
(2014) 10 DEL CK 0126
In the Delhi High Court
Case No : LPA No. 679/2014

Siddarth Singh

APPELLANT

Vs

The Vice Chancellor

RESPONDENT

Date of Decision : 29-10-2014

Acts Referred:

Citation : (2014) 146 DRJ 193

Hon'ble Judges : G. Rohini, C.J.;Rajiv Sahai Endlaw, J

Bench : Division Bench

Advocate : R.K. Saini and Virendra Rawat, Advocate for the Appellant; Saurabh Banerjee, Sumit Nagpal, Amit Khemka and Rishi Sehgal, Advocate for the Respondent

Judgement

Rajiv Sahai Endlaw, J.—This intra-court appeal impugns the judgment dated 10th September, 2014 of the learned Single Judge of this Court of dismissal of W.P.(C) No.4794/2014 preferred by the appellant / writ petitioner.

2. Notice of this appeal was issued. Considering the nature of the relief claimed, we, with consent, heard the counsels for the appellant / writ petitioner, respondents no.1 to 3 Delhi University and the counsel for the respondent no.4 Maharaja Agarsen College affiliated to the Delhi University, finally, at the after notice stage itself and reserved judgment.

3. The writ petition from which this appeal arises was filed seeking mandamus directing the respondents to grant admission to the appellant / writ petitioner in the academic year 2014-15 in the B.Com. (Hons.) programme / course under the Sports Quota, pleading:

(i) that the appellant / writ petitioner in the year 2014 passed his Class-XII examination, held by the Indian Certificate of Secondary Education (ICSE) Board as a student of Sherwood College, Nainital in Commerce stream, securing 86% marks in Commerce, 86% marks in Economics, 83% marks in Accountancy as well as in the subjects of English and Hindi;

(ii) that the appellant / writ petitioner had also played several sports including Athletics and Basketball for the school as well as at the District, State and National Level;

(iii) that the appellant / writ petitioner applied for admission in the respondent University by filling up the prescribed Common Admission Form; the appellant / writ petitioner also applied under Sports Quota and appeared for trials etc. and was selected for B.Com. (Hons.) course under Sports Quota in the respondent no.4 College which is nearby to the appellant / writ petitioner's house;

(iv) however when the appellant / writ petitioner went to deposit the fee along with original testimonials, he was refused admission for the reason that he did not have Mathematics in Class XII;

(v) that other Colleges of / affiliated to the respondents no.1 to 3 Delhi University including Shri Ram College of Commerce, Ramjas College, Hans Raj College gave admission in B.Com. (Hons.) without mathematics in Class XII;

(vi) thus the denial of admission by the respondent no.4 College to the appellant / writ petitioner was totally discriminatory;

(vii) that the appellant / writ petition did not apply for being selected in other colleges under the Sports Quota where the other candidates who had secured 65% marks in Class XII got admission in Sports Quota;

(viii) that as per the admission brochure of the Delhi University for the year 2014, there was no condition stipulated with regard to Mathematics as one of the subjects required for admission in B.Com. (Hons.).

4. The writ petition was entertained and a counter affidavit was filed on behalf of the respondents no.1 to 3 Delhi University as well as on behalf of the respondent no.4 College.

5. The learned Single Judge, by the impugned judgment, dismissed the writ petition, finding / observing / holding:

(a) that the appellant / writ petitioner could not rely on the admission brochure published by the respondent Delhi University for the year 2014-15 as the same was for admission to the Four Year Undergraduate Programme (FYUP) but which programme, as per the Statement dated 27th June, 2014 of the Vice Chancellor of the Delhi University and the Resolution dated 28th June, 2014 of the Academic and Executive Council of the University and the Notification dated 30th June, 2014, was rolled back;

(b) that the FYUP was scrapped prior to any admission having been made by any college;

(c) that the Schedule of Admission for the academic year 2014-15 as contained in the admission brochure relied upon by the appellant / writ petitioner was replaced by another Schedule dated 30th June, 2014;

(d) the contention of the appellant / writ petitioner that the Rules for admission had been retrospectively changed was thus misconceived;

(e) In fact, the Delhi University and all its colleges admitted students in accordance with the procedure and criteria as applicable to the year 2012-13 and not in accordance with the FYUP admission brochure for the year 2014-15;

(f) that while Delhi University prescribes the basic eligibility criteria, each college of the University is free to prescribe its own additional eligibility criteria; the same is in consonance with the principle of autonomy of private colleges in higher education, enunciated in T.M.A. Pai Foundation and Others Vs. State of Karnataka and Others, ;

(g) that in the Bulletin of Information for Admission to undergraduate courses published for the year 2012-13 and which had been made applicable for admission to the year 2014-15, Mathematics was shown as the additional eligibility criteria in the respondent no.4 College for the B.Com. (Hons.) programme / course.

