

(2002) 05 DEL CK 0138
In the Delhi High Court
Case No : C.W. No. 1153 of 2002

Manish Chandra Pathak

APPELLANT

Vs

University of Delhi and Others

RESPONDENT

Date of Decision : 09-05-2002

Acts Referred:

Citation : (2002) 7 AD 222 : (2002) 98 DLT 679 : (2002) 65 DRJ 348

Hon'ble Judges : Ramesh Chandra Chopra, J

Bench : Single Bench

Advocate : Baljit Singh, for the Appellant; S.K. Luthra and Sheetal Vohra, for the Respondent

Judgement

R.C. Chopra, J.—The petitioner, a student of LLB IInd year in Campus Law Centre, University of Delhi, feels aggrieved by the non-allotment of a room (seat) to him in P.G. Men's Hostel, University of Delhi. According to him the respondent No. 3, the Provost of the said hostel, has acted illegally and in an arbitrary, malafide and discriminatory manner in refusing a seat to him in as much as he has been objecting to allotment of seats to certain ineligible students. It is also pleaded by way of filing an additional affidavit that one room belonging to the quota of Faculty of Law has been illegally and unauthorizedly transferred to the Department of Philosophy under the foreign quota although there are more rooms available under the foreign quota of other Faculties. It is submitted that this was done only with a view to deprive the petitioner of a seat in the Hostel in question.

2. The respondents in their counter affidavit, as well as additional affidavit have denied that the respondent No. 3 has acted illegally, arbitrarily or malafide with a view to deprive the petitioner of a room in the Hostel. It is argued that no student including the petitioner has any vested right to claim a seat in the Hostel. It is asserted that the seats have been allotted according to the Rules contained in the "Handbook in the Information and Rules of P.G. Men's Hostel". It is submitted that a seat belonging to the Foreign Quota of the Law Faculty was

transferred to the Foreign Quota of Arts Faculty as there was no Law student in Foreign Quota. Reference is made to Clause 12 of the Handbook of Information and Rules as well as the Minutes of the 38th meeting of the Managing Committee of the Hostel held on 11.1.2002 in which the existing Rules regarding distribution of the seats were changed and the Admission Committee was empowered to allocate a seat to a sister department or Faculty if no application is received or inadequate number of applications is received under the quota of any subject/Faculty.

3. I have heard learned counsel for the petitioner and earned counsel for the respondent. I have gone through the records.

4. Learned counsel for the petitioner makes a serious grievance in regard to the transfer of one seat of the Foreign Quota of the Law Faculty to the Foreign Quota of the Faculty of Arts and refers to Clause 2 of the "Handbook of Information and Rules, 2001-2002" regarding distribution of seats. It is pointed out that under this Handbook of Rules, the respondents had no right to transfer any seat of any course or Faculty if in the said course or Faculty sufficient number of applicants were available. The proviso attached to this Rule regarding transfer of spare seats from one Faculty to another relates to the category (h) only which refers to the seats for blind, physically handicapped, wards of war widows and sports persons. Even this is permissible only when the number of applications under these categories in any Faculty is less than available seats. He, Therefore, argues that the transfer of one seat of the Faculty of Law to the Faculty of Arts under the pretext that there was no foreign student in the Faculty of Law was in violation of the Rules as other candidates of the Faculty of Law including the petitioner were still waiting and trying their best to get in.

5. Learned counsel for the respondent on the other hand, argues that the Admission Committee has unrestricted and unfettered powers in the matter of running the Hostel and can adjust the seats as per exigencies of the situation. He also refers to the minutes of the 38th meeting of the Managing Committee held on 11.1.2002 in which the following paragraph was approved:

"In case no application or inadequate number of applications is received under the quota of any subject/faculty, the spare seat/s of such a subject/faculty may be allocated to subject/s of a sister department/s or faculty/-ides by the Admission Committee."

6. He argues that it was not necessary that the seat for a foreign student in the Faculty of Law should have been offered to other students of the Faculty of Law. According to him when no foreign student from the Faculty of Law was available, the seat reserved for a foreign student of the Faculty of Law could be transferred to any other Faculty so that it could be allotted to a foreign student only. In the counter affidavit filed by the respondent it was explained that there were 23 seats in all for the Law Faculty as per the Handbook of Information and Rules. Out of these two seats were reserved for foreign students. Since no foreign

student had come forward, one seat was transferred to LLB 1st Year and second seat was transferred to a foreign student of another Faculty. The said transfer was sought to be protected under the minutes of the 38th meeting of the Managing Committee of the Hostel held on 11th January, 2002.

