
(1998) 01 DEL CK 0021
In the Delhi High Court
Case No : C.W.P.NO. 4257 of 1997

Kavita Sharma

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 01-01-1998

Acts Referred:

Citation : (1998) 01 DEL CK 0021

Hon'ble Judges : Cyriac Joseph, J

Bench : Single Bench

Advocate : Mr. Anil Tanwar, for the Appellant; Mr. Ajay Kapur, for the Respondent

Judgement

Cyriac Joseph, J.—The grievance of the petitioner in this writ petition is that she has been wrongly and illegally denied admission to the two year diploma course in Elementary Teacher Education (session 1997-99).

2. Respondent no.3 State Council of Educational Research and Training, Delhi had invited applications from eligible candidates for admission to the Elementary Teacher Education Course (session 1997-99) in the District Institutes of Education and Training. Annexure B is a copy of the prospectus cum application form. As per the said prospectus the last date for submission of application forms was 5.6.97. The entrance test was scheduled to be held on 22-6-97. The merit list of entrance test and schedule of interview was to be displayed on 11.7.97. The interview was to be conducted on 14.7.97 and 15.7.97. The final result of select list and waiting list was to be displayed on 21.7.97. The candidates of select list were to report for admission at their allotted District Institute of Education and Training on 22.7.97 and 23.7.97. The candidates of the waiting list were to report for admission at their allotted District Institute of Education and Training on 28.7.97 to 29.7.97. The classes were to commence on 1.8.97. As per the prospectus 3% of the seats were reserved for sportsmen/sportswomen. Admittedly the total number of seats was 660 and 19 seats were reserved for sportsmen/sportswomen.

3. Being eligible for admission to the above mentioned course the petitioner submitted her application and she was allowed to appear in the entrance test and interview. Her name was not included in the merit list. However her name was shown at Seriall no. 3 in the waiting list pertaining to the category of sports quota. The provisional admission of Shri Pradeep Kumar and Shri Rajat Kumar who were among the 19 candidates included in the merit list in respect of the sports quota was cancelled for certain reasons. Consequently the first two candidates from the waiting list in respect of sports quota were called for special interview before the Selection Committee on 26.7.97. However, one of them, Sunil Kumar, did not attend the interview and Therefore, his provisional admission also was cancelled. According to the petitioner consequent on the cancellation of the provisional admission given to Mr. Sunil Kumar the petitioner who was at Seriall no.3 in the waiting list should have been admitted to the course. Since the respondent did not admit the petitioner to the course in one of the available vacancies the petitioner filed this writ petition mainly praying for a direction to respondents 3 and 4 to perform their statutory duty and to admit her to the course as per her turn in the waiting list.

4. The writ petition came up for admission on 13.10.1997 and on that day itself notice was issued to the respondents to show cause why the petition be not admitted. In reply to the show cause notice respondent no.3 filed an affidavit dated 20.10.97 explaining why the petitioner was not admitted to the course and why the petitioner cannot now be admitted to the course despite the existence of vacancies. The petitioner filed a rejoinder to the said affidavit and the matter was finally heard on 12th November, 1997.

5. According to respondent no.3 the Select List and waiting list were displayed on 21.7.97 and the candidates on the select list were admitted on 22.7.97 and 23.7.97. The provisional admission offered to Shri Pradeep Kumar and Shri Rajat Kumar who had been included in the select list for sports quota had to be cancelled since Shri Pradeep Kumar did not appear for the interview and Shri Rajat Kumar could not submit certificate to substantiate that he was eligible to be admitted in the category reserved for sportsmen. Consequent on the above mentioned cancellation of provisional admission the first two candidates from the waiting list for sports quota were called for interview on 28.7.97 and 29.7.97 as per the time schedule mentioned in the prospectus. One of them namely Shri Sunil Kumar Seriall no.2 in the waiting list did not attend the interview and consequently his provisional admission was cancelled. However, further candidate from the wait list were not considered for admission. Consequently the petitioner who is at Seriall no.3 in the wait list also was not considered for admission. Respondent 3 has not disputed the existence of vacancy. However, it is contended that a definite time schedule for the process of admission had been prescribed by the prospectus and that the said time schedule has to be adhered to. As per the said schedule the candidates from the waiting list were to be admitted on 28.7.97 to 29.7.97 and the classes were to commence on 1.8.97. There are four semesters in the two year course. The first semester commenced

on 1.8.97 and would conclude around mid December, 1997. It is also pointed out that regarding the requirement of attendance the prospectus has provided thus:

