
(2005) 12 DEL CK 0114

In the Delhi High Court

Case No : Writ Petition (C) 11352 of 2005

Dr. Abhay Mohan Thakur

APPELLANT

Vs

Union of India (UOI) and Another

RESPONDENT

Date of Decision : 08-12-2005

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2005) 12 DEL CK 0114

Hon'ble Judges : S. Ravindra Bhat, J

Bench : Single Bench

Advocate : Party-in-Person, for the Appellant; Mukul Gupta and Ankur Jain for respondent AIIMS and Shishir Singh, for Ashwani Bhardwaj, for the Respondent

Final Decision : Dismissed

Judgement

S. Ravindra Bhat, J.—In the present proceedings, the petitioner has questioned the selection process for admission to the Ph.D. course in Radiotherapy Department of the second respondent (hereafter referred to as "the Institute") finalised on 19.1.2005 and he also seeks consequential directions.

2. The petitioner qualified in the MBBS examination in 1988. He passed the DMRT (Diploma in Medical Radiotherapy) examination in the year 1994. He subsequently taught for a period of three years between 1999-2002. He claims to have published some articles in International Oncology Journals. Sometime in August/September 2004, the Institute advertised for filling up two posts of Ph.D. in Radiotherapy for the January 1995 session. The petitioner applied for registration of the entrance examination; he was issued with an admit card on 15.1.2005. The Institute conducted the examination for admitting suitable candidates on 16.1.2005. The petitioner appeared in the written examination (stage-I); the results were declared on 17.1.2005, where he qualified.

3. The admission procedure included a second stage, namely, departmental assessment examination (Stage-II). This was conducted by the Institute on

19.1.2005. The petitioner's name was not included in the final results published on 20.1.2005. He represented on 22.1.2005 alleging that the results of the departmental assessment were not correct and that he had answered most of the questions correctly. He alleged that the Departmental Assessment Committee of Radiotherapy lacked basic knowledge of the subject and its members were prejudiced against him. He sought for re-assessment through another departmental assessment examination. In another representation dated 9.2.2005, he claimed that despite being the only candidate who appeared in the written examination, the Institute had declared the result of two other candidates who never appeared.

4. The petitioner has challenged his non-selection on the one hand and the selection of the other candidate as arbitrary and unreasonable.

5. The Institute in its reply has taken the stand that the performance of the petitioner in the departmental assessment was below requisite standard; he was awarded 1 mark out of 30. It is alleged that the assessment of the entire faculty in that regard was unanimous. As per the bench mark required for selection a candidate was to secure a minimum of 50% out of 100. Petitioner had secured 40%. On the other hand, the only other candidate (Ms. Gursimran Kaur) who was eventually selected, secured 69 marks out of 100. It is averred that second seat was left un-filled.

6. The petitioner argued the matter himself. He made two fold submissions. One, that when he took the written examination, no other candidate had appeared for Radiotherapy and that the inclusion of two other names in the final list was arbitrary. It is claimed that such an action amounts to favoritism and is contrary to the norms. It is also submitted by the petitioner that at least two members of the Departmental Assessment Committee including Prof. P.K. Julka had assured that he performed well and had been selected. Hence, the final result was arbitrary and consequence of manipulation.

7. Mr. Mukul Gupta, learned counsel for respondent Institute refuted the allegations. He submitted that in the first stage of examination of admission to Ph.D. Radiotherapy, three persons had participated in the written test, of whom two, namely, the petitioner and one Dr. Gursimran Kaur were able to qualify. The admission procedure contemplated a second stage in which the candidate had to face a departmental assessment by six examiners who were senior faculty members. The petitioner's performance was very poor whereas that of the other candidate performed as per the prescribed level. Consequently, the petitioner could not be admitted since the total marks secured by him were below the bench mark of 50% prescribed. It was submitted that only one seat was filled and the other seat remained vacant or un-filled since no candidate had fulfilled the criteria laid down.

8. Learned counsel for the Institute also produced the copies of the relevant documents containing the declaration of result, the award of marks and the

minutes of departmental assessment held on 19.1.2005.

9. The admitted facts are that the petitioner qualified in the written examination held on 17.1.2005. Thereafter, when the final result was notified pursuant to the departmental assessment, the petitioner's name did not figure in the select list. In the first representation made on 22.1.2005, the grievances articulated by him were that the Assessment Committee did not properly evaluate his performance. There were no other allegations of irregularity or favoritism. Indeed, he did not allege that he was the only candidate who was appeared in the examination. In the subsequent representation of 9th February, 2005, the petitioner appears to have raised the issue of other candidates for the first time.

10. Having regard to the above conspectus of facts and also after considering the records, I am of the opinion that contentions of the petitioner that he was the only candidate and that no other person competed for admission to Ph.D. Radiotherapy is far fetched and cannot be believed. The results of the stage-I examinations, which have been produced, disclose that in fact three persons had appeared amongst whom two qualified, one was undoubtedly the petitioner. The results of the departmental evaluation likewise show that the two candidates who cleared in stage-I were considered by the Committee comprising of 6 faculty members; all of them are experts. As per the evaluation, the petitioner could not qualify for admission. It is well settled that in judicial review proceedings, the Court does not re-appreciate the task undertaken by experts in a particular field much less in the academic field where senior faculty members unanimously recommend or mark a candidate, for the purposes of admission, as in the present case.

11. In view of the above conspectus of facts and conclusions, I am of the opinion that the petitioner has not made out any case for interference under Article 226 of the Constitution of India. The writ petition is accordingly dismissed with no orders as to costs.