

(2009) 09 DEL CK 0435

In the Delhi High Court

Case No : Writ Petition (C.) No. 10773 of 2009

Ishita Goel

APPELLANT

Vs

The Principal and Others

RESPONDENT

Date of Decision : 04-09-2009

Acts Referred:

Citation : (2009) 09 DEL CK 0435

Hon'ble Judges : Anil Kumar, J

Bench : Single Bench

Advocate : Manoj Singh, for the Appellant; Mohit Gupta, for the Respondent

Final Decision : Dismissed

Judgement

Anil Kumar, J.—The petitioner has filed this petition impugning the decision of the respondents declining admission to the petitioner in B.Com (Hons) on account of not obtaining 50% marks in Mathematics.

2. The petitioner contended categorically in the petition that objection put forth by respondent No. 2 that for admission to the B.Com (Hons) 50% marks in the subject of Mathematics is required is contrary to the eligibility conditions and the petitioner could not be denied admission on this ground. The contention of the petitioner is that since Central Admission Committee is the supreme admission committee for all the admissions in the college and it had approved her admission after going through the extracurricular activity committee recommendations and the marks obtained by the petitioner in all the subjects including Mathematics, admission of petitioner to B.Com (Hons) could not be denied. In the circumstances, the petitioner has prayed for a direction to respondents to give admission to the petitioner in B.Com (Hons) first year course in the ECA category at the earliest.

3. Along with the petition the copy of the admission form of the petitioner was filed, however, the copy of the eligibility condition for admission to the course of B.Com (Hons) were not filed. The learned Counsel for the petitioner contends

that the copy of the prospectus was not given to him. The petitioner is present and she has stated that the copy of the prospectus was given by her to Mr.Dinesh Kumar, a family friend who had instructed the Counsel and who had not given the copy of the prospectus to the Counsel for the petitioner. The writ petition was taken up on 11th August, 2009 and on 13th August, 2009. The show cause notice was issued to the respondents on the ground that no eligibility condition contemplated that the candidate should have had 50% marks in the subject of Mathematics for admission to B.Com (Hons). The copy of prospectus or eligibility conditions in the prospectus were not filed. A copy of admission form was filed which stipulated that the College Prospectus, 2009 should be read before filing the form. It was contended on behalf of the petitioner that no such eligibility condition of scoring 50% marks in Mathematics was stipulated for Admission to B.Com (Hons).

4. A reply dated 1st September, 2009 has been filed. In the reply the respondents have stipulated the eligibility conditions for admission to B.Com (Hons). The eligibility conditions for B.Com (Hons) as detailed in the reply are as under:

1. One language out of core/elective/functional Hindi or English and
2. Three best elective subjects out of Accountancy, Economics, Business Studies/ Commerce/Elements of Commerce; Statistics/Business Statistics; Maths/ Business Maths, Computer Science, Informatics Practices and Entrepreneurship.
3. Minimum 50% marks in Mathematics/Business Maths.
5. Perusal of the eligibility conditions categorically reflects that minimum 50% marks in Mathematics/Business Maths are required for admission to B.Com (Hons) course. Apparently the petitioner did not file the relevant eligibility conditions at the time of filing the writ petition.
6. The learned Counsel for the petitioner has relied on the eligibility conditions for admission under the sports quota and co-curricular activities which only stipulates that not more than 5% of the total number of seats in the first year of Under Graduate courses shall be offered for admission on the basis of sports and co-curricular distinction. The said provision only contemplates that the merit of the students under the sports quota shall be different but it does not exempt the minimum eligibility conditions for admission to a particular course. The said provision does not lay down that the candidates getting admission under the sports quota would not be required to obtain 50% marks in mathematics in the qualifying examination for admission to B.Com (Hons).
7. According to the learned Counsel nothing is provided under the rules and procedures for admission on the basis of sports and co-curricular activities. Since nothing has been provided regarding the minimum eligibility in the sports quota except that 5% seats shall be filled under sports quota, the contention of the learned Counsel for the petitioner that the minimum eligibility condition for

admission to B.Com (Hons) course would not applicable to the petitioner cannot be accepted. The respondents were justified in insisting for 50% marks in Mathematics and business Maths for admission to the course of B.Com (Hons) which eligibility condition is not fulfilled by the petitioner and consequently it cannot be held that the admission has been denied incorrectly to the petitioner by the respondents.

8. The reason given by the learned Counsel for the petitioner that he filed the petition without producing minimum eligibility conditions with the petition as according to him such eligibility conditions are not applicable, is not acceptable. What was contended on behalf of the petitioner was that eligibility condition is only 45% marks in qualifying examination and not 50% marks in the subject of mathematics in the qualifying examination. Under rules and procedures for admission on the basis of sports and co-curricular activities, minimum percentage of 45% in the qualifying examination is not provided. In the circumstances it cannot be inferred that minimum marks of 50% in the subject of Mathematics for admission to B.Com (Hons) will not be applicable for admission under the sports category. For admission to B.Com (Hons) minimum 45% marks in aggregate in the qualifying examination are provided under the same eligibility conditions, a copy of which, it appears, was not produced by the petitioner.

9. In the circumstances, it is apparent that the petitioner had tried to conceal the minimum eligibility condition for admission to B.Com (Hons). Suppression of material facts by the petitioners by itself is a sufficient ground to decline any relief to the petitioner. A party must approach the Court with clean hands and disclose all material facts which may in one way or the other have direct bearing on the outcome of the case. One who comes to the court, must come with clean hands. A person who's case is based on concealment, has no right to approach the court. He can be summarily thrown out at any stage of the litigation. In *G. Narayanaswamy Reddy (dead) by L.Rs. and another Vs. Government of Karnataka and another*, the facts were not disclosed in the SLP and the Court came to know the said facts from the counter affidavit filed by the respondents. The petitioner did not file the eligibility conditions deliberately and it was contended on behalf of the petitioner that there is no such eligibility condition which mandates minimum marks of 50% in mathematics in the qualifying examination to be eligible for B.Com. (Hons) course.

10. In the circumstances, the writ petition is dismissed with a cost of Rs. 5000/- payable to the respondents. All the pending applications are also disposed of. Cost to be paid within four weeks.