

(2021) 12 DEL CK 0158

In the Delhi High Court

Case No : Civil Writ Petition No. 14856 Of 2021

Sanskriti Sharma

APPELLANT

Vs

Jawaharlal Nehru University And Ors

RESPONDENT

Date of Decision : 22-12-2021

Acts Referred:

Constitution Of India, 1950 — Article 142

Citation : (2021) 12 DEL CK 0158

Hon'ble Judges : Prateek Jalan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prateek Jalan, J

The proceedings in the matter have been conducted through video conferencing.

CM APPL. 46886/2021 (for exemption)

Exemption allowed, subject to all just exceptions.

This application stands disposed of.

W.P.(C) 14856/2021 & CM APPL. 46885/2021 (for stay)

1. Issue notice. Ms. Monika Arora, learned counsel, accepts notice on behalf of the respondents- Jawaharlal Nehru University ["JNU"].

2. The petitioner applied for admission to the Ph.D. course in Hindi in the Centre for Indian Languages, School of Languages, Literature and Cultural Studies, JNU. This petition is directed against a communication dated 07.12.2021, by which she has been held to be ineligible for the said course by JNU.

3. The contention of the petitioner is that she applied for admission to Ph.D. in Hindi in the National Eligibility Test ["NET"]-Junior Research Fellowship ["JRF"] category. Mr. Kumar Piyush Pushkar, learned counsel for the petitioner, submits

that in the academic session 2021-22, JNU did not offer any seats for Ph.D. in Hindi other than through the NET-JRF category. The petitioner's contention is that although she had not taken the NET-JRF examination, conducted by the University Grants Commission, she was entitled to be considered in the said category as the NET-JRF has not been conducted in the last three cycles.

4. Ms. Arora submits that admissions to Ph.D. programmes at JNU are offered either through the NET-JRF category, or through the JNU Entrance Examination ["JNUEE"]. In the event the candidate is not NET- JRF qualified, he/she is entitled to appear in the JNUEE, and seek admission to Ph.D. courses. On the other hand, a NET-JRF qualified candidate is not required to appear in the JNUEE but must submit himself/herself to an interview.

5. The petitioner applied in the NET-JRF category and was subsequently interviewed, but was ultimately held to be ineligible as she has admittedly not taken the NET-JRF examination. Mr. Pushkar submits that, at the time the prospectus was issued, the NET-JRF was scheduled to be held in June, 2021, but has now been postponed to December, 2021. In these circumstances, he submits that the petitioner ought to be held to be eligible for admission, although she admittedly did not hold the requisite qualification of NET-JRF at that time.

6. The relevant extracts of the prospectus dealing with the situation have inexplicably not been annexed to the writ petition. However, the relevant portion of the prospectus has been screen-shared during the video-conference hearing by the learned counsel. It reads as follows:-

"Admission of JRF holders to Ph.D. programme

Only those candidates who fulfil the minimum eligibility requirements as prescribed for admission of candidates to Ph.D. programmes as mentioned in the respective schools/centres and have qualified for Junior Research Fellowship through CSIR, UGC National Eligibility Test (NET), ICMR, ICAR, AYUSH, DBT examination are eligible to apply separately in the prescribed form under this category in the respective school/centre/Special Centre wherever separate intake through JRF category is available (the link for this category will be available on the UNU website). Such candidates shall be exempted from appearing in Computer Based Test (CBT). However, candidates shall have to appear for an interview and their selection will depend on their performance in the interview. Candidates who have appeared in these examinations, but results awaited may also apply under this category. However, such candidates will be interviewed upon submission of a valid proof of having qualified for or awarded the JRF certificate at the time of interview. Please note that candidates who have been awarded "Lectureship" (without JRF) in the CSIR/UGC examination are not eligible and will not be interviewed. In case of candidates applying under JRF category selection will be done on the basis of 100% viva score"

[Emphasis supplied.]

7. It appears from the above that a candidate was entitled to apply in the NET-JRF category only if he/she had the requisite qualification, or had appeared in the examination but the results were awaited. Even in the latter case, the interview was subject to having qualified/been awarded the NET-JRF certificate, at the time of interview. The petitioner admittedly does not fall within this class and was, therefore, ineligible to apply in the NET-JRF category.

8. The eligibility conditions mentioned in the prospectus are binding. The petitioner, having applied under the prospectus, cannot now seek an exemption from the eligibility conditions mentioned therein. This will cause severe prejudice not just to the administration of JNU, but also to other qualified candidates who have applied under the NET-JRF category, and also to candidates similarly placed as the petitioner who may not have applied for want of the requisite qualifications.

9. Mr. Pushkar submits that the difficulty arises out of the fact that JNU has not invited any applications for Ph.D. in Hindi course through JNUEE. That is also, unfortunately, not a matter which can invite the interference of the writ court. The categories and qualifications in which an academic institution seeks to attract students for various courses is a matter for the institution to decide, and the interference of the writ court in such matters is only upon a finding of manifest arbitrariness or perversity. No such case is made out in the present petition.

10. Mr. Pushkar lastly relies upon an order of the Supreme Court dated 16.07.2021 in W.P.(C) 408/2021 (Deepak Yadav & Ors. vs. Union Public Service Commission & Anr.). According to Mr. Pushkar, the Supreme Court has, in circumstances similar to that of the petitioner, granted relief to the candidates who had applied for the UPSC- Civil Services Examination, on account of the COVID-19 pandemic. The Supreme Court held as follows:-

"We are dealing with an extraordinary and unparalleled situation because of the pandemic and therefore, keeping in view the facts of the present case, we deem it appropriate to exercise plenary power under Article 142 of the Constitution. Relief and succor are needed and justified to alleviate the misfortune of the candidates who have qualified and come within the consideration zone and merit category. It would be inequitable to deny them an opportunity of participating in the selection process because the pandemic has caused delay in declaration of their results by the concerned University.

Accordingly, we issue direction to UPSC to permit the 5 candidates, as a special case, to participate in the personality test/interview in the respective categories in which they have qualified. The addition of these 5 candidates would not be to the disadvantage of any already empanelled candidate in the published list for personality test/interview in the respective branches/categories. We also clarify that this order should not be treated as a precedent."

[Emphasis supplied.]

11. It is evident from the above that, in the facts of the case, the Supreme Court exercised its plenary powers under Article 142 of the Constitution. The Court expressly clarified that the order should not be treated as a precedent. Consequently, Mr. Pushkar's reliance upon this order is, in effect, an invitation to do exactly what the Supreme Court says cannot be done.

12. For the reasons aforesaid, the writ petition, being bereft of merits, is dismissed, alongwith the pending application.

13. No order as to costs.