the NET (JRF)/GATE qualified (with valid dates) candidates, are exempted from taking the test and their evaluation will be on the basis of interview and academic record. The said selection procedure as laid down in the information bulletin of the Respondent is reproduced as under:

Selection Procedure:

Candidates shall be short-listed on the basis of UGC/GATE/CSI/JRF or Research Aptitude Test (RAT) conducted by the G.G.S. Indraprastha University and thereafter Interview shall be conducted. NET (JRF)/GATE qualified (with valid dates) candidates, are exempted from taking the test and their evaluation will be on the basis of interview and Academic record.

Both the Petitioners were called for interview and interviewed by the interview board on 17.1.2011 and 18.1.2011 respectively and both these candidates were called not on the basis of their rank in the RAT exam but on account of the fact that they were treated exempted under GATE category and in the list of selected candidates vide notice dated 27th January, 2011, the Respondent notified the names of these Petitioners and it has been clearly stated against their names "exempted from CET-RAT". It is also not in dispute that rank of both the Petitioners in the RAT exam was much lower out of 464 candidates who had appeared in the said RAT exam which W.P.(C) 4957/2011 Page 7 of 15 could not have entitled them to be called for the interview as the rank of Petitioner No. 1 was 363 with total marks of 36 while the rank of Petitioner No. 2 was 256 with total marks of 49. With the said rank, the Petitioners were not within the zone of consideration and, therefore, they were not supposed to be called for interview as the students who were higher in rank than the Petitioners were also not called for interview. As per the Respondent University, the Petitioners were wrongly called for the interview treating the case of the Petitioners in the exemption category based on their GATE qualification and this error was noticed by Nodal

Authority i.e. Director Research and Consultancy after declaration of the said result and immediately thereafter the names of the Petitioners were directed to be deleted from the tentative list of the successful candidates.

7. Pursuant to the directions given by this Court vide order dated 18th July, 2011, the Vice Chancellor of GGSIPU had constituted a committee to find out as to how the present Petitioners namely Mr. Deepak Saraswat and Ms. Rolly Gupta were declared eligible to participate in the interview and then finally declared selected to seek admission in Ph.D programme. The interim report filed by the said committee has been placed on record and the findings given by the said committee for better appreciation are reproduced as under:

(1) That the case of E. Bindu mentioned in the case does not pertain to the current batch of admissions to the Ph.D. Programme. These new admissions have been done under the revised guidelines of UGC, while the case of E. Bindu was an old and pending case whose process was completed before the revised guidelines of UGC. Thus, the admission of E. Bindu and such other are in order and are as per the decided policy of the University.

(2) As per the inquiry till date, it appears that staff of Dean USIT has not colluded in listing the names of the Petitioners.

(3) The committee in its preliminary inquiry realized that both the Petitioners were called for the interview because of a confusion and an innocent mistake. While going into records and from the explanation of the Dean USIT it appears that following facts created the confusion which led into the calling of the Petitioners for interview. The facts are:

(i) Both the Petitioners in their applications from Ph.D. admission have ticked the column themselves under exempted category represented as qualified, GATE (GATE candidates exempted from RAT)

(ii) These candidates though being exempted from RAT also appeared in RAT.

(iii) These candidates were aware that they were not exempted under GATE, category as their validity was only upto March 10, 2010.

(iv) These candidates were not called for interview on the basis of RAT (Conducted by University) in which both the Petitioners scored very low. Both these candidates were called under the exempted category which the Petitioners claimed in their application form.

(v) On the basis of the interview the names of the Petitioners were placed in the list of the selected candidates.

(vi) However, the Director Research & Consultancy Prof. A.K. Narula while again verifying the forms of selected candidates found that the GATE validity of both the Petitioners was only valid upto March 10, 2010 and thus these candidates were disqualified to claim exemption under GATE.

(vii) The Director Research & Consultancy on finding this fact struck off the names of the Petitioners from the list of the selected candidates on the grounds of invalid GATE score as the last date of receiving application was 01.11.2010.

Hence, it is evident from the above report that both the Petitioners in their application forms had ticked the relevant columns themselves under exempted category although both these candidates were well aware of the fact that they were not entitled to seek exemption under the GATE category. The counsel appearing for the Petitioners has not advanced any arguments to contradict the said findings given by the said committee. Both the Petitioners had taken the GATE examination in 2008 and the validity of the score is for two years only. The validity of the GATE score of Petitioner No. 1 had already expired in March, 2010 and thus he was not entitled for exemption to undertake RAT exam and similarly Petitioner No. 2 did not even place on record his GATE score card for seeking the exemption for appearing in the RAT examination. It is evident that the Petitioners herein were aware of the fact that they are not eligible for seeking exemption to RAT and had therefore appeared in the same but had secured a dismal score due to which they would not have been entitled to get a call for the interview. This Court is appalled by the contumacious conduct of the Petitioners in W.P.(C) 4957/2011 Page 11 of 15 approaching this Court with unclean hands and suppression of facts claiming relief by putting the blame on the Respondents.