"since it is a professional course, regularity in attending the classes/seminars/workshops/camps and other activities is essential. 85% attendance in each subject is compulsory. Name of the candidate shall be struck off for continuous absence of 6 days without a valid reason".

6. According to respondent no.3 it is not possible to give admission to the petitioner since under no circumstances she would be able to fulfill the minimum requirement of attendance as the first semester had already commenced on 1.8.97. It is categorically averred in the reply affidavit that even if the petitioner attended all the classes her attendance would be only about half of the minimum requirement of attendance.

7. In the light of the facts stated above the question to be considered is whether the respondents were at fault in not considering the petitioner for admission despite the existence of vacancy. No doubt the petitioner had a right to be considered for admission in accordance with the rules regarding admission. However the petitioner had no enforceable right for admission after the last date for admission and the commencement of the course even if seats were available. It is true that the respondents could have invited sufficient number of candidates from waiting list for the interview for admission on 27.9.97 to 29.7.97 so that candidates can be admitted to all the seats in the order of merit in the waiting list. The respondents could have anticipated the possibility of some candidates not turning up or some candidates not being admitted for other reasons. The respondents could have demonstrated more imagination and practical sense in carrying out the process of admission. They have simply followed a technical and text book approach in the matter. Though the respondents cannot be held to have acted illegally or arbitrarily it should be observed that had sufficient imagination and practical sense been shown the situation of seats lying vacant could have been avoided. However, this court is not in a position to grant any relief to the petitioner since he approached the court too late. As already pointed out the process of admission was completed by the end of July, 1997 and the classes commenced on 1.8.97. The petitioner filed this writ petition only on 29.9.97 and the case was listed before court only on 13.10.97 after certain office objections were removed by the petitioner. Respondent no.3 promptly filed the reply affidavit on 20.10.97 pointing out that even if the petitioner was admitted at that stage she could not satisfy the requirement of minimum attendance even assuming that she would attend all the classes after her admission. Hence it was found that even an interim order in favor of the petitioner at that stage could not help the situation. Had the petitioner approached this court sufficiently early this court could have granted relief to the petitioner. Since the respondents have not acted illegally or arbitrarily in making admission to the course and since the petitioner could not show that the respondents had any bias or ill will against her and since the petitioner approached the court too late, this court cannot compel

the respondents to admit the petitioner to the course.

8. The petitioner has produced 2 documents dated 29.8.97 and 1.9.97 (Annexure F collectively) to show that the respondents have admitted students even after 1.8.97. However, it has been explained in the reply affidavit of respondent no.3 that the three candidates mentioned in the said documents dated 29.8.97 and 1.9.97 had been included in the select list displayed as per the schedule and that their admission was delayed due to the delay in complying with certain formalities. Those candidates were included in the select list and were called for interview for admission whereas the petitioner was included only in the waiting list. Those candidates were admitted at least by 1.9.97 whereas the petitioner's writ petition came up before the court for the first time only on 13.10.97. Hence the petitioner cannot claim admission on the ground of admission of the three candidates mentioned in the documents dated 29.8.97 and 1.9.97.

9. Learned counsel for the petitioner placed reliance on the judgment of the Hon'ble Supreme court in Dr. Mamta vithal shetty and Anr. vs . State of Maharashtra and ors. and the judgment of this court in Miss Manisha surana Vs. Central Board of Secondary Education & Anr. 1996 4 AD (Del) 20. I have carefully examined these judgments. I am of the view that the above mentioned judgments do not apply to the facts of this case.

10. In view of what has been stated above the writ petition is dismissed. No order as to costs.