

(2013) 09 DEL CK 0207

In the Delhi High Court

Case No : Writ Petition (C) 2396 of 2013 and C.M. No's. 4533 and 5983 of 2013

Siddharth Bansal

APPELLANT

Vs

University of Delhi and Another

RESPONDENT

Date of Decision : 10-09-2013

Acts Referred:

Citation : (2013) 09 DEL CK 0207

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Advocate : P.S. Bindra, for the Appellant; Mohinder J.S. Rupal, for Delhi University, for the Respondent

Final Decision : Disposed Off

Judgement

V.K. Jain, J.—The petitioner before this Court, after completing his B.E. applied to the MBA, Faculty of Management Studies, University of Delhi for the academic year 2013-2015. The Prospectus, containing various terms and conditions applicable to such admissions, to the extent it is relevant reads as under:

The OBC candidates who belong to the Non-Creamy Layer and whose castes appear in the Central List of the OBCs (as on the date of application to the programme and on the day of interview), only shall be eligible to be considered for admission under the OBC Category. Creamy Layer OBC candidates should apply as General category. No change of category would be allowed after application.

3. Five percent (5%) seats are reserved for Children/widows of the eligible Armed Forces Personnel (CW Category) in each course. A relaxation in minimum eligibility to the extent of 5% shall be given in the qualifying examination for CW category applicants.

As per the guidelines approved by the Academic Council, admission of candidates belonging to CW categories have to be made in the following order of priorities:

CW1. Widows/Wards of Defence personnel killed in action;

CW2. Wards of serving personnel and ex-servicemen disabled in action;

CW3. Widows/Wards of Defence personnel who died in peace time with death attributable to military service;

CW4. Wards of Defence personnel disabled in peace time with disability attributable to the military service; and CW5. Wards of Ex-servicemen personnel and serving personnel including personnel and serving personnel including personnel of police forces who are in receipt of Gallantry Awards as follows

The petitioner applied under the category "Children of Eligible Armed Forces Personnel" (CW Category). On the basis of his overall rank, his name appeared at serial number 9 in the merit list of the candidates who had applied under the aforesaid category. It would be pertinent to note here that the seats reserved for children of widows of eligible armed forces personnel are supernumerary seats to the extent of 5% in the sanctioned strength. Considering the number of seats available in the said category, the petitioner could not get admission as a CW candidate. The grievance of the petitioner is that he has not been considered for admission against the seat in the general category though, considering his overall rank, he would have got admission as a general category candidate.

2. Being aggrieved from the refusal of the university to grant him admission as a general category candidate, the petitioner is before this Court seeking the following reliefs:

a) pass a writ of certiorari or order, writ or directions directing the respondent not to implement the impugned provision in Information Bulletin-2013 (MBA & Doctoral Programmes) as contained in Annexure-P1 to the present writ petition.

b) Issue a writ of mandamus or any other writ, order or direction directing that the respondent authorities grant admission to the petitioner in Master of Business Administration (Full Time), 2013-2015.

3. In its short counter affidavit, the respondent-university has stated that in terms of the information bulletin issued by the university, no change of category is allowed after submission of the application. It is further stated that the case of the petitioner and several other such candidates was considered by the Admission Committee of the FMS and in its meeting held on 14.3.2013 and the following decision was taken:

The Dean, apprised the members of Admission Committee in detail of the need to call an emergent meeting relating to change of category, being sought by candidates namely Mr. Ashutosh Singh, Mr. Yashad Kasar, Mr. Uday Khatry and Ms. Akanksha Gaint, for admission to MBA (FT) programme 2013, after declaration of the CAT cut-off percentile score of various categories by the Faculty of Management Studies, as follow up of the Admission Committee meeting held on February 13, 2013. The Dean also informed the members about

the decision of the university in a similar case during the admissions of 2012 wherein it was conveyed to the FMS that change of category cannot be allowed at a later stage.

In view of the above, after due deliberations, members unanimously resolved that it will not be appropriate to entertain the request of the above candidates and any other such candidate(s) at this stage of the admission Process.

4. The learned counsel for the petitioner has pointed out that the stipulation prohibiting change of category appears only in the clause which deals with OBC candidates. On a careful perusal of the aforesaid clause it is quite evident that it is only the OBC candidates who are not allowed change of category at any time after submission of the application. There is no general clause prohibiting across the board change of category. Therefore, nothing in the procedure prohibited the candidates applying under the category of "Children of Widows of Eligible Armed Forces Personnel" from seeking admission as general category. The respondent-university, therefore, was not justified in refusing the request of the petitioner for considering him in the category of general category. The learned counsel for the respondent-university states that no more seat is now available in the MBA, Faculty of Management Studies, University of Delhi for the academic year 2013-2015, since the admission closed on 31.10.2013. Though the writ petition was filed in April, 2013, no seat in the said course was reserved for the petitioner.

In these circumstances, the writ petition is disposed of with a direction to the respondent that if any seat in the general category is available in MBA in Faculty of Management Studies, University of Delhi for the academic year 2013-2015, the petitioner shall be considered for that seat, on the basis of his rank as a general category candidate. The decision in terms of this order shall be taken by the respondent-university within one week from today.

There shall be no orders as to costs.

Dasti under the signatures of Court Master.