8. The contention of the counsel for the Petitioner that the conduct of the Respondent is discriminatory vis a vis Ms. E. Bindu also does not subsist in the face of the submissions vide the interim report stating that the her admission was of the year 2008 batch and not for the current batch wherein the Petitioners had applied and thus does not in any way cause prejudice to the case of the Petitioners.

9. This Court however sounds a word of caution to the Respondent university for being more careful to carry out a more painstaking scrutiny of the documents and application forms as in the present case also the documents should have been examined by the concerned branch of the Respondent university in time to exactly know as to whether these candidates were entitled for exemption from the RAT examination based on their GATE qualification and there is undoubtedly negligence on the part of the concerned officials.

10. Be that as it may, at the same time because of the said mistake committed by some officials of the Respondent University, the Petitioners cannot be allowed to seek admission in the Ph.D. programme when they were totally ineligible to seek admission under the said programme. Here it would be useful to refer to the judgment of this Court in the case of Ritu Aggarwal v. Indian Institute of Foreign Trade WPC No. 7573/2011 decided on 19.7.2011 where I had the occasion to deal with another case of cancellation of wrongful admission wherein it was held as under:

The grievance of the Petitioners in these petitions is that they cannot be made to

suffer for no fault on their part and the Respondent is estopped from canceling their admissions once they were granted admission. The rescue of the doctrine of promissory estoppel will not be available to the Petitioners in the present case as the doctrine is an equitable doctrine and it must yield when equity requires. The Respondent has committed a patent mistake in wrongly declaring the result and if admissions of the Petitioners herein are allowed to subsist, it would lead to injustice to those who are not before the court and have achieved meritorious positions to secure their admissions. Also, it cannot be lost sight of the fact that the Respondent institute has within reasonable time realized the error on its part and cancelled the admission within reasonable time, and it is not as if the Petitioners herein had pursued a substantial period of their MBA programme. It is a settled legal position that an order which was wrong and illegal at its very inception cannot become the foundation for perpetuating further illegality, it cannot be allowed to exist to the detriment of the others who are the rightful claimants. It is also a settled legal position that the courts in exercise of the writ jurisdiction should not interfere in academic matters and no orders should be passed for protecting the interests of the students on the grounds of misplaced sympathy. Therefore, this Court is not inclined to exercise its equitable jurisdiction for passing any order in favour of these Petitioners.

10. It is manifest and cannot be overlooked, that the criteria laid down by the Respondent for admission consisting of a written test and then for a group discussion, essay writing and interview etc. is with the object to select the best from the lot for the said MBA (International Business) programme. Today in the time of cut throat competition, there are umpteen number of candidates vying for every single seat and it is a hard hitting reality that admission to various colleges, especially to the professional institutes like the Respondent have become a Herculean task. It is unlike the bygone days when the marks in the last examination cleared would entitle you to admission in a professional course as now a lot of factors are taken into consideration which are measured by the yardstick of written examination, group discussion, etc. Undertaking a professional course from a prestigious college guarantees the future in the job arena and hence students prepare for months for these exams, enrolling themselves in coaching centers, taking tuitions, so that they are able to make it to the top notch institutes. Merit and merit alone is the mantra today and being able to get admission in the desired college is a dream come true for many. Undoubtedly, the Respondent and other such institutes have to be very careful and diligent with the expert staff in place to prepare the correct result of such candidates and any wrong declaration of the result, can jeopardize the career and future of these students. It is no doubt possible that had these Petitioners known that they were selected for the Kolkata campus they certainly could have tried their luck to seek admission in some other course or with some other professional institute. Admittedly their ranking in the merit list is much lower than the ranking of the last candidate who secured admission at Delhi, which is a case of one Arnav Kapoor, who secured the rank of 286 and while the last

candidate who secured admission at the Kolkata campus was at the rank of 592. Certainly there cannot be any justification to perpetuate such a wrong and that too such a wrong which would demoralize the meritorious candidates. The writ jurisdiction is jurisdiction of equity and this equitable jurisdiction cannot be exercised in favour of those who are not entitled to such a relief. If the case of these Petitioners is accepted then even a student having failed in exam but wrongly declared successful in the admission will also claim his admission because of such wrong declaration in his results. The Petitioners thus cannot claim any advantage and rather undue advantage because of the error committed by data operator at the time of insertion of their marks.

Even in the present case, the mistake on the part of the officials of the University has been detected at a very initial stage and, therefore, also the Petitioners cannot claim any undue advantage of the said mistake committed by the Respondent without any comparison with the other candidates who stand higher in rank in the merit list of RAT exam.

11. In the light of the above discussion, this Court does not find merit in the present petition the same is hereby dismissed.