

(2013) 09 DEL CK 0101
In the Delhi High Court
Case No : Writ Petition (C) 5499 of 2013

Mohit Sharma

APPELLANT

Vs

Guru Govind Singh Indraprastha University and Others

RESPONDENT

Date of Decision : 03-09-2013

Acts Referred:

Citation : (2013) 09 DEL CK 0101

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : K. Venkatraman, for the Appellant; Vaibhav Kalra and Ms. Sumedha for GGSIPU, for the Respondent

Final Decision : Disposed Off

Judgement

V.K. Jain, J.

CM No. 12253/2013 (Exemption)

1. Exemption allowed, subject to just exceptions.

The application stands disposed of.

W.P. (C) 5499/2013 and CM No. 12254/2013 (interim direction)

The petitioner before this Court appeared in the Common Entrance Examination held by the respondent I.P. University to its B.Ed. programme, 2013-2014. In the first round of counseling result for which was declared on 24.07.2013, the petitioner was allotted a seat in B.Tech. (IT) in Chaudhary Brahm Prakash Government Engineering College and he deposited the requisite fee in the said college. Since the candidates taking admission in the first round of counseling, were also entitled to participate in the second round of counseling for the purpose of upgradation, the petitioner also appeared in the second counseling held between 27.07.2013 to 30.07.2013 and was granted admission in Tool Engineering in Delhi Institute of Tool Engineering. The petitioner accepted the said admission and started attending the classes with effect from 06.08.2013.

However, after 15.08.2013, the petitioner was not permitted to attend classes in Delhi Institute of Tool Engineering on the ground that the University had granted him admission in the Electronic and Communication Engineering in G.P. Pant Government Engineering College in the 3rd counseling for admission to the B.Tech course. The case of the petitioner is that since he never participated in the 03rd round of counseling, it was not open to the University to cancel the admission granted to him in Delhi Institute of Tool Engineering in the second round of counseling. The petitioner is, therefore, before this Court seeking the following reliefs:-

(a) Issue appropriate writ of certiorari or any other writ for setting aside the impugned decision/instruction dated 07.08.2013 issued by Respondent No. 1 to the extent of instruction given at Sl. No. 3(a), consequent oral decision cancelling the admission in the institute of Respondent No. 2 be declared illegal and arbitrary and consequent decision of the respondent No. 1 to forcibly asked the petitioner to join the institute of respondent No. 3 be also declared illegal and arbitrary, untenable in law;

(b) issue a writ of mandamus or any other direction directing the respondent No. 1/2 to restore the admission of the petitioner in Tool Engineering of Delhi Institute of Tool Engineer forthwith and allow the petitioner to attend the classes in the said institute

The learned counsel for the University, who appears on advance notice, however, relies upon the following clause contained in directions/procedures for candidates who participated in the first and second round of counseling and procedure for the third round of counseling notified on 02.08.2013:-

2. A similar issue came up for consideration before this Court in W.P. (C) No. 5456/2013, decided on 02.09.2013. The petitioner in that case applied for admission to B. Tech Programme of the respondent no. 1-Guru Gobind Singh Indraprastha University for the academic year 2013-2014. He had exercised various options as regards the colleges where he wanted admission. The second option exercised by him was Guru Premsookh Memorial College of Engineering whereas the sixth option exercised by him was Delhi Institute of Tool Engineering. In the second round of counselling, he was allotted a seat for the said course in Delhi Institute of Tool Engineering. Based upon the said allotment, he took admission in Delhi Institute of Tool Engineering. However, the respondent-university of its own and without any request from the petitioner, changed the allotment made to him and allotted a seat to him at Guru Premsookh Memorial College of Engineering, cancelling the earlier allotment made in Delhi Institute of Tool Engineering. The following view taken by the Court in the aforesaid case is relevant for the purpose of this case as well:-

3. The contention of the learned counsel for the respondent-university is that since the petitioner after allotment of seat in Delhi Institute of Tool Engineering did not log in to his account on the website of the university and did not modify

his preference/choice by deleting the remaining preferences/choices made by him, the university was competent to allot the seat to him in another college of his choice in the third round of counselling and the petitioner who himself is responsible for such a consequence on account of not deleting the remaining options exercised by him and cannot have any grievance to such an allotment. I, however, find no merit in the contention. The petitioner has clearly stated that he did not appear in the third round of counselling. The question of allotting a seat in another college to the petitioner could come up only in case he was to appear in the third round of counselling. By not appearing in the third round of counselling, the petitioner made it quite evident that he was satisfied with the allotment made to him in the second round of counselling and did not seek change of the allotment so made to him. In fact, it is quite evident from Instruction No. 3(a), relied upon by the learned counsel for the respondent-university that this would come into play only if the candidate participates in the third round of counselling. Since the petitioner did not participate in the third round of counselling, the aforesaid clause could not have been applied.

4. The learned counsel for the respondent-University states that this being an online counseling, the system on account of the petitioner not deleting the remaining options exercised by him, itself made allotment to him in an institute, which was higher in the Order of Preference exercised by him. In my view, it would not be appropriate for the University to penalize the petitioner, for not deleting the remaining options, because, the said stipulation came to be incorporated only in the schedule of the 03rd counselling, and a candidate, who does not want to participate in the 03rd counselling, is not expected to take note of this stipulation.

3. Moreover, since the instruction relied upon by the learned counsel for the University came to be notified only on 07.08.2013, the petitioner, who was granted admission in the counseling held between 27.07.2013 to 30.7.2013 and having been granted admission in Delhi Institute of Tool Engineering on 02.08.2013 and started attending classes there with effect from 06.08.2013 was not expected to keep himself posted with the instructions issued vide circular dated 07.08.2013 in case he was satisfied with the seat made available to him in the second round of counseling.

4. For the reasons stated hereinabove, the order of the University, cancelling the admission made to the petitioner in Delhi Institute of Tool Engineering is hereby quashed and it is directed that the University shall allow the petitioner to continue to study in the said college in terms of the admission earlier granted to him. The learned counsel for the University states that the seat which was allotted to the petitioner in Delhi Institute of Tool Engineering has been allotted by the University to another student and therefore is not available. In my view, the petitioner cannot be made to suffer for no fault on his part. The University, therefore, can either accommodate the student who has been granted admission in place of the petitioner in Delhi Institute of Tool Engineering in another institute

of his choice or it may create a supernumerary seat in Delhi Institute of Tool Engineering to accommodate him.

The writ petition stands disposed of. There shall be no order as to costs.