6. Notwithstanding the well reasoned judgment as aforesaid of the learned Single Judge, we issued notice, being prima facie of the view that the appellant / writ petitioner, after the FYUP programme under which the appellant / writ petitioner had applied for admission and as per which programme the appellant / writ petitioner for admission to the respondent no.4 College in the B.Com. (Hons.) course was not required to have Mathematics was rolled back, and the admission criteria as applicable for admissions to the year 2012-13 and as per which the appellant / writ petitioner for such admission was required to have Mathematics in Class XII was made applicable, the appellant / writ petitioner did not have the opportunity to apply for admission to any other college and which aspect had not been considered or perhaps not even argued before the learned Single Judge.

7. We have as such heard the counsels on the said aspect only.

8. The undisputed position which emerges is as under:

A. As per the admission brochure published by the Delhi University for the year 2014-15, the aspirants were required to fill up the Common Admission Form and register themselves between 2nd June, 2014 to 16th June, 2014; first admission list was to be notified by the Colleges on 24th June, 2014; admission and payment of fees in pursuance thereto was to be done between 24th to 26th June, 2014; the second admission list was to be notified on 27th June, 2014 and admission and payment of fee pursuant thereto were to be made between 27th to 30th June, 2014; the third admission list was to be notified on 1st July, 2014 and admissions pursuant thereto to be made between 1st and 3rd July, 2014. Though the said Schedule provides for Notification till the 10th admission list on 21st July, 2014 and admissions coupled with payment of fees in pursuant thereto between 21st to 22nd July, 2014 but need for giving the said dates does not arise in the facts of the present case.

B. As per the said admission brochure, the appellant / writ petitioner was eligible for admission to the B.Com. (Hons.) course in the respondent No.4 College, even without having Mathematics as a subject in Class XII.

C. The appellant participated in the trials held by the respondent no.4 College for admission under the Sports Quota and on the basis of his performance, was short listed for admission subject to his fulfilling the admission criteria and further subject to verification of his testimonials.

D. Due to change in policy and as per the directions of the University Grants Commission, the Delhi University scrapped the FYUP programme introduced with effect from the year 2013-14 and reverted to the earlier three year course / programme.

E. The Vice Chancellor of the respondent University on 27th June, 2014 issued a Statement to the said effect, further clarifying that the admission process for the year 2014-15 shall be conducted under the Scheme as in force for the year 2012-13.

F. The Academic Council of the respondent University also vide Resolution dated 28th June, 2014 re-affirmed the aforesaid Statement of the Vice Chancellor.

G. The respondent University on 30th June, 2014 issued a Notification prescribing guidelines for admission for the academic session 2014-15 inter alia additionally providing that the first cut-off list will be declared on 1st July, 2014 and admission will start the same day and that colleges will send the cut-off list to the office of the Registrar one day in advance.

H. The respondent University before the learned Single Judge clarified that though as per the original schedule, the first admission list was to be notified on 24th June, 2014 and admissions pursuant thereto were to begin from same day and till 26th June, 2014, but no admissions were made till 27th June, 2014.

9. The respondent no.4 College in its counter affidavit filed before the learned Single Judge has inter alia stated that after the aforesaid statement of the Vice Chancellor and Resolution of the Academic Council of the University, the students seeking admission in the respondent no.4 College were required to fill up the college admission form and along with the said admission form provided the bulletin of information and which clearly mentioned the requirement of having Mathematics at the Higher Secondary level for admission to the B.Com. (Hons.) course. It was thus submitted that the appellant / writ petitioner was well aware of the said requirement and could not, without fulfilling the same, have expected admission in the respondent no.4 College and the respondent no.4 College cannot be directed to admit the appellant / writ petitioner who does not fulfill the prescribed admission criteria. The counsel for the respondent no.4 College in this regard also invites attention to the Notification dated 30th June, 2014 of the respondent University, Clauses 7 and 8 whereof are as under:

"7. All the candidates already registered online / offline through the University

for the current academic year will now be eligible for admission to all courses wherever they meet the eligibility criteria.

