
(2014) 08 DEL CK 0304
In the Delhi High Court
Case No : W.P.(C) 4415/2014

Sunny Goel

APPELLANT

Vs

Ram College of Commerce

RESPONDENT

Date of Decision : 25-08-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 21

Citation : (2014) 08 DEL CK 0304

Hon'ble Judges : Manmohan, J

Bench : Single Bench

Advocate : Sunil Goel and Pranav Sapra, Advocate for the Appellant; Amit Bansal, Senjul Khanna, Saurabh Banerjee, R.K. Singh and Deepa Rai, Advocate for the Respondent

Final Decision : Allowed

Judgement

Manmohan, J.

CM APPL. 8835/2014 in W.P.(C) 4415/2014

Allowed, subject to just exceptions.

W.P.(C) 4415/2014 & CM APPL. 8834/2014

1. Present writ petition has been filed seeking a direction to respondents to give admission to petitioner in undergraduate course of B.Com (H) in Shri Ram College of Commerce (hereinafter referred to as 'respondent-College') for Academic Year 2014-15.

2. The relevant facts of the present case are that on 29th May, 2014 Class XII results were declared in which petitioner secured 98% marks in best of four subjects excluding English. But after including English in the best of four subjects, petitioner's percentage got reduced to 95.5%.

3. In accordance with respondent-CBSE's interlinked and graded procedure,

petitioner on 31st May, 2014 applied for rechecking / verification of marks.

4. However, as his marks did not increase on rechecking, petitioner on 21st June, 2014 applied under the second stage for obtaining photocopy of the evaluated answer book of English paper.

5. As soon as photocopy of the answer book was provided, petitioner on 3rd July, 2014 applied for the third stage, i.e., re-evaluation.

6. In re-evaluation, petitioner's marks in English increased from 87% to 95%. This increased the best of four including English from 95.5% to 97.5%.

7. On 11th June, 2014, respondent-CBSE issued petitioner's revised mark sheet and on the same day, petitioner met the Principal of the respondent- College and furnished the revised mark sheet. Even though students with 97.5% had been admitted in first cut-off and students with 97.25% in the second cut-off, yet the Principal of respondent-College refused to admit the petitioner in B.Com (H).

8. Since despite representation to respondent-College and respondent- University nothing materialized, petitioner on 17th July, 2014 filed the present writ petition.

9. Mr. Sunil Goel, learned counsel for petitioner stated that action of respondent-College affiliated to respondent-University in denying admission to petitioner because of delay by respondent-CBSE in releasing result of re- evaluation of petitioner's answer book of English paper was harsh, unfair, irrational, arbitrary, malafide, discriminatory and violative of Articles 14 and 21 of the Constitution.

10. Mr. Goel submitted that this Court in almost identical facts in Ms. Jainidh Kaur (Through Her Next Friend and Natural Guardian, Sh. Sarabjeet Singh) Vs. St. Stephen College and Ors., W.P.(C) 4410/2010 had recorded respondent-University's undertaking that the University shall admit all students even if they produced their mark sheet after re-evaluation till the last cut-off date irrespective of availability of seats. He further stated that initially the prescribed period of admission was June 24th to July 22nd , 2014 but the same was revised to July 1st to 29th , 2014 owing to the controversy on FYUP. The orders passed by learned Single Judge as well as the Division Bench in the aforesaid cases are reproduced hereinbelow:-

A) Order dated 7th July, 2010 passed by learned Single Judge:

"1. The petitioner had appeared for the board examination conducted by the respondent no.3 CBSE for Class XII. The petitioner being not satisfied with her result as declared applied for re-checking. On such re-checking, the marks of the petitioner were substantially increased. The petitioner in the meanwhile had applied to the respondent no.1 college falling under the respondent no.2 University of Delhi, on the basis of her then existing marks and on the basis whereof the petitioner did not qualify for admission to the respondent no.1 college. The petitioner after the result of re-checking and as per which she was / is eligible, applied for admission but which has been denied on the ground that

the admissions have already closed.

2. There appear to be no rules of the respondent no.2 University of Delhi to deal with the cases of re-checking. In the absence of any provision for admission of students eligible on the basis of revised marks, the entire exercise of re-checking loses meaning.

