

(2017) 08 DEL CK 0071

In the Delhi High Court

Case No : 6695 of 2017

FARHEEN JAHAN

APPELLANT

Vs

UNIVERSITY OF DELHI AND ORS

RESPONDENT

Date of Decision : 21-08-2017

Acts Referred:

Citation : (2017) 08 DEL CK 0071

Hon'ble Judges : Indermeet Kaur

Bench : SINGLE BENCH

Advocate : Akhil Sibal, Javed Ali, Mohinder J.S.Rupal

Final Decision : Disposed off

Judgement

1. Petitioner had applied for the LL.B.Entrance Examination in the OBC category. Her OBC rank was 229; her combined rank was 1573. Counselling dates were fixed between 18.7.2017 to 21.7.2017. In the first list the petitioner was not able to attend the counseling because of unfortunate and unforeseen circumstances. Her three month old daughter was not well at Ghaziabad. The doctor had in fact advised her daughter for an in-house admission. The petitioner was required to take complete care of her infant baby. It was in these circumstances, she could not attend her counseling. This happened while she was at her parental home at Ghaziabad. The petitioner returned to her matrimonial home on 24.7.2017. On 25.7.2017 she went to the University in the hope of getting permission to attend the counseling session but the Students Help Desk informed her to come on the following day and not to panic. She went to the University on 26.7.2017 but she was not permitted to participate in second round of counseling. She was however told that her case would be considered sympathetically; she was all along hoping that she would be permitted to join the counseling as she had scored well.

2. On 04.8.2017, these contentions of the petitioner were noted. Learned counsel appearing for respondent had taken time to obtain instructions qua the status of the petitioner. The matter was adjourned to 09.8.2017. Again on 09.8.2017 the

matter was adjourned to 18.8.2017 when again the counsel for respondent sought time to take instructions. Today it has been informed to the Court that the respondent has taken out a third list of students and the rank has gone up to 1573 and the student who had obtained rank of 1573 would be entitled to admission in the LL.B course of the Delhi University. It is stated that the University has around 2000 seats.

3. This Court notes that with the consent of the parties since the parties are ready with their respective submissions (without a written reply) it has been agreed that the petition be disposed of.

4. Learned counsel for respondent admits that although the respondent had taken time to take instructions as to whether a policy decision would be applicable in the case of the petitioner but no such policy has been formulated till now. Learned counsel for respondent points out that as per the Information Bulletin (for admission to the LL.B course) it has been clearly specified that the candidates are to report in person in the Office of the Admission Committee along with all relevant documents; those candidates who failed to appear in person on the specified date and time would forfeit their claim for admission. Attention has been drawn to the aforementioned rules on counseling which is contained in the Admission Brochure. It reads as under: "1.The candidates eligible for counseling will report in person at the office of Admission Committee on the specified date and time with all relevant documents in original along with photocopies and fees. At the time of reporting for counseling, the candidate shall produce the Admission Ticket and also the original certificates/marksheet(s).

2.The candidates failing to appear in person on the specified date and time for counseling shall forfeit his/her claim for admission. All candidates including those whose results of the qualifying Degree examinations have not been declared must attend counseling as per the schedule."

5. Per contra learned counsel for petitioner points out that Annexure A-8 (page 72 of the paper book) which is the Notice qua admissions for the LL.B course for the year 2016-17 (last academic year) had clearly specified that those students who had got entrance ranks but could not visit the Faculty for document verification could report to the Faculty for admission and verification of the documents on date mentioned thereafter. Submission is that in the last academic year the admission criteria for those students who could not report on the date fixed for documents verification could report on a subsequent date after the second admission list had been declared. The same pattern should be made applicable in the instant case as well as the petitioner has otherwise qualified on merits but at the cost of repetition was unable to attend the counseling for the exceptional reasons as noted supra. Her case should not be thrown out straightway.

6. The admission for the LL.B. Sessions 2016-17 vide which the criteria had been relaxed and which has been pointed out by learned counsel for petitioner reads

herein as under: "Information on the Vacant Seats after Second Admission List and the Number of applicants to report at Faculty of Law for document verification. 1.Those candidates, (a) who have got Entrance Ranks as given in "Table 1" below, But (b) who could not visit the Faculty of Law for document verification earlier or whose full list of documents were not verified untill 29th August 2016, shall report to the Faculty of Law (Old Building) for the Admission, subject to the verification of the eligibility criteria. They must report to the Centre between 15th -16th September 2016 (10:30 AM to 05:30 PM). It is understood these candidates must have got their information updated on the PG Admission Portal, regarding qualifying examination marks, Centre preferences, and other relevant information (wherever applicable).

