

(2013) 11 DEL CK 0409
In the Delhi High Court
Case No : LPA 849 of 2013

Nitish Sharma and Others

APPELLANT

Vs

Guru Gobind Singh Indraprastha University and Others

RESPONDENT

Date of Decision : 12-11-2013

Acts Referred:

Citation : (2013) 11 DEL CK 0409

Hon'ble Judges : Nuthalapati Venkata Ramana, C.J; Manmohan, J

Bench : Division Bench

Advocate : R.K. Saini with Ms. Seema Salwan, for the Appellant; Mukul Talwar, Advocate with Mr. Sradhananda Mohapatra and Mr. Vipin Singh, Advocates for R-1, Mr. Anubha Agarwal, Advocate for R-2, Mr. Amitesh Kumar, Advocate with M. Mamta Tiwari, Advocate for R-3 and Mr. R.K. Saini, Advocate with Ms. Seema Salwan, Advocate for 5(a) to (j), for the Respondent

Final Decision : Dismissed

Judgement

Manmohan, J.

CM APPL. 17867/2013 in LPA 849/2013

Allowed, subject to just exceptions.

LPA 849/2013 & CM APPL. 17868/2013

1. Present letters patent appeal has been filed challenging the judgment and order dated 21st October, 2013 passed by learned Single Judge whereby writ petition of appellants seeking a direction to the respondent no. 1-University to accommodate appellants within its affiliated college/institute for the purpose of completing their MBA regular course without charging any further fee, was dismissed. When it was pointed out to appellants that the direction to transfer the students to MD University was passed in LPA No. 756/2011 by another Division Bench of this Court, appellants submitted that the aforesaid order of the Division Bench was a nullity as it had been passed in absence of the students.

The appellants also referred to the judgment of the Supreme Court in *Rajendra Prasad Mathur Ors. Vs. Karnataka University and Another*, wherein it has been held as under:-

8. We accordingly endorse the view taken by the learned Judge and affirmed by the Division Bench of the High Court. But the question still remains whether we should allow the appellants to continue their studies in the respective engineering colleges in which they were admitted. It was strenuously pressed upon us on behalf of the appellants that under the orders initially of the learned Judge and thereafter of this Court they have been pursuing their course of study in the respective engineering colleges and their admissions should not now be disturbed because if they are now thrown out after a period of almost four years since their admission their whole future will be blighted. Now it is true that the appellants were not eligible for admission to the engineering degree course and they had no legitimate claim to such admission. But it must be noted that the blame for their wrongful admission must lie more upon the engineering colleges which granted admission than upon the appellants..... We do not see why the appellants should suffer for the sins of the managements of these engineering colleges....

2. The learned Single Judge in the impugned order has dealt with the aforesaid submissions of the appellants as under:-

9.....Therefore, the students who took admission with respondent No. 4 in the academic year 2011-2012 including the petitioners before this Court, were fully aware that they were taking admission on the strength of interim orders passed by the Court and their admission would be purely provisional and subject to further orders in the said LPA. In fact, the petitioners also furnished undertakings stating therein that they clearly understood that the admission was purely provisional and temporary and subject to final orders of this Court in LPA No. 756/2011. They also acknowledged that they would not be entitled to regular admission merely on the basis of the aforesaid provisional and temporary admission and would have no objection to the final decision taken by the University in this regard. Therefore, having clearly understood the implications of taking admissions on a provisional basis. Having agreed to abide by the decision of the University in this regard, the petitioners can have no grievance if on account of the aforesaid LPA having been allowed, GGSIPU has refused to grant them admission for completing their MBA course with the said University.

10. It is not as if the Division Bench while deciding LPA No. 756/2011 did not take care of the interest of the petitioners and other students who were similarly situated. A direction was issued to the Government of Haryana to accommodate all such students in MD University which is a University situated in Haryana. The petitioners, however, are unwilling to pursue the remaining course of their study in MD University. Since the Division Bench, in its wisdom, did not direct GGSIPU to allow the petitioners to continue the remaining course and rather directed the State of Haryana to admit them in MD University, the petitioners have no legal

right to pursue the remaining course in a college affiliated to respondent No. 1-GGSIPU.

11..... In the case before this Court, GGSIPU did not at all grant affiliation to respondent No. 4-Global Educational & Social Trust and it was only pursuant to the interim orders of this Court that provisional admission was granted to the petitioners and other students who are similarly situated. Therefore, the above-referred observations do not apply to the petitioner and that precisely could be the reason why the Division Bench did not direct GGSIPU to permit the petitioners to complete their course in a college affiliated to the said University and rather directed the State of Haryana to accommodate them in MD University.

12. The primary grievance of the petitioners was against the order of the Division Bench which instead of directing GGSIPU to permit the petitioners to complete their course from another college affiliated to GGSIPU, directed the Government of Haryana to admit them in MD University. The petitioners availed of the remedy available to them in law by filing a Special Leave Petition. That SLP was, however, withdrawn by them. Though the Division Bench vide order dated 19.7.2013 permitted them to file a fresh petition, that would be of no consequence since the view taken in the order dated 27.8.2012 passed by the Division Bench cannot be given a go-bye in the present writ petition. In any case, the petitioners have no legal right to continue the remaining course in a college affiliated to GGSIPU since they took provisional admission knowing fully well that in the event of the final order in the LPA No. 756/2011 going against them they would have no benefit of such provisional admission. Moreover, the petitioners were accommodated by the Division Bench by directing their admission in MD University. Having not availed of the benefit of the aforesaid direction given by the Division Bench, the petitioners cannot succeed unless they are able to show that their plight is attributable to some wrongful act on the part of respondent No. 1-GGSIPU. No such case, however, has been made out by the petitioner.

For the reasons stated hereinabove the writ petition is dismissed.....

3. We are entirely in agreement with the reasoning given by the learned Single Judge. Consequently, we see no merit in the present appeal.

4. At this stage, appellants state that they are now willing to continue with their course in MD University.

5. Keeping in view the aforesaid, we direct the State of Haryana to allow the students of erstwhile respondent No. 4 to carry on with their further studies in MD University. Consequently, the State of Haryana through the MD University, is directed to grant admission to the appellants or any other student of respondent No. 4, who is willing to appear in the semester exams to be held shortly.

Order dasti under signatures of Court Master.