3. Issue notice.

4. Notice is accepted by the counsels for the respondents no.1,2and3. Reply/ counter affidavit be filed within one week.

4. The petitioner by way of her application for interim relief seeks reservation of a seat in the respondent no.1 college in BA (Hons.) Economics Course. The counsel for the respondent no.1 college states that all the seats have already been filled up. If any seat falls vacant in the meanwhile, the same be not filled up till the next date of hearing.

List on 23rd July, 2010.

(emphasis supplied)

B) Order dated 23rd July, 2010 passed by learned Single Judge:

"1. The counsel for the respondent no.1 College states that the respondent no.1 College would interview the petitioner within one week of today and place her in the wait list as per her score and admit the petitioner in the event of any vacancy occurring in the BA (Hons.) Economics Course.

2. The senior counsel for the petitioner states that the respondent no.1 College, inspite of the order dated 7th July, 2010 has admitted one Ms. Anjali Sinha, first wait listed candidate in BA (Hons.) Economics Course. It is contended that in view of the interim order dated 7th July, 2010, the said candidate could not have been admitted. He further states that there is a provision in the Admission Guidelines of the respondent no.1 College, a copy of which has been handed over in the Court, of creation of "supernumerary" seats. It is contended that since the marks of the petitioner are 1.25% above the cut- off marks for BA (Hons.) Economics, the petitioner be taken as a "supernumerary" candidate, even if no vacancy occurs. In the alternative, it is contended that the petitioner be admitted in the vacancy ,if any, in the reserved categories as per Surya Prateek Singh Vs. Vice Chancellor, Guru Gobind Singh Indraprastha University and Others .

3. The counsel for the respondent no.1 College to take instructions on all these aspects.

4. The counsel for the respondent no.2 University of Delhi to, also by the next date of hearing inform the Court about the proposal of the University to deal with such situation in future.

List on 3rd August, 2010."

C) Order dated 3rd August, 2010 passed by learned Single Judge:

"3. This Court also while issuing notice of the petition on 7th July, 2010 had observed that there appear to be no Rules of the respondent no.2 University of Delhi to deal with the cases of candidates who apply to respondent no.3 CBSE for re-checking and in the absence of any provision for admission of students eligible on the basis of the revised/rechecked marks, the entire exercise of re-checking loses the meaning.

4. The counsel for the respondent no.3 CBSE which conducts the qualifying exam for admission to the respondent no.2 University of Delhi states that about 3/4 weeks are required for re-checking from the date of receipt of fee for re-checking.

5. In the aforesaid circumstances, the petition qua the petitioner is disposed of as having become infructuous.

xxxx xxxx xxxx xxxx

7. List before the PIL Bench on 22nd September, 2010."

D) Order dated 22nd September, 2010 passed by the Division Bench:

"Ms. Maninder Acharya, learned counsel appearing for the Delhi University submitted that the University is already taking steps to frame a policy to solve the problem. As far as the CBSE is concerned, let guidelines be framed as regard to rechecking so that the students are not affected while seeking admission in the University.

The authorities of the Delhi University shall work in harmony with the competent authorities of the CBSE and may carve out a comprehensive solution to the problem in issue."

(emphasis supplied)

E) Order dated 2nd February, 2011 passed by the Division Bench: "

Mr. Atul Kumar, learned counsel appearing for CBSE and Ms. Maninder Acharya, learned counsel for the University have submitted that a meeting was held between the CBSE and the University and a consensus is likely to be arrived at, but further meetings are required to be iron out some aspects. Its worth noting Mr. Sanjay Jain, learned Amicus Curiae, has given certain suggestions to the learned counsel for the respondents. The authorities shall keep the said suggestions in mind and shall proceed accordingly. The decision, which is going to be arrived at by the respondents, shall be filed before this Court after giving a copy thereof to the learned Amicus Curiae. Both the University and CBSE have shown a lackadaisical attitude. We hope and trust they shall show promptness and alertness to deal with the situation of the present nature as it involves fate of the young students. Delay in these types of matters cannot be countenanced and no excuse can be tolerated that the authorities are busy in some other matters. The authorities yield public power and have to be responsive. They have

to devote more time and not believe in the concept "duty for duty sake". Sympathy, concern and sacrifice should be the moto of the said authorities.

Matter be listed on 16th March, 2011."