7. A perusal of the averments made by the petitioner and the response filed by the respondents clearly reveals that the respondents are not acting squarely within the parameters prescribed for the allotment of seats in the "Handbook of Information and Rules for the year 2001-02". Clause 2 regarding distribution of seats does not empower the respondents to transfer seats from one Faculty to another. The proviso relating to allotment of seats from one Faculty/subjects to another is in respect of the seats reserved for blind, physically handicapped, wards of war widows and sports persons only and that too when the applications under said categories in any Faculty is less than the available seats. Therefore, it is absolutely clear that the Clause 2 of "Handbook of Information and Rules" issued for the year 2001-02 did not vest the respondents or respondent No. 3 with any power to transfer a seat from one category or one Faculty to another if applications of that Faculty or category were pending and the students were seeking those seats. The fact that this Clause specifically empowered the respondents in regard to transfer of seats only for category (h) pertaining to blind, physically handicapped, wards of war widows and sports persons suggests that this discretion was not available to the respondents in regard to other categories.

8. The contention of learned counsel for the respondents that in the meeting of the Managing Committee of the Hostel on 11.1.2002 Clause 2 was amended and the powers of respondents were enlarged so as to extend the same to any subject/Faculty cannot be accepted for the reason that even amended Clause speaks of spare seat/seats of such a subject/Faculty which means that the transfer of seats can take place only when there is no applicant from a particular subject/Faculty. The object of amended Rule could have been to enlarge the powers of the respondents in regard to transfer of seats, as under part (h) of Clause 2 of the Handbook of Information and Rules to other categories, but there was no deviation from the basic pre-condition that the seat should be spare and there should be no waiting candidate from the said subject/Faculty. Therefore, the amended rule even does not help the respondents in any manner whatsoever. Even if this amended rule had supported the respondents case in regard to their power of transfer of seats, this Court could not have permitted them to do so for the current session on the principle of estoppel. After issuance of "Handbook of Information and Rules for the year 2001-02" and after displaying the lists of short-listed candidates, the respondents could not turn back and change the rules to the disadvantage of those, who acting upon the offer held out to them by the "Handbook of Information and Rules" were seeking admission. The meeting to amend the existing rule was held after declaring the names of shortlisted candidates and after the petitioner had started raising objections against allocation of seats. The powers of the Managing Committee

and its bonafides to change the Rules are not free from doubt.

9. In the result, this Court is of the considered view that the petitioner has made out a case to establish that the respondents were acting arbitrarily, malafide and in violation of rules by allotting one seat of Foreigners" Quota of Law Faculty to some other Faculty when Law Students were in the queue and waiting for admission. One seat out of two seats in the Foreigners" Quota was given to a General candidate of Law Faculty but this Court is of the considered view that both the seats ought to have been given to the General candidates of Law Faculty as rules did not permit transfer of this seat to the Department of Philosophy. This action of the respondents is, Therefore, quashed and it is ordered that the second seat also pertaining to the Foreigners" Quota of Law Faculty be allotted to a General category student of Law Faculty within two weeks. It is further directed that the allotment of the seat be made to only one of those eligible students who had applied within time frame. The case of the petitioner be also considered along with others. If the petitioner is found eligible and entitled to this seat on merit as per Rules the seat be allotted to him.

10. Before parting with this judgment, this Court must refer to the grievance made by the petitioner in regard to a student Jabarjeet Singh who was shortlisted in the Hostel admission list inspired by the fact that he was not eligible. The plea of the respondents that this shortlisting was with a view to invite objections and then scrutinize the eligibility criteria does not appear to be genuine as even shortlisting had to be done in respect of eligible candidates only. This student was given "guest-resident" status in the year 2000-01 and in current session even after the rejections raised by the petitioner, he is being allowed to stay in one of the rooms of wardens' residence as a Resident Guest. All does not appear to be straight in the matter of allotment of seats in the respondents' Hostel. The respondents must appreciate that their arbitrary, unjust or abrasive actions not only breed discontent amongst the students but also set a bad example for the future managers of nation.

11. The writ petition stands disposed of accordingly.