

(1993) 01 DEL CK 0039

In the Delhi High Court

Case No : Civil Writ Petition No's. 86 and 654 of 1993

Jayshree Rani

APPELLANT

Vs

University of Delhi

RESPONDENT

Date of Decision : 22-01-1993

Acts Referred:

Citation : (1993) 51 DLT 34

Hon'ble Judges : C.L. Choudhary, J

Bench : Single Bench

Advocate : P.P. Malhotra, R.K. Saini, Sanjeev Sindwani, V.P. Chaudhary, A. Mariaputham and Sushma Sachdeva, for the Appellant;

Judgement

C.L. Chandhry, J.

(1) The petitioners are seeking admission to the LL.B. Course conducted by University of Delhi. The petitioner No. 1, Jayshree Ravi graduated from the University of Delhi in the year 1983 securing 47.75% marks. The petitioner No. 2 also graduated from University of Delhi in the year 1980 securing 46% marks. The petitioners were desirous of taking admission in LL.B. course in the Faculty of Law, University of Delhi. The University of Delhi decided to hold an entrance test. Accordingly an advertisement dated 22.6.1992 was published in the Newspaper wherein eligibility criteria was laid down as under :

"TEST is open to candidates (a) who have passed Master's Bachelor's Degree examination under 10+2+3 Scheme or Delhi University securing atleast 50% marks in the aggregate and have completed 20 years of age as on 1.10.1992."

(2) According to the petitioners they submitted their application forms for taking entrance examination to be conducted by the University of Delhi for entrance to the L.L.B. course They were apprehensive of the fact that due to eligibility condition of 50% marks in aggregate, the University would reject their application form and would not allow them to appear in the entrance test. In these circumstances they approached this Court under Article 226 of the

Constitution of India challenging the eligibility condition of minimum 55% marks in the aggregate in Graduation for appearing in the entrance test.

(3) The writ petition came up for admission on 28.7.1992 before a Bench of this Court. Show cause notice was issued to the respondent as to why Rule Nisi be not issued, returnable on 10.8.1992. In the miscellaneous application filed on behalf of the petitioners for a allowing them to appear in the entrance test, the Bench directed that the application submitted by the petitioner would be accepted provisionally by the respondent but the result of the selection would not be announced till further orders. Under these circumstances the petitioners were allowed to take the entrance test.

(4) The writ petition came up for hearing before a Division Bench of this Court comprising of Mahinder Narain and Jaspal Singh, JJ. The writ petition was decided by Judgment dated 15.12.1992. Mahinder Narain, J. held that the eligibility condition of 50% marks in Bachelor's degree examination was violative of Articles 14 & 21 of the Constitution of India and it was struck down and Mahinder Narain, J. allowed the writ petition. But Jaspal Singh, J. did not agree with the view expressed by Mahinder Narain, J. and upheld the eligibility condition of 55% marks. There was a difference of opinion between the learned Judges and that is how the matter has been placed before me in accordance with Clause 26 of the Letters Patent for the High Court of Delhi.

(5) Two other students namely- Vineet Malhotra and Rohit Chopra moved applications being No. 84/1993 and 85/1993 seeking intervention in the writ petition.

(6) The petitioners have moved the present applications seeking direction to the University to declare their results and grant them provisional admission to appear in the 1st Semester Examination of the LL.B. course. It is stated in the applications that in case the petitioners were not allowed to appear in the 1st Semester Examination they would suffer irreparable injury in case they finally succeed in the petition.

(7) The applications are contested on behalf of the University.

(8) I have heard the learned Counsel for the parties as also the intervenors. For the reasons recorded in C.M. 7914/1992 in C.W. 3983/1992 I allow these applications and direct the University to declare the results of the petitioners within 3 days and in case they secure more marks than the last candidate who was given admission by the University of Delhi, the petitioners would also be given admission provisionally and they will be allowed to take the 1st Semester examination. However, the grant of this provisional admission and taking of the 1st Semester examination shall not confer any right in favor of the petitioners in case they ultimately fail in the writ petition.