F) Order dated 24th March, 2011 passed by the Division Bench:

"In pursuance of our earlier order dated 16.3.2011, Mr. R.K. Sinha, Registrar, Delhi University, Dr. Veera Gupta, Secretary, CBSE and Ms. Dharini S. Arun, Asst. Secretary, CBSE are present. A memorandum has been filed stating, inter alia, that the problem has been sorted out.

Mr. Jain, learned Amicus Curiae submitted that the problem remains as it is. The said controversy shall be adverted to on the next date of hearing.

The personal presence of the authorities stands dispensed with for the time being.

In the meantime, Mr. Jain, learned Amicus Curiae may give further suggestions to the Registrar of the Delhi University and the Secretary, CBSE so that they can take proper steps and see that the controversy is put to rest from all spectrums and the students do not suffer because of delay in re-verification of the answer scripts. We hope and trust that the authorities shall remain alive to the problems faced by the students and usher in a sense of rational approach. Call on 20.4.2011."

(emphasis supplied)

G) Judgment dated 28th April, 2011 passed by the Division Bench:

"2. It is submitted by Mr. Atul Kumar, learned counsel appearing for the CBSE that certain decisions have been taken. For the sake of completeness, we reproduce the said decisions:

"The issues raised by the Amicus Curiae had already been deliberated by CBSE in its meeting held on 4.4.11. The following action plan may be adopted:

- i) The form for verification of Marks be uploaded on the Website;
- ii) Columns for collecting the following information be added in the form in order to segregate the applications in respect of those candidates applying to University of Delhi and Comptt./IOP candidates-

? Result as declared by the Board

- iii) The amount of fee be bifurcated for those applying online and within five days of the declaration of result and for those applying between 6th to 21st day either online or offline as under:

- 300/- per subject be charged for verification of marks and the applications be received online within five days from the date of declaration of result. The result of verification be declared within 15 days

-200/- per subject be charged and the application received either online or offline and the results be also declared within 3-4 weeks.

- Verification result in respect of Comptt/IOP candidates may be declared within 4-6 weeks

The fee structure for applying within 05 days of declaration of result has been proposed to be double of that as being charged from those candidates applying between 6th to 21st day which is the fee structure applicable as on date. Also a Committee has already been constituted to consider enhancement in the remuneration and examination fee structure relating to Classes X/XII Examinations. The issue for increasing the fee for verification of marks will also be discussed therein.

iv) The modes of receipt of the application and fees may be as under-

(a) applications be received online with payment

(b) applications be received on-line with payment through Demand Draft.

(c) applications be received offline in traditional system.

(d) For future arrangement, tie up with Syndicate Bank may be explored.

v) the process for verification be started on receipt of the application in the office however, the result be communicated only after realization of the requisite fee.

vi) all applications received online or offline be dealt with expeditiously on first come first disposal basis;

It was further accepted that in those cases where the increase in marks is more than five the Regional officers may send the Answer sheets through messenger (s), if needed for obtaining approval of the Competent Authority to meet the time schedule."

3. At this juncture, Ms. Maninder Acharya, learned counsel appearing for the University of Delhi after obtaining instructions from Mr. M.A. Sikander, Deputy Registrar (Legal), Delhi University, has submitted that the University shall admit all students even if they only produce their marks after re-evaluation till the last cut-off date, irrespective of availability of seat. Learned counsel for the University has fairly stated that a circular shall be issued to all the colleges within four weeks. Needless to emphasize when the University issues the circular, the same shall be binding on all affiliated and constituent colleges. The writ petition is accordingly disposed of without any order as to costs.

(emphasis supplied)

11. On the other hand, Mr. Saurabh Banerjee, learned counsel for respondent-University stated that the petitioner though after re-evaluation became eligible for admission as per the cut-off percentage required, yet he was not considered as he had applied after expiry of the cut-off date stipulated by the respondent-

College. He pointed out that the respondent- College had closed the admission for the said course on 7th July, 2014 for the Academic Year 2014-15.

12. Mr. Banerjee further stated that respondent-University was already following the order dated 28th April, 2011 passed by this Court in letter and spirit and had a proper policy in place with respect to all admissions. He stated that respondent-University and all the colleges under it always gave proper benefit to all such students who furnished their re-evaluation marks prior to the cut-off date announced by the college.

13. Mr. Amit Bansal, learned counsel for respondent-College stated that petitioner approached the respondent-College only on 10/11th July, 2014 on the basis of revaluated mark sheet. He contended that as the admission to the said course was over on 7th July, 2014 and there was no vacant seat, respondent-College expressed its inability to accede to petitioner's request.

