
(2019) 05 DEL CK 0290

In the Delhi High Court

Case No : Civil Writ Petition No. 9412 Of 2015, Civil Miscellaneous Application
No. 22010 Of 2015

Mohinish Sharma

APPELLANT

Vs

University Of Delhi And Ors

RESPONDENT

Date of Decision : 20-05-2019

Acts Referred:

Constitution of India, 1950 — Section 226

Citation : (2019) 05 DEL CK 0290

Hon'ble Judges : C. Hari Shankar, J

Bench : Single Bench

Advocate : Bhanu Gupta

Final Decision : Allowed

Judgement

C. Hari Shankar, J

1. The petitioner, who was, at the time, pursuing his Bachelor of Arts (B.A.) course from the Chaudhary Charan Singh University (hereinafter referred to as "the CCS University"), applied for admission to the 2015-2016 academic session of the three-year LL.B. course conducted by the Faculty of Law, University of Delhi (hereinafter referred to as "the Law Faculty").

2. An entrance test, for the said purpose, was conducted by the Law Faculty on 7th June, 2015. The results thereof were declared on 29th June, 2015 and the petitioner's name, admittedly, figured in the list of successful candidates.

3. On the said date, however, the petitioner had still to complete appearing in the qualifying exam, i.e. the B.A. exam held by the CCS University. The examination of the sixth and the final semester of the said course, being undertaken by the petitioner with the CCS University, was completed on 30th June, 2015, i.e., a day after the declaration of the results of the LL.B. entrance test conducted by the Law Faculty.

4. Counseling, for the candidates who had been successful in the LL.B. entrance examination conducted by the Law Faculty, was held on 25th July, 2015. The petitioner, being one of the said successful candidates, participated in the counseling, and was provisionally admitted to the LL.B. course, subject to submission of all relevant documents at the time of counseling.

5. Among the documents, which were required to be submitted by the petitioner at the time of counseling, were the degree certificate, (provisional or final), as well as "the marksheet" for the said examination. The said degree and mark sheet had not, however, been issued by the CCS University till the date of counseling at the Law Faculty. As a result, on the date of counseling, the petitioner submitted the remaining documents i.e. the admission ticket of his LL.B. entrance test 2015, his age certificate and his character certificate, but was unable to provide the marksheet issued by the CCS University of the qualifying B.A. examination undertaken by him.

6. The writ petition avers that extension of time, till 31st August, 2015, was granted, to the petitioner, to submit the provisional mark sheet of his qualifying B.A. examination, as issued by the CCS University. The CCS University did not issue the marksheet before the said date, consequently, the petitioner was unable to provide any copy thereof, even by 31st August, 2015.

7. Vide the impugned notice dated 1st September, 2015, the Law Faculty closed all admissions to the LL.B. /LL.M. first year courses, for the academic session 2015-2016. The impugned notice, as issued, reads thus:

"Admission to LL.B/LL.M First Year, 2015-16 for all categories are CLOSED. No admission will be made unless there is clear instructions from University. All pending files are CLOSED.

The candidates whose files are pending may take their certificates back which they have submitted from the Admission Committee Office, upto September 08, 2015 from 11.00 a.m. to 5.00 p.m."

8. A bare reading of the afore-extracted notice indicates that it was not in the nature of an irrevocable or final notice of closure of admissions, as admissions could be effected even after 1st September, 2015, if there were clear instructions from the University to the said effect.

9. As fate would have it, a mere two days after the issuance of the impugned notice, the CCS University issued the provisional mark sheet of the petitioner's B.A. course on 3rd September, 2015.

10. The petitioner, in the circumstances, represented, to the authorities in the University of Delhi and the Law Faculty to reconsider the decision to close the admissions and to admit him to the LL.B. course.

11. No favourable response being forthcoming, from either of the said respondents, to the said request, the petitioner has moved this Court, by means

of present proceedings, invoking its jurisdiction under Article 226 of the Constitution of India.

12. The writ petition places reliance on Clause 3(a) of the Admission Bulletin issued by the Law Faculty, which reads thus:

"The candidates whose results of the qualifying degrees have not been declared at the time of counseling shall not be admitted.

However, such candidates may be considered for admission provided their results are declared within the last date prescribed for admission by the University of Delhi"

13. The petitioner, who appears in person, submits that the admission bulletin, governing the LL.B. course examination conducted by the Law Faculty, did not stipulate any terminus ad quem, for admission to the LL.B. course, and did not prescribe, any cut-off date, for submission, by the candidates, of the mark sheet of the qualifying examinations undertaken by them.

14. In such circumstances, the petitioner would seek to submit that admission could not be denied, to him, solely because of the fact that, on 1st September, 2015, he was not in possession of the said mark sheet.

15. Arguing per contra, Mr. Bhanu Gupta, learned counsel appearing for the respondents, seeks to rely on a notification, dated

14 th June, 2010, issued by the University of Delhi which effected certain amendments to the Ordinances governing the University. He places especial reliance on the amendment to Clause 3 in Ordinance II of the Ordinances, which read, before and after amendment, thus:

" Existing Ordinance II Clause 3

Provided that all provisional admissions to the post-graduate courses shall be finalized by the Standing committees concerned not later than 15th October of the year in which admissions are sought. Provisional admissions not finalized by the aforesaid date shall automatically be annulled.

Amended Ordinance II Clause 3.

Provided that all provisional admissions to the post-graduate courses shall be finalized by the Standing Committees concerned not later than 31st August of the year in which admissions are sought. Provisional admissions not finalized by the aforesaid date shall automatically be annulled."

16. It is the submission of Mr. Gupta that, in view of the above amendment, all admissions which had not been finalized by 31st August, 2015, which included admissions which were pending on account of non-submission of the mark sheet of the qualifying examination, as was the case with the petitioner, could not remain alive beyond 31st August, 2015.

