
(2009) 07 AHC CK 0140

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 35954 of 2009

Shruti Bajaj

APPELLANT

Vs

Aligarh Muslim University, Aligarh and Another

RESPONDENT

Date of Decision : 29-07-2009

Acts Referred:

Citation : (2009) 07 AHC CK 0140

Hon'ble Judges : Tarun Agarwala, J

Final Decision : Dismissed

Judgement

Tarun Agarwala, J.—Pending declaration of the graduation results by Dr. B.R. Ambedkar University, Agra, the petitioner applied for admission in the MBA Course in Aligarh Muslim University, Aligarh. The minimum qualification required for this course is, a Bachelor's Degree with at least 50% marks in aggregate. The petitioner was permitted provisionally to appear before the Interview Board for admission, subject to the undertaking that the petitioner would produce the mark sheet of the qualifying examination in original on the date of the interview, failing which, the admission would stand cancelled automatically. An undertaking to this effect was given by the petitioner on 11th May, 2009.

2. It transpires that the petitioner appeared before the Interview Board, pursuant to which, the Admission Committee issued a letter dated 27th of June, 2009 indicating that the petitioner was provisionally selected for admission and that she should appear on 8th of July, 2009 for verification of her eligibility for admission in the MBA Course. The petitioner was required to produce proof of her qualifying examination. It transpires that the petitioner's result was not declared by Dr. B.R. Ambedkar University till 8th of July, 2009, and consequently, when the petitioner appeared before the Admission Committee on 8th of July, 2009, she had not passed the qualifying examination, as a result of which, the Admission Committee denied the admission to the petitioner in the MBA Course, and the seat was offered to the next candidate.

3. It transpires that the petitioner's result was declared by the said B.R.

Ambedkar University, Agra, on 10th of July, 2009, and armed with a mark sheet, the petitioner again approached the Admission Committee praying that she now possesses the mark sheet and since her name was found in the merit list, and since the admission process is still going on, the petitioner should be given an admission in the MBA Course. The Admission Committee refused to admit the petitioner, and accordingly, the present writ petition was filed praying for a writ of mandamus commanding the respondents to give admission to the petitioner in the MBA Course for the Academic Session 20092010.

4. The learned counsel for the petitioner submitted that the last date for admission is 13th of August, 2009, and that, the admission process is still going on. The learned counsel further submitted that since the petitioner's name was found in the select list, the petitioner should be given a preference from those students who are kept in the waiting list and who are now being admitted by the University in the MBA Course.

5. On the other hand, the learned counsel for the respondent University submitted that the petitioner was not eligible for admission on the date when she was required to appear and submit the required qualifying mark sheet, and accordingly, the seat was offered to the next candidate. The learned counsel further submitted that all the seats for the MBA Course have been filled up now and no seats are available.

6. Having considered the rival submissions of the learned counsel for the parties and having perused the record, and as per the guidelines to the admission procedure in the MBA Course, the Court finds that, admittedly, the last date for admission is 13th of August, 2009.

7. However, as per Clause 4 of the guidelines, the candidates are required to produce the original mark sheet at the time of the interview, failing which, they will not be allowed admission, and the offer would stand cancelled.

8. For facility, Clause 11 is being quoted, which reads as under:

"11. Candidate is required to produce the original mark sheets/Certificates, in person including the statement of marks of the qualifying examination with the requisite percentage of marks at the time of interview/reporting for admission, failing which they shall not be interviewed/allowed to complete the admission, and the offer of admission shall stand cancelled and no further correspondence in the matter shall be entertained."

9. Further, Clause 18 of the said guidelines provides as under:

"18. No candidate shall be admitted unless he/she has completed all the eligibility requirements at the time of admission. Candidate awaiting results of his/her Supplementary/Compartmental/Improvement examination shall not be admitted."

10. It would also be necessary to indicate that Clause 24 provides a procedure

for admission of candidates whose names are displayed in the Chance Memo, which reads as under:

"24. The University shall issue or display "Chance Memos" if there is any likelihood of a vacancy caused due to removal of name or any other reason. Chance Memo is not an offer of admission but is issued only in case there is likely to be vacancy due to one or more selected candidates not reporting for admission. In case there is a vacancy, candidate with Chance Memo No. 1 shall be given admission provided he/she reports on the specified date and time. In case the candidate with Chance Memo No. 1 does not report for admission, the vacancy is offered to the candidate with Chance Memo No. 2, and so on."

11. From a perusal of the counter affidavit, the Court finds that the total number of seats in the MBA Course is 60. The Court further finds that the petitioner was provisionally invited to appear before the Interview Board subject to fulfilment of certain conditions, namely, production of the original mark sheet of the qualifying examination. The Court finds that an undertaking was submitted by the petitioner on 11.05.2009 to produce the original certificate of the qualifying examination within two weeks. The petitioner was asked to appear with the mark sheet on 8th of July, 2009, on which date, admittedly, the results of her qualifying examination were not declared, and consequently, the petitioner did not possess the minimum eligibility at the time of the admission. The Court finds that the Admission Committee did not commit any error and had rightly refused to admit the petitioner on 8th of July, 2009 since the petitioner did not possess the requisite educational qualification.

12. The submission of the learned counsel for the petitioner that since the result was declared on 10th of July, 2009, on which date, the petitioner possessed the requisite educational qualification, and since the petitioner's name was found in the select list and the admission process was going on, the petitioner should be given preference over the candidates mentioned in the Chance Memo.

13. The submission, though attractive in the first flush, but upon consideration, the Court finds that it does not merit any consideration. From the record, it transpires that the 60th seat was offered to a candidate at Sl. No. 22 of the Chance Memo on 08.07.2009, and as on 25th of July, 2009, no seats were available for admission in the MBA Course. Consequently, the petitioner could not be offered any seat in the MBA Course. Further, this Court finds that the petitioner could not be given preference merely because she was selected and her name was found in the Select List. The petitioner was required to present her qualifying mark sheet on 8th of July, 2009, on which date, she did not possess the Bachelor's Degree. Consequently, in order to fill up the seat, the next candidate was offered the seat. Admission in the University is an on going process and could not be held up to enable the petitioner to obtain the results of her qualifying examination. The mere fact that the last date for admission was 13th of August, 2009 will not help the petitioner to jump the queue and seek preferential treatment. Once the petitioner is called for admission and she fails to

present her requisite qualifying mark sheet, her offer for admission stands cancelled there and then, and the seat is offered to the next candidate from the chance Memo.

14. In a similar matter, in CMWP No. 25557 of 2004 (Gaiti Zaidi Vs. Vice Chancellor, Aligarh Muslim University, Aligarh & Ors.) decided on 02.02.2005 the Court held that Clause 17 of the guidelines to Admission was mandatory, and since the essential requirement on the date of admission was not fulfilled, the University was justified in refusing to admit the candidate. The said judgment is squarely applicable in the petitioner's case.

15. In view of the aforesaid, and in view of the fact that the process for admission has been completed, this Court is of the opinion that the petitioner is not entitled for any relief. The writ petition fails and is dismissed.

16. It has come on record that the University has offered a chance for admission to the remaining candidates, mentioned in the Chance Memo, on 13.08.2009 in the event a seat is vacant. The Court holds that in the event any vacancy exists in the MBA Course on 13th of August, 2009, and if the list of candidates mentioned in the Chance Memo is exhausted and the vacancy still remains, in that event, the petitioner's admission would be considered by the Admission Committee, provided she presents herself on that date.

17. Certified copy of the order shall be made available on payment of usual charges to the parties, within a week.