

(2017) 12 DEL CK 0009

In the Delhi High Court

Case No : 752 of 2017

RAVI YADAV

APPELLANT

Vs

UNIVERSITY OF DELHI & ANR

RESPONDENT

Date of Decision : 08-12-2017

Acts Referred:

Citation : (2017) 12 DEL CK 0009

Hon'ble Judges : S. Ravindra Bhat, Sanjeev Sachdeva

Bench : DIVISION BENCH

Advocate : Mohinder J.S. Rupal, Slomita Rai

Final Decision : Dismissed

Judgement

CM No.42994/2017 (exemption)

Exemption is allowed subject to all just exceptions.

LPA 752/2017, 42995/2017 (direction) & 42996/2017 (seeking permission to appear in person)

1. The appellant is aggrieved by the Judgment dated 20.11.2017, whereby, his writ petition seeking a direction to the respondent - University to accept fee from him for the grant of provisional admission in LL.M. First Year for academic session 2017-2018 and a further direction to extend time for submitting documents was rejected.

2. The appellant appeared in the entrance examination for admission to the LL.M. course on 02.07.2017. The appellant became eligible for admission in the OBC category based on the result of the LL.M. entrance examination. For admission to LL.M., the appellant had to qualify the LL.B. course. The appellant had appeared in the 6 th semester examination of the LL.B. course as well as three subjects for the 4th semester of the LL.B. course, in which the appellant was seeking improvement. On 09.08.2017, the result of the 6 th semester as well as the 4th semester was declared. The appellant scored "zero" in the subject of

Administrative Law for the 4th semester.

3. On 11.08.2017, the first admission list of LL.M. was published. However, the appellant did not qualify in the said first admission list. On 20.08.2017, the appellant gave a representation for correction of the result of the Administrative Law paper of the 4 th semester, wherein, the appellant had been awarded "zero" mark. On 26.08.2017, the second cut-off list for admission to the LL.M. course was declared in which the appellant qualified in the OBC category. The appellant, on 28.08.2017, went for the counselling for admission to LL.M. course. As per the appellant, he was granted ten days" time to deposit the remaining documents and to pay the fee.

4. On 29.08.2017, the appellant appeared in the supplementary examination of the Administrative Law subject of the 4 th semester in which he had scored "zero" in the improvement examination held in June 2017. As per the appellant, on 30.08.2017, when the appellant attempted to pay the fee for admission to the LL.M. course, the online fee portal did not open and, accordingly, the appellant represented to the Admission Committee.

5. On 10.09.2017, the appellant filed the writ petition seeking reliefs, as noticed above. On 17.10.2017, result of the supplementary examination, held on 29.08.2017, was declared and the appellant scored 65 marks in the Administrative Law paper.

6. By the impugned order, the petition of the appellant has been dismissed, inter alia, holding as under:-

"On the perusal of the record, this Court notes that admittedly a timeline has been prescribed for payment of fee online. The petitioner had to pay the fee subject to second round of counselling. The petitioner did not pay his online fee. A representation has been submitted by the petitioner that he could not pay the fee online on 29.8.2017 because he had gone to take the supplementary examination of Administrative Law. This Court has been informed that the fee had to be paid online and nothing prevented the petitioner from paying the admission fee online in the 4 day window which had been granted and even presuming that he had on one day out of the four days gone for taking his supplementary examination it did not debar him from making his payment of the admission fee online. It is not even a case where the petitioner has to make himself physically present for payment at the counter. The Rules (Annexure P-7) of the respondent clearly provide that as per the admission process a candidate has to pay his fee within the prescribed timeline which time period has admittedly expired before the petitioner could make the payment of fee. The vehement submission of the petitioner is that this was for the reason that the petitioner had gone to take his supplementary examine on that date calls for no sympathy in his favour as even as per the case of the petitioner there was a four day window period for the petitioner to deposit the admission fee online. At the cost of repetition that he had gone for taking his supplementary

examination of Administrative Law on 29.8.2017 nothing prevented him from making his payment of admission fee online on the other days which were available to him. The petitioner not having abided by the effective essentials of the admission process, the order of the respondent cancelling his admission is an order which suffers from no infirmity. Petition is without any merit. Dismissed."

7. The appellant impugns the said order and the action of the respondent in not granting admission to the appellant contending that the appellant was granted provisional admission and having granted the same, the admission could not have been cancelled and the appellant could not have been denied an opportunity of paying the fee. Further, it is contended that there was an error on the part of the respondent University in giving "zero" marks to the appellant thereby depriving him of the opportunity to submit the result on time.

8. Learned counsel for the respondent University has contended that the appellant had not qualified in the qualifying examination for seeking admission to the LL.M. course. Since the appellant had submitted the form and had appeared in the entrance examination

before the result of the qualifying examination had been declared, the appellant was granted provisional admission subject to the appellant furnishing the result of the qualifying examination as also the certificate of the category (i.e. OBC) in which the appellant sought admission.

9. As directed by the Court, learned counsel for the respondent has also produced the answer sheet in which the appellant had been awarded "zero" marks to contended that the respondent University was justified in granting "zero" marks in the Administrative Law paper of the 4th semester and further he has also produced the admission form of the Appellant to show that the Admission Committee had noted in the application form the deficient documents, inter alia, the result of the qualifying examination as well as the OBC Certificate and also that there was no endorsement on the form of grant of provisional admission to the appellant.

10. We have also perused the record as produced by the learned counsel for the Delhi University. With regard to the contention of the appellant the he was incorrectly awarded zero marks in the improvement paper of administrative law; 4th semester examination, held in June 2017, it is noticed that no such plea has been raised or relief sought in the writ petition and, accordingly, this Court is not inclined to go into the same at this stage. However, a direction is issued to the respondent University to provide a copy of the answer

sheet to the appellant, while reserving the rights of the appellant to take recourse to law in respect of the same.

11. Insofar as the contention of the appellant with regard to the provisional admission is concerned, it is noticed from the application form produced by the

learned counsel for the respondent University that there is no endorsement on the same for grant of provisional admission to the appellant. On the contrary, the application form notices the deficient documents, inter alia, the result of the qualifying examination and the OBC certificate. Admittedly, the last date for submission of the requisite documents was in terms of the counselling held on 28.08.2017, i.e. ten days. The appellant had not qualified the qualifying examination as on the date of the counselling. The supplementary examination having been held on 29.08.2017 and the result thereof declared on 17.10.2017, the appellant could not have submitted the requisite qualifying result within the stipulated ten days of 28.08.2017. Further, with regard to the contention of the appellant of not having submitted even the OBC certificate, it is noticed that neither has the appellant averred that the OBC certificate is available nor has the same been placed on record. Even otherwise, it was for the appellant to have submitted the same to the concerned authorities within the time frame prescribed. Even if it were assumed that the appellant does satisfy the requirements of the OBC category and does possess the document to be submitted to the University, but has not submitted the same, it would not help the case of the appellant as the appellant has not even qualified the qualifying examination within the prescribed time.

12. Even with regard to the opening of the fee portal for payment is concerned, it may be noticed that mere payment of fee would not have entitled the appellant for an admission because the appellant as on the last cut off date did not possess the requisite qualification of a LL.B. degree.

13. In these circumstances, the action of the University in denying admission to the appellant cannot be faulted. In view of the above, we find no infirmity, in the view taken by the learned Single Judge in the impugned order, the appeal as well as the pending applications are, accordingly, dismissed.