
(2011) 03 DEL CK 0481

In the Delhi High Court

Case No : Writ Petition (C) 1552 of 2011 and CM No. 3294 of 2011 (for interim relief)

Neha Singhal

APPELLANT

Vs

Guru Gobind Singh Indraprastha University and Others

RESPONDENT

Date of Decision : 09-03-2011

Acts Referred:

Citation : (2011) 03 DEL CK 0481

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : B. Singhvi and Sunil K. Nair, for the Appellant; Mukul Talwar and S. Mohapatra for R-1, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The Petitioner was a student of PDM College of Engineering for Women, Bahadurgarh affiliated to the M.D. University, Rohtak and after completing the first year of the B. Tech. course applied for migration to Bhagwan Parshuram Institute of Technology (Respondent No. 2) affiliated to the Respondent No. 1 University. No objection Certificates of both Institutes were produced.

2. The Respondent No. 1 University vide letter dated 30th September, 2010 approved the request for migration for the Session 2010-2011, subject to submission within a fortnight from the date of issue of the letter, inter alia mark sheet of XI Ith class with Minimum aggregate of 55% marks in PCM. It was also provided in the said letter that any failure on the part of the Petitioner to submit the documents shall result in automatic withdrawal of this "offer".

3. The case of the Petitioner is that she in pursuance to the letter (supra) submitted the documents and was allowed to join classes with the Respondent No. 2 Institute and was issued enrolment number by the Respondent No. 1 University and was also allowed to take practical examinations for the third

semester end term examination but was not issued the Admit Card for the theory examinations and thus could not appear in the same. It is stated that it was then that the Petitioner learnt that the Respondent No. 1 University had vide letter dated 16th December, 2010 cancelled the earlier letter approving migration, for the reason of the Petitioner having not submitted the requisite documents showing fulfillment eligibility criteria for admission.

4. The Petitioner admits that she does not fulfill the eligibility criteria in as much as she had only 54.3% marks in XI Ith class instead of 55% marks required by the Respondent. This petition has however been filed averring that the Respondent No. 1 University after issuing enrolment number to the Petitioner is stopped from cancelling the migration.

5. The letter dated 27th December, 2010 of the Respondent No. 2 Institute to the Respondent No. 1 University filed by the Petitioner herself, records that the letter dated 30th September, 2010 (supra) was received by the Respondent No. 2 Institute only on 18th November, 2010 and the Petitioner had submitted the requisite documents on 30th November, 2010 and which the Respondent No. 2 Institute claims to have forwarded to the Respondent No. 1 University.

6. The counsel for the Petitioner contends that the Petitioner having already left the PDM College cannot be left in a lurch and the present case is a hard case wherein for humanitarian and sympathetic grounds this Court should intervene and direct the Respondent No. 1 University to continue with the Petitioner.

7. Per contra, the counsel for the Respondent No. 1 University appearing on advance notice has urged that the prospectus for admission for the relevant academic year prohibited rounding off qua 55% aforesaid. With respect to the issuance of the enrolment number he states that the said enrolment number was issued on a temporary basis on the representation of the Respondent No. 2 Institute.

8. The Supreme Court in Mahatma Gandhi University v. Gis Jose (2008) 17 SCC 611 has held that a candidate who is not eligible for admission cannot be granted admission by the Courts on sympathetic and humanitarian grounds if not meeting the eligibility criteria and even if owing to mistake of any official of the Respondent No. 1 University the said candidate has been issued Admit card for any examination.

9. I have in Mr. Tarun Kapoor Vs. Union of India (UOI) and Others held that rounding off cannot be permitted where the prospectus contains a prohibition with respect thereto.

10. I find the version of the Petitioner and the Respondent No. 2 Institute that the letter dated 30th September, 2010 was not received till 18th November, 2010 to be unbelievable.

11. The letter dated 30th September, 2010 was a conditional letter and without the Respondent No. 1 University unconditionally allowing the migration, neither

the Petitioner nor the Respondent No. 2 Institute could have presumed that migration had been permitted. It was for the Petitioner and the Respondent No. 2 Institute to even if had not received the letter till 30th September, 2010 to have pursued the Respondent No. 1 University and could not sit content in making the application in as much as a mere submission of the application is no assurance of the migration being allowed.

12. The letter dated 30th September, 2010 of the Respondent No. 1 University was otherwise unequivocal. The migration was subject to the Petitioner fulfilling the eligibility prescribed therein. The Petitioner was aware that she did not fulfill the eligibility criteria. Notwithstanding the same if the Petitioner left the earlier College or continued to pursue the studies in the Respondent No. 2 Institute, the Petitioner has herself to blame for the same and cannot be granted any relief.

13. The counsel for the Petitioner has also contended that the Petitioner has paid hefty amount of fees to the Respondent No. 2 Institute. If the Petitioner has been misguided by the Respondent No. 2 Institute, the Petitioner would be entitled to claim damages. However need is not felt to issue notice of this petition to the Respondent No. 2 Institute on the said aspect only, the said dispute being not entertain able in the writ jurisdiction.

14. The Respondent No. 1 University to however issue guidelines to all its affiliates for ensuring that no fee is received from students seeking migration till unconditional approval for migration is granted. The Respondent No. 1 University to also consider modifying the format of the letter approving the migration in as much as it is felt that the same is fraught with the possibility of misleading the students. No approval for migration ought to be granted till the documents are submitted and the Respondent No. 1 University is satisfied as to eligibility.

15. Save for the aforesaid directions, the petition is dismissed with no order as to costs.