14. Mr. Bansal further stated that as per the policy of respondent- University approved by the Division Bench of this Court, colleges are obliged to give admission on the basis of re-evaluation marks "only till the last cut-off date". In support of this contention, he relied upon the Notification dated 9th May, 2014 as well as Admission Brochure for four years undergraduate programme 2014-15. The relevant portions of the Notification dated 9th May, 2014 and the Admission Brochure are reproduced hereinbelow:-

A) Notification dated 9th May, 2014.

"NOTIFICATION

The University of Delhi hereby notifies the following guidelines of admission to be followed for admission to the Four Year Undergraduate Programmes (FYUP) in the Regular Colleges for the academic session 2014-2015:

xxxx xxxx xxxx xxxx

10. After declaration of the cut off lists by the University, the student will need to report to the college of his/her choice for admission within the stipulated period. At this stage, the candidate would be required to fill the college admission form and the University enrolment form. The candidate would then get his/her documents verified, submit the same to the college and pay the admission fees."

B) Admission Brochure

"5. Rechecking/Revaluation The colleges shall consider admission of the candidates whose marks get increased in the process of rechecking/revaluation by their respective boards within the prescribed period of admission provided that such a candidate fulfills the other eligibility condition laid down for admission."

15. Mr. Bansal submitted that there has to be same sanctity attached to the time limit prescribed for admission otherwise it will be an open-ended process and

there will be no finality to the same. He contended that exigencies like revised marks on re-evaluation is an exceptional incident for which timelines set for admission should not be disturbed since such hardships cannot be ruled out. He stated that there might be other students as well, who for no fault of theirs, could not take admission in the respondent-College within the stipulated period for reasons like late declaration of results by their State Boards.

16. Mr. Bansal pointed out that in similar facts a Division Bench of Punjab and Haryana High Court in *Miss Mandeep Kang Vs. Punjab University and Others*, has held that the last date for considering eligibility of a student for admission is the cut-off date stipulated for admission to the said course. The relevant portion of the judgment relied upon by Mr. Bansal is reproduced hereinbelow:-

"7. After noticing some judicial precedents, the Division Bench, came to the conclusion that as the petitioner's revised result was declared and conveyed to the Chairman. Counselling Committee on 2-9-1998 and the counselling had taken place on 3-9-1998, a day later, the petitioner was entitled to take benefit of revised result. In the judicial precedents that were relied it was held that though admission to educational courses has to be made on the basis of marks available at the time of filing of the application form but there were certain exceptions to this rule and one of these exceptions was that marks on re-evaluation could be taken into consideration at later stage as earlier marks had been awarded on a mistake committed by the examining agency which required to be rectified.

8. After hearing the learned Counsel representing the petitioner at some length; we are, however, of the view that the judgment of the Division Bench in *Amit Sharma v. Kurukshetra University* (supra) cannot come to the rescue of the petitioner in the facts and circumstances of this case. The marked difference between *Amit Sharma v. Kurukshetra University* (supra) and one in hand is that whereas petitioner in *Amit Sharma v. Kurukshetra University* (supra) was eligible for admission to the course under contention, even on a date when result of the entrance test was declared on the basis of the qualifying examination, in the present case the result of the petitioner of the qualifying examination having not been declared on the relevant date, he was not eligible for admission at all. It may be reiterated that even though candidates who had appeared in the qualifying examination could take the entrance test but their admission to the course under contention was dependent upon their having passed the qualifying examination, Further, whereas in the case in *Amit Sharma v. Kurukshetra University* (supra), counselling had taken place a day after the result of the re-evaluation was declared, the re-evaluation result in the case in hand was declared after four months of the declaration of the entrance test. The petitioner has not taken the Court into confidence in giving the cut off date for admission which can well be presumed to be before the re-evaluation result was declared. Naturally, the process of admission has to come to an end at some stage, failing which barring aside admission of few topper other admissions shall always be

uncertain. It is for that precise reason that last date for admission is prescribed in prospectus itself. As mentioned above, this Court has not been appraised of that crucial date and this omission does not appear to be intentional. In the facts and circumstances of this case, we, thus, hold that the decision rendered by the Division Bench of this Court in *Amit Sharma v. Kurukshetra University* (supra) cannot be pressed into service for seeking the desired relief in the writ petition.

