

(2021) 08 DEL CK 0108

In the Delhi High Court

Case No : Civil Writ Petition No. 8522 Of 2021, Civil Miscellaneous No. 26389-26391 Of 2021

Divyam Shekhawat

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 17-08-2021

Acts Referred:

Citation : (2021) 08 DEL CK 0108

Hon'ble Judges : Manmohan, J;Navin Chawla, J

Bench : Division Bench

Advocate : Jaideep Singh, Farman Ali, Athar Raza Farooquei

Final Decision : Dismissed

Judgement

Manmohan, J

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the rejection notification dated 27th July, 2021 and Advertisement dated 08th September, 2020 to the extent it requires the provisional certificate to be issued before 01st April, 2021 for entry to Short Service Commission [SSC]- 56 (T). Petitioner also seeks direction to the respondents to grant the petitioner joining of Technical Entry, SSC.
3. Learned counsel for the petitioner states that the Petitioner graduated with a B.Tech. degree from SRM Institute of Science and Technology in June, 2021 instead of April 2021 because of delays caused due to COVID19 pandemic. He states that though the Petitioner had secured Rank 17 in the All India Merit List out of a vacancy of 40, yet, the respondents cancelled his candidature for the 56th course, SSC (Technical), Chennai only on

the ground that the provisional certificate of his final degree was issued by his University on 10th June, 2021 instead of being issued earlier between

1st Feb, 2021 and 1st April, 2021. He further states that the Petitioner's college was following the guidelines that were issued by the Government

of Tamil Nadu including order dated 22nd March, 2021 vide which the Government had asked all the Educational Institutions to only conduct classes

and complete internal and practical exams between 23rd March, 2021 to 31st March, 2021.

4. Learned counsel for the petitioner also states that the impugned notification has been issued in violation of principles of natural Justice as the

Petitioner's admission was cancelled without issuing him a show-cause notice or giving him an opportunity of hearing. He states that the

Petitioner's representation to Respondent No. 3, Directorate General of Recruiting was not accepted. In support of his submission, he relies upon

the judgment of the Supreme Court in National Medical Commission vs. Mothukuru Sriyah Koumudi and Ors., 2020 SCC OnLine SC 992.

5. Having heard learned counsel for the petitioner, this Court is of the view that recruitment process to SSC cannot be brought to a standstill just

because educational institutions are delaying issuance of degrees due to Covid-19 guidelines. This Court takes judicial notice of the fact that there are

many educational institutions which routinely delay issuance of degrees and if the time for furnishing the degrees is extended in the present case, it will

have to be extended in all other cases. Accordingly, if the argument advanced by the learned counsel for the petitioner is to be accepted, it may mean

that the recruitment process of the Indian Army would never come to an end!

6. Undoubtedly, stipulation of any cut-off date for furnishing any certificate may operate inequality against a few individuals but that cannot be a

ground for setting aside the stipulation on that ground. In any event, the petitioner has the option to sit in the next year exam.

7. Moreover, the date of 01st April, 2021 for furnishing the proof of passing degree exam had been stipulated in the advertisement and the petitioner

having participated in the recruitment process pursuant to the said advertisement cannot subsequently challenge it.

8. Further, in National Medical Commission (supra), the dispute before the High Court was whether the student had approached the respondent No.2-

college before the last date prescribed for admission i.e. 30th July, 2020. The High Court, in the said case, after considering the entire material on

record had concluded that the student had visited the college and had paid the university fees on 29th July, 2020. The High Court also held that

respondent No.2-college had intentionally and illegally denied admission to student to GS-MS (General Surgery) seat for the academic year 2020-2021

year. Accordingly, the question that arose for consideration before the Supreme Court whether the High Court was right in directing creation of an

additional seat for the academic year 2020-2021 for granting admission to the said student. The Apex Court after referring to its judgment in S.

Krishna Sradha vs. The State of Andhra Pradesh, 2019 SCC OnLine SC 1609 directed the respondent No.2-college to grant admission to the student

in the next academic year i.e. 2021-2022 and directed payment of compensation of Rs.10 lacs to be paid by respondent No.2-college. Consequently,

the judgment of the Supreme Court in National Medical Commission (supra) has no application to the facts of the present case.

9. Also, there must be many similarly placed candidates who may not have even applied under the advertisement knowing very well that they would

not be able to furnish proof of passing the degree exam by 01st April, 2021. Consequently, if relief is granted to the petitioner, it would amount to

discrimination against similarly placed law-abiding candidates. Accordingly, the present writ petition being bereft of merit is dismissed along with

pending applications.

10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.