
(2022) 03 DEL CK 0148

In the Delhi High Court

Case No : Civil Writ Petition No. 2158 Of 2022

Saarthak Kalra

APPELLANT

Vs

University Of Delhi

RESPONDENT

Date of Decision : 24-03-2022

Acts Referred:

Constitution Of India, 1950 — Article 142

Citation : (2022) 03 DEL CK 0148

Hon'ble Judges : Rekha Palli, J

Bench : Single Bench

Advocate : Meenal Duggal, Mohinder J.S.Rupal, V. Bhawani

Final Decision : Allowed

Judgement

Rekha Palli, J

1. The petitioner, who had registered with the School of Open Learning, Delhi University for admission to the B. Com course but has not been granted admission on the ground of not completing the necessary formalities including payment of fees, has approached this Court seeking a direction to the respondent to grant him admission by condoning the delay, if any, in complying with the procedural requirements. It is the petitioner's case that on account of the demise of a close family member as also a technical glitch in the respondent's website, he was not able to pay the fees.

2. The writ petition is opposed by the respondent by contending that while the petitioner had registered with the respondent for seeking admission to B.Com Course, he failed to click on the verification icon at the time of submitting his application, and resultantly, his registration was unsuccessful and he was, therefore, rightly not permitted to pay the fees. Mr. Rupal, learned counsel for the respondent submits that the petitioner, having now missed the bus cannot claim that he should be granted admission on account of any purported technical glitch either at his end or at the end of the University. He further submits that

the respondent has already filed an affidavit clearly stating therein that there was no technical glitch in their website and therefore it is evident that the petitioner, on account of his failure to complete the necessary formalities, is trying to shift the blame on the respondents.

3. Having considered the submissions of the learned counsel for the parties, I may at the outset note that the petitioner is not seeking admission in any competitive course where his admission at this stage will affect the rights of any other students. The petitioner is seeking to join the School of Open Learning wherein there is no mandatory requirement of attending classes which in any event, were only being conducted online. It is an admitted position that the admission to the School of Open Learning is dependent on the minimum eligibility criteria prescribed by the respondent from time to time for admission to different courses which minimum criteria, the petitioner fulfilled for admission to the B.Com course.

4. I may now refer to the message received by the petitioner from the respondent university at 11:20 PM on 02.12.2021, based on which the petitioner has contended that he was under a bona fide impression that having been duly registered with the School of Open Learning, his admission thereto was secured and he was only required to pay the fees. The aforesaid message received by the petitioner reads as under-

"VK-SOLDUO

Text Message

Thu, 02 Dec, 11:20 PM

Dear Saarthak Kalra, Thank you for registering with School of Open Learning (SOL), University of Delhi. Your User ID: kalra.deepa@gmail.com and Password: 788122"

5. From a perusal of the above message, it is evident that the petitioner was unambiguously informed that he had successfully registered with the School of Open Learning and was therefore also provided with a user id. Even though a detailed counter-affidavit has been filed by the respondent, the veracity of this message which bears the logo of School of Open Learning has not been denied by it. I therefore see no reason to disregard the petitioner's plea that he always remained under the belief that he had been granted admission in the School of Open Learning.

6. In the light of the aforesaid, I am unable to accept the respondent's plea that the petitioner's registration was not complete. No doubt, the petitioner has not paid the requisite fees before the cut-off date of 31.12.2021, but the petitioner has sought to give an explanation that even though he tried his best, he was unable to click on the verification icon on 31.12.2021 and was therefore, unable to pay the fees. The petitioner has also explained that due to a death in his family, he was not able to immediately rush to the Court. However, the fact

remains that the petitioner approached this Court within one month, i.e., on 02.02.2022.

7. Thus, what emerges is that the petitioner is a young 18-years old student who had duly registered with the School of Open Learning for the B.Com course, but could not pay his fees on account of a personal tragedy as also a technical glitch, may be only at his end and not at the respondent's end. It is not as if the petitioner has missed any classes or is not meeting any other criteria and therefore, grave and irreparable prejudice would be caused to him if he is made to lose one full year only on account of non-payment of fees. These peculiar facts persuade this Court to issue directions to the respondent to enable the petitioner to complete all other remaining formalities for his admission to B.Com course for the academic year 2021-2022.

8. On this aspect, reference may also be made to a recent decision of the Supreme Court in *Prince Jaibir Singh vs. Union of India & Ors.*, Civil Appeal No. 6983/2021, dated 22.11.2021 wherein the Apex Court while dealing with the case of a candidate who had secured admission in IIT Bombay, had by exercising its power under Article 142 of the Constitution, come to his aid by directing a supernumerary seat to be created for him. The relevant extracts of the said decision read as under:-

"5. Having regard to the facts of the case noted above, it would be a grave travesty of justice if a young Dalit student, who had to move this Court, is turned away without considering the difficulties he has encountered in acquiring the funds and to pay the fee for admission for the B.Tech Degree Course at IIT-Bombay and, thereafter, in ensuring that the payment is processed online. If the petitioner were not to be admitted during the current academic year, he will be ineligible to appear after two consecutive attempts. Though technology is a great enabler, there is at the same time, a digital divide. Hence, we are of the view that this is a fit and proper case where the exercise of the jurisdiction under Article 142 of the Constitution is warranted at the interim stage in the facts as they appear before the Court."

6. We accordingly direct the first and second respondents to ensure the appellant is admitted to IIT-Bombay pursuant to the allocation of the seat to him. This shall not entail disturbing any other student who has already been admitted. The creation of a supernumerary seat, in the facts of the present case, shall be subject to the admission of the appellant being regularized in the event that any seat falls vacant as a result of exigencies which may arise in the course of the admissions process. Otherwise, the continued studies of the appellant for the B.Tech Degree Course in Civil Engineering shall be against the supernumerary seat. The parties shall act on a certified copy of this order and implement these directions on or before 24 November 2021.

9. For the aforesaid reasons, the writ petition deserves to be and is accordingly allowed. The respondent is directed to permit the petitioner to complete all other

necessary formalities within three days for which purpose the petitioner may approach the office of the principal of the respondent/School of Open Learning who will ensure that he is permitted to complete all necessary formalities including payment of fees as also the examination fees so as to enable him to appear in the forthcoming examination.

10. The writ petition is allowed in the aforesaid terms.