
(2012) 07 DEL CK 0333

In the Delhi High Court

Case No : Writ Petition (C) No. 3887 of 2012

Shriom Dalal

APPELLANT

Vs

University of Delhi and Others

RESPONDENT

Date of Decision : 20-07-2012

Acts Referred:

Constitution of India, 1950 — Article 14, 21

Citation : (2012) 07 DEL CK 0333

Hon'ble Judges : Rajiv Sahai Endlaw, J;Dipak Misra, J

Bench : Division Bench

Advocate : Sourabh Ahuja, for the Appellant; Mohinder J.S. Rupal, for the Respondent

Final Decision : Dismissed

Judgement

Rajiv Sahai Endlaw, J.—The petitioner took admission in July 2010 in the three years (comprising of six semesters) LL.B. course of the respondent University and has appeared in the 4th semester examination. The petitioner states that he has secured around 50% marks in aggregate in the first three semesters and which are not sufficient to entitle him to admission to LL.M. course or higher studies in future and may affect his future job prospects; he appeared in the Entrance Test held on 10th June, 2012 for admission afresh to the said course in the Academic Year 2012-13. The petitioner again qualified for admission but was denied admission for the reason of the following clause (iv) to note C of the eligibility conditions for admission to LL.B. course in the admission brochure -

No candidate on the rolls of LL.B. or who is otherwise ineligible to be admitted to LL.B. course shall be allowed to appear in the LL.B. Entrance Test 2012.

The petitioner thereafter applied for withdrawing his admission of the year 2010 to the LL.B. course. His said request was however not acceded to.

2. It is in these circumstances that the present petition has been filed impugning the clause aforesaid in the admission brochure and seeking a direction for

cancellation of his admission of the year 2010 and for a direction to admit him in the Academic Year 2012-13. It is the argument of the petitioner that the said clause is unjust, arbitrary, in violation of Articles 14 & 21 of the Constitution of India and restricts his right to strive hard to improve his percentage. It is yet further contended that no prejudice shall be caused to the respondent University in as much as the petitioner, though has already paid the fee for the two years, is willing to pay the fee again.

3. Notice of the petition was issued. The respondent University has filed a counter affidavit pleading that only 50% marks in LL.B. are required for seeking admission to LL.M. course; that the petitioner has secured almost 50% marks so far in the three semesters; that though the petitioner in his representation to the respondent University had submitted that he wanted to achieve the target of 50% marks but in the writ petition has made out a desire to secure 60% marks; that the petitioner is not eligible for fresh admission in the first term after dropping the LL.B. course midway. It is further pleaded that if all students keep on applying afresh every year or after two years, it will result into loss at the cost of wastage of seats which are otherwise sought after. It is yet further pleaded that the Central Government through its grants is spending huge amount of monies on technical and other professional education in order to provide opportunity of higher education and by heavily subsidizing the education and if a student is allowed to so drop out and take admission again it will also result in colossal wastage of Government resources in Central Educational Institutions. It is yet further pleaded that a provision for improvement of performance in LL.B. course by any student who is not satisfied with his or her performance exists; a student can surrender his or her papers to seek further improvement as per the rules in this regard. The rules for improvement of performance are annexed to the counter affidavit.

4. Though at one stage we had wondered as to whether the respondent University on the basis of the aforesaid clause in the prospectus, could have restrained the petitioner from seeking fresh admission in the current academic year, had he prior to appearing in the entrance test for the current year surrendered his earlier admission and if he could not have been so denied admission whether we should deny him admission merely for his lapse of not surrendering/withdrawing/cancelling his earlier admission at the appropriate stage but on deeper consideration we find merit in the defence of the respondent University.

5. Though striving for excellence is laudable but we at the same time cannot lose sight of the fact that we are a country of scarcities. The said scarcities percolate in the field of education also. The Supreme Court in Indian Medical Association Vs. Union of India (UOI) and Others, noticed that though education in one of the principal human activities to establish a humanized order in our country and every individual is worthy of being educated but since, resources such as seats in institution of higher education, including professional education, are scarce, they

have to be allocated within the social circumstances. Similarly, in *Viklad Coal Merchant, Patiala and Others Vs. Union of India (UOI) and Others*, it was observed that a developing country with mixed economy and economic planning have certain targets to achieve and economic activity is geared to the achievement of these targets; if the required resources necessary for achieving targets were readily available, no difficulty would arise. But a developing country has to so distribute its scarce resources to achieve and accomplish the desired targets.

6. The number of admission seekers are far more than the seats in the educational institutions. Few decades back the LL.B. course was known as the refuge of the third graders; the position now is different - the best of the talent is seeking admission to LL.B. courses and now entrance test is held therefore. The petitioner by securing admission to the LL.B. course in the year 2010, even though on his own merit, deprived someone else of the said admission. There is merit also in the plea of the respondent University of the cost at which education is being provided, being heavily subsidized from public resources. Cases are not unknown of persons continuing their education, only for the sake of availing hostel facility - perhaps the cheapest accommodation available in the City. The seat in the course which the petitioner occupied in the year 2010 cannot now be filled. Dropping out of the petitioner from the course after two years particularly when he wants to again obtain admission is certainly at a loss of huge expenditure for all the three years in as much as the expenditure on infrastructure even in the third year which the petitioner will not attend will remain constant and will not be reduced merely because of the petitioner dropping out. Not only so, the petitioner upon being admitted in the current academic year will again deprive another. The Supreme Court in *Unni Krishnan, J.P. and others Vs. State of Andhra Pradesh and others etc. etc.*, held higher education calls heavily on national economic resources. The right to it must necessarily be limited in any given country by its economic and social circumstances. The State's obligation to provide it is, therefore, not absolute and immediate by relative and progressive.

7. When we weigh the equities in the manner aforesaid, we do not find any arbitrariness in the clause aforesaid in the prospectus of the respondent University. The said clause is for well considered reasons and just. This Court, particularly in the writ jurisdiction cannot restrict its vision to do justice only for the party which approaches the Court and has to necessarily see the impact thereof on others.

8. Not only so, we find the conduct of the petitioner also to be not above Board. The petitioner as per the prospectus was ineligible to even apply for admission while being a LL.B. student or to appear in the entrance test. The petitioner admittedly while so applying or taking the entrance test did not disclose, that he was already a student of the LL.B. course. Had he so disclosed, his application itself would have been rejected. The petitioner admits the said position. It shows

that the petitioner was wanting to sail in two boats i.e. if he did not qualify in the entrance test held on 10th June, 2012, to continue the LL.B. course in the 5th semester and if he qualified, to seek admission again.

9. Today there are several private universities offering the LL.B. course, of course at a cost much above that charged by the respondent University. It is thus not as if the petitioner has no other choice. The petitioner, if so keen to excel, can always join other private universities by paying the actual costs of the course.

10. The counsel for the petitioner has argued that even in the Indian Administrative Service Examination opportunity is given to improve the rank. We do not find any parity in the two situations. We therefore do not find any merit in the petition and dismiss the same. No costs.