8. All candidates who have not already registered will be required to fill the University registration form on the payment of 100 (General / OBC) / 50 (SC/ST/PwD), alongwith the college Admission form in case she/he meets the cut-off and qualifies for admission. This registration made in a college will be valid in case the candidate take admission in another college / course in the subsequent cut-off lists."

On the basis thereof, it is argued that the appellant, after the aforesaid change, instead of seeking admission in the respondent no.4 College and for which he was not eligible, should have sought admission in other colleges where he was eligible for admission.

10. Per contra, the counsel for the appellant / writ petitioner has argued that the trials for admission under the Sports Quota were held in different colleges of the respondent University till 24th June, 2014 and the appellant / writ petitioner being interested in admission only in the respondent no.4 College, which is closest to his house and where his elder brother was also studying, did not participate in sports trials in other college viz. Shri Ram College of Commerce, Ramjas College, Hans Raj College even though perceived to be better than the respondent no.4 College and there was thus no question of the appellant / writ petitioner, after 30th June, 2014, applying for admission to any other college. Attention in this regard is also invited to the rejoinder filed before the learned Single Judge to the counter affidavit of the respondent no.4 College, specifically denying that any Bulletin of Information as pleaded was supplied along with admission form and pleading that there was no time or opportunity for the appellant / writ petitioner to apply for admission under the new Scheme to any other college for admission in which he was eligible.

11. In spite of our repeated asking, neither the counsel for the respondent University nor the counsel for the respondent no.4 College were able to satisfy us as to where was the time for the appellant / writ petitioner to, after the entire admission process was revised, seek admission to any other college for admission to which he was eligible under the Sports Quota.

12. As aforesaid, the process of filling up of the forms for admission under the original time schedule was till 16th June, 2014. The contention of the counsel for the appellant / writ petitioner, that the trials for admission in Sports Quota under the FYUP and as per the original schedule were held till 24th June, 2014, has not been rebutted by the counsel of the respondent University or the counsel for the respondent no.4 College. The admission process was in limbo from 27th June, 2014 till 30th June, 2014. As per the Notification dated 30th June, 2014, the colleges were to announce the first cut-off list on the very next day i.e. 1st July, 2014 and in fact the colleges were required to send the cut-off list to the University by 1600 hours on 30th June, 2014 itself. The candidates, who had

already registered with the University as per Clause 7 (supra) of the Notification dated 30th June, 2014 were eligible for admission to the courses in the colleges for admission whereto they met the eligibility criteria. The appellant / writ petitioner had as aforesaid, registered for admission. Only the candidates who had not registered were as per Clause 8 (supra) of the Notification dated 30th June, 2014 were given an opportunity to register and which registration could of course be on 30th June, 2014 or 1st July, 2014 only. There was thus no time for the appellant / writ petitioner to, after the revised schedule for admission was notified on 30th June, 2014, apply for admission in Sports Quota in any other College, even if it were to be believed that the appellant / writ petitioner on 30th June, 2014 or on 1st July, 2014 was made aware of the additional eligibility criteria for admission in respondent No.4 College and which he did not fulfill.

13. We also entertain serious doubts as to the availability with the respondent no.4 College of the admission brochures for the year 2012-13 in sufficient quantity on 30th June, 2014 and 1st July, 2014 for being distributed to all candidates asking for admission forms. We thus tend to believe the version of the appellant / writ petitioner that the appellant / writ petitioner had no knowledge of the additional criteria laid down by the respondent no.4 College of having Mathematics as a subject in Higher Secondary for admission to B.Com. (Hons.) course.

14. However, even if it were to be believed that the appellant / writ petitioner had such knowledge or is to be deemed to have such knowledge on 30th June, 2014, the fact still remain that the appellant / writ petitioner, on the basis of and relying upon the admission criteria published for the year 2014-2015 having not participated in the sports trials in the other colleges and for admission to which he was eligible and having not been given such an opportunity, after the admission criteria was changed, cannot be allowed to suffer.

15. It thus clearly is a case where owing to the mess which is the creation of the respondent University itself, in inspite of clear signals of change in policy, first persisting with the FYUP and at the last minute relenting. The appellant / writ petitioner has been left without admission to any college inspite of securing high marks making him eligible for admission in the Sports Quota in colleges of the respondent University perceived to be the best or in any other college. The appellant / writ petition thus faces the stark reality of wasting one year of his academic life.

