
(2006) 03 DEL CK 0069

In the Delhi High Court

Case No : CM 2799 of 2006 in Writ Petition (C) 3234 of 2006

Indrani Sarma

APPELLANT

Vs

University of Delhi and Others

RESPONDENT

Date of Decision : 17-03-2006

Acts Referred:

Citation : (2006) 128 DLT 556

Hon'ble Judges : Vikramajit Sen, J

Bench : Single Bench

Advocate : Rajeeve Mehra and Arijeet Ganguly, for the Appellant; Anurag Mathur, for the Respondent

Judgement

Vikramajit Sen, J.—Counter Affidavit filed by Respondent No. 1 is taken on record.

2. The facts of the case are that the Petitioner had applied for admission to the M.A.(Prev.) Course in Hindustani Music in the Delhi University. At the time when she had filed her application, she had stated that the Results of B.A.(Hons.) in Hindustani Music were awaited. This was for the reason that she had re-appeared in her Final Year Papers after surrendering her previous marks. In these Examinations, she came to obtain 46.1% marks. It is the Petitioner's case that the Respondents were duly informed of her percentage in July, 2005, although this stand is vehemently opposed by the Respondents.

3. On 7/8th July, 2005, the Petitioner had appeared and passed the Entrance Examination. As per the Counter Affidavit, a List was put up on 17.11.2005 requiring the Petitioner and thirty other persons (from a total class of about forty students) to meet the Office for verification of their Certificates. The same Notice was thereafter put up on 9.1.2006. It is indeed tell-tale that the Notice of January, 2006 contains the entire list of Students in the said Course, out of which the names of students from Seriall No. 32 to 43 has been cancelled out by hand. To me, it seems to be a mechanical exercise. The Petitioner's admission has sought to be cancelled by Order dated 17.2.2006 on the grounds that she does

not fulfill the eligibility criteria.

4. The eligibility conditions of the Course reads as follows:-

ELIGIBILITY CONDITIONS AND COURSE REQUIREMENT FOR ADMISSION TO
MASTER OF ARTS (VOCAL/INSTRUMENTAL) (HINDUSTANI/KARNATAK) MUSIC
COURSE

Examination Passed

Minimum Percentage of Marks Required

For Hindustani Music

1. B.A. (Hons.) (Hindustani) Music Examination of Delhi University or an examination recognised as equivalent thereto.

50% marks in aggregate.

2. B.A. (Pass) Examination of Delhi University with Music as one of the elective subjects or an Examination recognised as equivalent thereto.

45% marks in aggregate;

60% marks in the subject Music.

3. B. Music (Hons.) (Vocal or Sitar/Sarod) Examination from Indira Kala Sangeet Vishwavidyalaya, Khairagarh;

50% marks in aggregate.

4. B.A./B.Sc./B.Com Examination of Delhi University or an examination Recognised as equivalent thereto and also having passed anyone of the following Examinations:-

45% marks in aggregate.

Sangeet Shiromani Diploma (Hindustani) Examination of Delhi University 60% marks in aggregate.

Sangeet Visharad/Kovid/Vid/Sangeet Prabhakar 60% marks in aggregate.

5. The University states that since the Petitioner has not obtained 50% marks in aggregate as envisaged in the 1st category, she is not eligible to pursue the M.A. (Prev.) Course in Hindustani Music. The contention of the learned Counsel for the Petitioner is that the Petitioner falls in the fourth category in that she has 45% marks in a Course of higher proficiency, i.e. B.A.(Hons.)(Hindustani) Music together with the Sangeet Shiromani Diploma (Hindustani) with 60% marks in aggregate. It is also averred that in July, 2005 itself this question had been raised and answered in favor of the Petitioner.

6. At this stage, I am unable to accept the arguments on behalf of the University that in order to be eligible under the fourth category, the Petitioner should have

merely been a B.A./B.Sc./B.Com. student and the fact that she holds a more specialized and topical qualification i.e. B.A.(Hons.) (Hindustani) Music she would be disentitled to admission whereas persons with Lesser qualification would be entitled. If there is any ambiguity in the criteria, I am in no manner of doubt that it should be construed favorably for the student.

7. In Bal Krishna Tiwari Vs. Registrar of Awadhesh Pratap Singh, University, Rewa and Others, , it has been held that unless there is a mis-statement estoppel will apply in favor of the Student who has already pursued a substantial part of the Course. In these circumstances, a strong prima facie case is made out in favor of the Petitioner. The balance of convenience is in her favor as she is at the stage where she has to appear in the M.A.(Prev.) Course Examination.

8. The application is disposed of with a direction to the Respondents that the Petitioner be permitted to appear in the M.A.(Prev.) (Music) Examination for the year 2005-06 subject to the outcome of this Writ Petition. WP(C) No.3234/2006

9. RULE.

10. dusty.