Tabale 1

Category Entrance Examination Ranks*

Unreserved (UR) 1451-1639 (combined rank)

OBC 836-948 (category rank)

SC 482-564 (category rank)

ST 252-290 (category rank)

* The candidates who were supposed to report as the entrance examination ranks in the earlier announced lists (in any of the categories-UR, OBC, SC,ST), shall not be considered in this list.

7. Learned senior counsel for petitioner in support of his submission has placed reliance upon a judgment of this Court reported Shri Kuldeep Singh Vs. State Council of Education Research wherein that petitioner who could not attend the counseling session because of illness (jaundice) had been permitted to attend the counseling at a later date; an interim order had also enured in his favour. Submission is that this judgment was not interfered with by the Division Bench while disposing an LPA (LPA No.2152/2006) on 19.3.2007 (copy of the order has been placed on record). Learned counsel for the petitioner has also placed reliance upon another judgment of the Apex Court reported as (2005) 9 SCC 779 Dolly Chhanda Vs. Chairman, JEE and Others to support the same submission; argument being that a due which is otherwise available to a party should not be disallowed only because of a mistake which has been committed by the party which in that case was noted to be inadvertent (para 9 of the said judgment).

8. Per contra learned counsel for respondent points out that the Apex Court in the judgment reported as 2006(12) SCALE Minor Sunil Oraon T.R. Guardian & Ors. Vs. C.B.S.E. & Ors. has held that it is not for the Courts to interfere with the policies laid down by the statute and such a misplaced sympathy projected by the Courts granting interim relief to such like candidate is an ill-conceived sympathy which is a wrong exercise of the judicial discretion by the court in. For the same proposition reliance has also been placed upon a judgment of the

Division Bench reported as Zini Chaurasia Vs. University of Delhi .

9. Arguments have been heard.

10. This Court is of the view that in the facts and circumstances of the instant case, the case of the petitioner must succeed.

11. The petitioner is admittedly a candidate of the OBC category. She had qualified rank 229 in the OBC category and had 1573 rank in the combined list. Today the third list of candidates for the LL.B course has been uploaded up to rank 1573 i.e. all students up to the rank of the petitioner have been granted admission. The case of the petitioner is that she could not attend her counseling on the specified date and time (between 18.7.2017 to 21.7.2017) for unforeseen reasons. The unforeseen reasons were that her 3 month old infant baby had been advised to be admitted to a hospital as she was suffering from acute vomiting and diaherrea. The medical certificate of the baby further evidences that this medical certificate has been issued by a doctor at Ghaziabad i.e. the place where the petitioner was staying at that point of time which was her parental home. Since the baby was just 3 months old and required in house-hospital admission (because of her medical condition as she was suffering from acute diaherrea and bouts of vomiting), the petitioner has necessarily to stay back in Ghaziabad. Counselling by that time was over. When the petitioner returned to her matrimonial home on 24.07.2017 and on her search on the website of the University she learnt that the counseling dates were over; her repeated visits to the University gave no positive response; although she was repeatedly promised that her case would be looked at sympathetically.

12. In the judgment of Kuldeep Singh (supra), a Bench of this Court had noted the circumstances where a student of LL.B. course has been lost out his chance to go for counseling as he was suffering from a bout of jaundice and being an unforeseen circumstances and beyond the control of the petitioner, he had been granted interim relief and he thereafter had been allotted a seat in the LLB. Course. This judgment had been upheld by the Division Bench. This judgment is squarely applicable to the facts of the instant case; the factual scenario is similar. The petitioner could not attend counseling for reason beyond her control. This has already been noted supra.

13. The judgments relied upon by the learned counsel for the respondent would not apply to the facts of the instant case. The judgment of Minor Sunil Oraon (supra) was a case where the eligibility conditions were the criteria for consideration. In Zini Chaurasia (supra) what had weighed in the mind of the Court was that another candidate had already got admission; there were no other seats available, the admitted candidates admission could not be upset. Ratio of the said judgments would be inapplicable to the instant case.

14. This Court also notes that in the last academic year the cases of similar persons had been considered on more sympathetic grounds and those students who could not appear for document verification had thereafter been permitted to

appear on a later date.

15. In the instant case out of 2000 seats which are available in the Delhi University 1573 have been filled up till date. The petitioner in the OBC category has ranked 229 and in the general category has 1573 rank cumulatively. Vacant seats are available with the University.

16. In the peculiar facts and circumstances of the case, the petitioner is entitled to join next counseling which is fixed for today and tomorrow.

17. The petitioner having been granted permission to participate in the counseling which is scheduled for today and tomorrow nothing else survives in this petition. Petition disposed of in the above terms.