
(2001) 08 DEL CK 0077
In the Delhi High Court
Case No : C.W.No. 3940/01

Kanika Aggarwal

APPELLANT

Vs

N.C.T. of Delhi and Others

RESPONDENT

Date of Decision : 08-08-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2001) 93 DLT 756 : (2001) 60 DRJ 154

Hon'ble Judges : Mukul Mudgal, J

Bench : Single Bench

Advocate : Mr. S.P. Singh, for the Appellant; Mr. Nirmal Chopra, Mr. Kailash Gambhir and Mr. Arun Aggarwal, for the Respondent

Final Decision : Dismissed

Judgement

Mukul Mudgal, J.—Rule.

2. With the consent of the parties , the matter is taken up today for hearing.

3. This writ petition under Article 226 of the Constitution of India seeks the petitioner's admission to the 11th Standard in Science Stream (Non-Medical) in the Respondent No.3-School from which School she passed out from Class X. The petitioner's case arises from the refusal of the respondent No.3, the Principal of St., Mark's School to grant admission to the petitioner to Science Stream (Non-Medical). The petitioner was instead offered admission in Commerce Stream. The petitioner has challenged this refusal on the ground that in spite of securing 62.6% per cent marks in Class X she was not given admission. It is also averred that while there is no clear cut guidance in the Delhi Schools Education Act, 1974(hereinafter referred to as 'the Act') and Rules to cover admissions to Science, Commerce and Arts (Streams) respondent Nos. 1 & 2 , i.e., Govt. of Delhi & Directorate of Education had issued instructions which stipulated that all students securing more than 60% in Class X are entitled to be admitted to the Science Stream. However, no such instruction was produced and in fact the

petitioner did not press this plea during arguments. The petitioner contended that she has secured more marks than those students admitted by respondent No.3 to the Science Stream. The respondents 3 & 4 denied these averments and contended that to accommodate 284 students who appeared in the Class X in Class XI and in accordance with the available resources of the School, a criteria was adopted of 68% cut off percentage in English, Mathematics & Science with relaxation only for wards of the employees of the School. It was further submitted that even though in the previous year there were only 2 science sections in Class XI, this year 3 Science sections were created to accommodate as many students as the resources of the School permitted, i.e., 121 students keeping in mind the infrastructure involved in setting up Science Sections which require laboratory facilities. There were 22 other students who were denied admission to Science stream and were placed higher in merit than the petitioner according to the criteria adopted by the respondent Nos. 3 & 4.

4. Prima facie, I am of the view that it may not be open to a Writ Court to ascertain how many students are to be accommodated in a given stream of study by a School. It is a matter which is to be considered by the school authorities, taking into account the available resources and other administrative exigencies. The Writ Court's jurisdiction will normally be exercised when a decision taken by the School is so shocking or so arbitrary or reeks so much of nepotism or hostile discrimination so as to shock the conscience of the Court. A Writ Court under Article 226 would and should not ordinarily interfere with the internal administration of a school. Interference may only be warranted if there is violation of statutory provisions of Delhi Schools Education Act, 1973 and Rules. This apart a Writ Court may interfere, if there is hostile discrimination and a whole arbitrary decision of the School which vitally affects the student and his education. For instance, if the petitioner was able to demonstrate that a student securing less marks than the petitioner according to the criteria set up by the school, was given admission while denying it to the petitioner then the Writ Court may interfere. Similarly if the criteria set up adopted to determine admission to various streams is arbitrary and/or perverse the Court may interfere. However, in the present case I do not find on a perusal of the facts noted above that such a situation warranting interference exists.

5. However, at the request of the learned counsel for the petitioner an attempt was made to find out whether the school, i.e., the respondents & 4 could accommodate the petitioner to the said Class without prejudice to the School's pleas that the relief claimed in the writ petition is not maintainable. The learned counsel for respondents 3 & 4 has pointed out the respondent Nos.3 & 4's difficulties and in particular pointed out through an additional affidavit that at least 5 students were above the petitioner in the merit list who were still willing and indeed anxious to opt for the Science Stream. The further plea of the counsel for the petitioner is that one Science Section had 34 students as opposed to 42 each in the other 2 Sections and this Section of 34 students could accommodate all 6 aspirants for Science counsel for the respondents 3 & 4 has

pointed out that the Section housing 34 students comprises of those who have opted for Biology, i.e., the Medical Stream as compared to the other two Science Sections of Non-medical stream, housing 42 students each, & due to the restricted capacity of Biology Laboratory, only 18 students can be accommodated in a Biology Laboratory at one time and the Biology practical are, Therefore, undertaken in 2 batches. Since the petitioner is aspiring for the Non-Medical Science Stream, it does not appear feasible to accommodate the petitioner in the Science stream. The Learned counsel for the respondents 4 & 5, however, reiterates that the admission in Commerce Stream shall be granted to the petitioner as soon as she approaches the school authorities and the petitioner shall not be subjected to any discrimination for approaching this Court.

6. With these observations, the petition is dismissed with no orders as to costs.