16. We find a Division Bench of the High Court of Punjab and Haryana in Mamta Bansal and Others Vs. State of Punjab and Others, , in a case where mid-term changes in the admission policy were made, to have held that the same cannot be allowed to adversely affect the interest of candidates and the calculations of the admission seekers correctly made for choice of subject and college on the basis of the admission policy originally announced cannot be allowed to be thwarted and the students taken by surprise. It was further held that the principle of equity and fairness would demand that the candidates in whose

favour a right has accrued and they have exercised their permissible options based on terms and conditions of the brochure existing at the relevant time, should not be exposed to avoidable prejudice. We are therefore of the view that a case for directing admission of the appellant / writ petitioner is made out.

17. We have also considered the aspect, whether the appellant /writ petitioner would be able to cope up with the course without having studied Mathematics in Higher Secondary and which subject his contemporaries would have studied and whether the same comes in the way of grant of relief to the appellant / writ petitioner. However having given our anxious consideration to the matter, we are of the view that the same would not come in the way of grant of relief to the appellant / writ petitioner. We say so for two reasons. It is not as if study of Mathematics in Higher Secondary is mandatory for admission to B.Com. (Hons.). If it was so, the same would have formed the part of the minimum criteria for admission to the said course / programme laid down by the respondent University. Not only so, several other colleges are not insisting on. When the appellant/ writ petitioner under the FYUP could have studied B.Com. (Hons.) without having studied Mathematics in Higher Secondary we see no reason why we should hold the appellant / writ petitioner ineligible merely because the respondent University has switched over from FYUP to the three year programme. Be that as it may, we advise the appellant / writ petitioner to, by taking special coaching classes or by other extra effort, make up the said deficiency if any.

18. The Supreme Court in *Visveswaraya Technological University and Another Vs. Krishnendu Halder and Others*, while reiterating that the eligibility conditions for admission being part of the academic policy are beyond the purview of judicial review, carved out an exception for cases where such standards / admissions are found to be arbitrary or adversely affecting the standards fixed by the central body. The central body in the present case being the Delhi University as aforesaid has not laid down the eligibility criteria of having studied the subject of Mathematics in higher secondary for admission to the B.Com. (Hons.) course, though of course has permitted the Colleges to lay down additional criteria; however the additional criteria insisted upon by the respondent No.4 College in the facts and circumstances aforesaid, is found to be arbitrary. A Division Bench of this Court also in *Sangeeta Shrivastava Vs. U.N. Singh and Others*, finding callous indifference on the part of the University and the University playing havoc with the life and career of the young students seeking admission to the portals of the University, sustained the admission though in contravention of the eligibility conditions prescribed.

19. We have also considered the aspect, of the academic session to have begun in July, 2014 as per the original as well as revised schedule and nearly three months having elapsed. Ordinarily we would have hesitated from directing admission at this late stage. However, this year has been a year of upheavals for admission to the respondent University and its colleges / colleges affiliated to it.

The Supreme Court vide judgment dated 16th October, 2014 in W.P.(C) No.853/2014 titled Varun Saini Vs. Guru Gobind Singh Indraprastha University has extended the time for admission to the said course as well as other similarly placed courses till 21st October, 2014. There is thus really no delay. Even otherwise, the Supreme Court in Asha Vs. Pt. B.D. Sharma University of Health Sciences and Others, in the context of admission to Medical Colleges, time schedule for admission whereto has been laid down by the Supreme Court itself, held that though the authorities cannot grant admission beyond the specifically postulated cut-off date but where no fault is attributable to the candidate and he/she is denied admission for arbitrary reasons, the cut-off date should not be permitted to operate as a bar to admission of such a candidate, particularly when it would result in complete ruining of the professional career of a meritorious candidate who was not at fault and who pursued his/her rights and remedies as expeditiously as possible. It was further held that where such denial of admission would subvert the ends of justice and would frustrate the process of law, the Courts can exercise their extraordinary jurisdiction of admitting candidates to the courses after the deadline.

20. We thus, in the peculiar facts of this case, set aside the judgment of the learned Single Judge and allow the writ petition by directing the respondent no.4 Maharaja Agrasen College to within one week after verifying the testimonials of the appellant/writ petitioner, admit the appellant/writ petitioner to the B.Com. (Hons.) programme in the academic session 2014-15 and direct the respondent University also to enter the name of the appellant / writ petitioner in its record as a student of the respondent no.4 College.

No costs.