

(2011) 01 DEL CK 0213

In the Delhi High Court

Case No : Writ Petition (C) 7404 of 2010 and CM No. 14668 of 2010

S. Balachandran

APPELLANT

Vs

Jawaharlal Nehru University and Another

RESPONDENT

Date of Decision : 12-01-2011

Acts Referred:

Citation : (2011) 01 DEL CK 0213

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : V. Elanchezhiyan, for the Appellant; M.J.S. Rupal and Aravind Varma for R1, Ashish Kumar Srivastava and Jatan Singh for R2, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The counsel for the Petitioner seeks permission to hand over rejoinder to the counter affidavit of the Respondent No. 1 University in the Court. Even though there is no justification for the same, time having been taken on 6th December, 2010 to file the rejoinder, in the interest of justice, the same is allowed and the rejoinder is taken on record.

2. The Petitioner claiming to be belonging to Other Backward Castes (OBC) category had applied for admission to the Respondent No. 1 University in M.A (Economics) course and had appeared for an entrance examination for the same. Upon the Petitioner being not admitted, the Petitioner first filed a writ petition in the High Court of Madras. The Respondent No. 1 University filed a counter affidavit in the High Court of Madras where it was stated that the Petitioner did not qualify for admission as he had secured only 5.5 marks out of 100 in M.A. (Economics) paper and 6 marks out of 100 in M.A. (Economics with specialization in world economy). It was further stated that for OBC candidates to be eligible for admission, the minimum eligibility was at least 27 marks out of 100 and the Petitioner was thus in any case not entitled to admission. The Respondent No. 1 University in the said counter affidavit filed in the High Court of Madras also contested the territorial jurisdiction of that High Court.

3. The Madras High Court being of the view that it has no territorial jurisdiction, ultimately allowed the Petitioner to withdraw the writ petition with liberty to approach this Court.

4. The present writ petition was filed on the basis of the judgment dated 7th September, 2010 of this Court in W.P.(C) No. 4857/2010 titled *Apurva v. Union of India*. It was the case of the Petitioner that the Respondent No. 1 University had denied admission to the Petitioner in violation of the principles laid down in *Apurva (supra)*. Notice of the writ petition was issued. The Respondent No. 1 University in counter affidavit filed has again pleaded that irrespective of *Apurva*, the Petitioner having not secured minimum requisite marks in the admission test, is not entitled to admission.

5. The counsel for the Petitioner has today argued that the Respondent no.1 University was not entitled to lay down the minimum eligibility and the same could have been done only by the University Grants Commission (UGC). It is stated that thus the Respondent No. 1 University could not have denied admission to the Petitioner for the reason of the Petitioner in the entrance test securing lesser marks than the eligibility fixed by the Respondent No. 1 University for OBC candidates. The counsel for the Respondent No. 1 University has contended that no such ground has been taken in the writ petition.

6. The counsel for the Petitioner has been unable to show from the writ petition, any such ground or challenge. He however states that the said pleas have been taken in the rejoinder handed over today.

7. The Petitioner was fully aware of the said plea of the Respondent No. 1 University which was also taken in the counter affidavit filed in the Madras High Court. If the Petitioner was desirous of challenging the said aspect, the said challenge ought to have been made in the writ petition and cannot be entertained on the basis of a plea taken in the rejoinder. Moreover, the Petitioner participated in the entrance test with knowledge of the said condition and cannot be now heard to challenge the same. Even otherwise, it is preposterous to suggest that the Petitioner with such poor grades in the entrance examination shall be entitled to the admission as claimed.

8. The counsel next contended that the Petitioner has been wrongly marked in the admission test, as would be apparent from the high marks obtained by him in graduation from Tamil Nadu University. Again no such challenge has been made in the writ petition.

9. Yet another grievance made in the writ petition is of non-declaration by the Respondent No. 1 University of the marks of each candidates in the entrance test; it is contended that the Respondent No. 1 University merely publishes the list of students admitted.

10. The Respondent No. 1 University in its counter affidavit has disclosed that

owing to a large number of students who appear in the entrance test, the logistics do not permit the declaration of the result with marks of each and every candidate but the same are provided on demand.

11. In the prevalent days of transparency and when results are declared on the website, it is desirable that the Respondent No. 1 University declares the marks of all the students appearing in the entrance test. The Respondent No. 1 University is directed to place the matter before the appropriate authorities for re-consideration on the said aspect.

12. Save for the aforesaid directions, the writ petition is without merit and is dismissed but with no order as to costs. Copy of this order be given Dasti under the signature of the Court Master.