17. Mr. Gupta, however, candidly accepts that the aforesaid notification, dated 14th June, 2010, was not displayed either on the website, or on the notice board of the Law Faculty and that it was not communicated to any of the candidates individually either. He, however, sought to submit that it had been notified, on the website of the Law Faculty, that the last date for admission to the LL.B. course was 31st August, 2015. He has been unable, however, to draw the attention of this Court to any such notice. No copy of any such notice has been placed on record, by the respondents.

18. That apart, Note 3 of the Information Bulletin for the LL.B. entrance test, as issued by the Law Faculty, reads thus:

"All notices relating to admission, counseling, etc. shall be displayed only on the Notice Board of the Admission Committee, Faculty of Law. No individual communication will be sent to any candidate for this purpose."

(Emphasis Supplied)

19. It is trite that, if a thing is to be done, it has to be done in the manner prescribed by law therefore, or not done at all. [Taylor v. Taylor (1876) 1 Ch D 426, Nizir Ahmed v. King Emperor AIR 1936 PC 253]. Display of any notice, relating to admission to the LL.B. course, on the website of the Law Faculty, without putting it up on the Notice Board of the Admission Committee, therefore, clearly infracts this provision. Mr. Gupta submits, to a query from the Court, that, as per his instructions, the notice, stipulating 31st August, 2015 as the date of closure of admissions, was never put up on the Notice Board of the Law Faculty, in advance of the said date.

20. Pursuant to interim orders passed in these proceedings, the petitioner has continued his LL.B. course and has successfully cleared the same in the year 2018.

21. Having heard the petitioner and perused the record, it becomes apparent that the petitioner cannot, in any manner, be put to disadvantage owing to the fact that the result of the qualifying B.A. course earlier undertaken by him, had been released by the CCS University two days late, i.e. on 3rd September, 2015, whereas admission to the LL.B. course being conducted by the Law Faculty had been closed for that year on 1st September, 2015, vide the impugned notice, especially where the Admission Bulletin for the LL.B. course did not stipulate any date of closure of admissions thereto, or any date, on or before which the students were required to provide the mark sheets of the qualifying examination undertaken by them.

22. It is not necessary, in the facts of this case, for this Court, to quash the notice closing the admissions. The petitioner was a student who had already been granted provisional admission to the LL.B. course, and all that was remaining to be done by him was submission of his B.A. mark sheet, as issued by the CCS University. He did so, but two days late.

23. The notification dated 14th June, 2010 supra issued by the University of Delhi, on which Mr. Gupta seeks to place reliance, obviously cannot come to his aid, for the simple reason that the said notification was never placed in the public domain, either on the Notice Board of the Law Faculty or even on the website either of the Law Faculty or the University of Delhi. The notification effected amendments in the Ordinances of the University, and a student who is seeking to obtain entrance into the portals of the Law Faculty, to pursue his course, can hardly be expected to be poring through the various Ordinances governing the University, or the various amendments effected thereto, to see whether they had been amended at any point of time. It was essential, for the Law Faculty, to have displayed, on its Notice Board, as well as on its website the amendment to Ordinance II (3) of the Ordinance governing the University, which provided for closure of admissions to the LL.B. course on 31st August, 2015.

24. Opacity has no place in academia. Notices and announcements affecting admissions to educational institutions, especially where, as in the present case, they affect the future of the students who are otherwise meritorious and deserving, have serious, and often devastating, consequences. A much greater degree of transparency is expected of institutions entrusted therefore, with the task of keeping students abreast of closure dates, cut-off dates and the like, than in other cases. Educational institutions cannot be permitted to abruptly close admissions thereto, without informing aspiring students well in advance thereof. Ideally, such closure dates, as well as cut-off dates for submission of documents, or completion of other formalities, should find place in the Admission Bulletin.

25. This Court deems it appropriate to reiterate that students, precariously poised at their higher educational threshold, face a variety of pressures, from within and without. It is unfair to expect such students to familiarize themselves with all applicable statutory prescriptions and proscriptions, while applying for, and seeking, admission to higher educational institutions. The terms and conditions governing the procedure for seeking, such admission have, therefore, to be set out and made known, in clear and unambiguous black and white - with no room for grey - prior to commencement of the admission process. The benefit of any ambiguity, or want of sufficient clarity, in this regard, must necessarily enure in favour of the student.

26. In the absence of any such publicity, having been given by the Law Faculty, to the afore-mentioned notification dated 14th June, 2010, it is obvious that no reliance can be placed, thereon, by the respondents.

27. Similarly, there is nothing to indicate that the candidates had been intimated, in any manner, even by notification on the website or on the Notice Board of the Law Faculty, regarding the proposed closure of admissions on 1st September, 2015.

28. Information Bulletin issued prior to the commencement of the admission process, as said Admission Bulletin/Information Bulletin is often the first and last

port of call for the aspiring strident, for obtaining information regarding the procedures to be followed and completed for obtaining admission, and the various cut-off dates stipulated in that regard. In view of the above, the mark sheet of the B.A. course, earlier undertaken by the petitioner with the CCS University, as submitted by him on 3rd September, 2015, was necessarily required to have been taken into account by the respondents. The University of Delhi could even have exercised its power, recognized even in the impugned notice dated 1st September, 2015, to direct allowing of the admission of the petitioner given the facts of his case.

29. In view thereof, the admission of the petitioner, in the Law Faculty, in 2015 stands confirmed.

30. The University of Delhi is also directed to release, to the petitioner, his degree, for the LL.B. course undertaken by him, forthwith.

31. The writ petition stands allowed in the above terms, with no order as to costs.