9. This petition is, thus, dismissed in Petition dismissed."

17. However, Mr. R.K. Singh, learned counsel for respondent-CBSE stated that whatever deficiencies in the evaluation of the answer sheet were found, rectification was carried out promptly in accordance with its policy. He stated that as the petitioner was not at fault, hence he should not be made to suffer. The relevant portion of the counter affidavit of respondent-CBSE is reproduced hereinbelow:-

"8. That despite all care and due diligence exercised by the respondent-CBSE, there were certain difficulties experienced by the students and Universities on account of the following:

? Clash of schedule of declaration of CBSE results, time taken in verification of marks/revaluation of answer scripts (wherever the students sought them), revision of marks and reissue of mark sheets, etc. and the tight admission schedule of Universities/institutes, particularly those running professional courses.

? There were complaints of students being denied admission despite the students not being at fault or responsible for delay in the process of verification/revaluation of answer scripts.

These issues came up for consideration in W.P.(C) No. 4410/2010, which was treated as a PIL, and finally disposed of by a Division bench of this Hon"ble Court vide judgment and order dated 28-04-2011. In that case, on the directions of this Hon"ble Court, the CBSE formulated a time-bound scheme for seeking verification of marks, providing photocopies of answer sheets to students to enable them to challenge any deficiency in markings/assessment and even getting them revaluated by subject experts of the CBSE, so as to complete the entire process before the Delhi University completed its process of admission to UG courses. This was approved by this Hon"ble Court after all concerned parties, including the Delhi University, agreed to the proposed scheme. The Delhi University gave an undertaking to ensure admission to students who would be able to produce their "revaluated" mark-sheets "till the last cut off date" whether any seat was available or not. They also undertook to issue a circular to make good their undertaking, and to obviate any difficulty coming in the way of such students, who suffer on account of any delay in getting their marks revaluated. Accordingly, from 2014 Examinations onwards, the Board has introduced the following provisions vide circular dated 29.05.2014:-

? "Online" verification of marks,

? providing photocopy of evaluated answer sheets and

? request for "Re-evaluation" of answer books in selected subjects.

All the above three processes are interlinked and are made in such a manner that the above exercise is carried out in a very tight time frame. This is to ensure that the students are not put to any inconvenience and are given benefit of marks as per the marking scheme.

9. That it is respectfully submitted that in the present case, the respondent-CBSE acted promptly as per the provisions of the above said circular, and provided the "revaluated marks" in a time-bound manner. Whatever deficiencies in the evaluation of the answer sheets were found, rectification was immediately carried out and a fresh revised mark sheet was provided within the time-frame stipulated in the above said circular dated 29- 05-2014. The petitioner is not at fault in any manner, and hence should not be made to suffer."

(emphasis supplied)

18. In rejoinder, Mr. Sunil Goel, learned counsel for petitioner stated that the Notification dated 9th May, 2014 as well as Admission Brochure for four years undergraduate programme was not applicable as four years course had been scrapped. He stated that even if the aforesaid Notification was applicable, then also its paragraph 9 would apply inasmuch as it stated "The college shall admit all candidates who have marks that meet the announced cut-off criteria. No first-come-first-served policy is permitted." He submitted that the cut-off date refers to cut-off date of the University for admission purpose and not the cut-off date stipulated by the college. Consequently, according to Mr. Goel, respondent-College could not take the stand that petitioner did not come earlier.

19. Mr. Goel further submitted that the judgment of the Punjab and Haryana High Court in Miss Mandeep Kang Vs. Punjab University and Ors. (supra) was clearly distinguishable on facts as it did not deal with the issue of cut-off marks for an undergraduate course. He pointed out that in the said case, petitioner was a laggard and could not achieve even 45% marks in B.A. examination which were the qualifying marks for admission in LL.B. course. He stated that the Punjab and Haryana High Court in paragraph 8 of the aforesaid judgment excluded the case of toppers by using the words "barring aside admission of few toppers". Thus, according to him, even the Punjab and Haryana High Court was of the view that the exception can be made in case of toppers and they should not be made to suffer.

20. Having heard learned counsel for the parties, this Court is of the view that no fault can be attributed to the petitioner as he had pursued his rights and legal remedies without any delay.

21. Further, as the petitioner's marks have increased on re-evaluation, it is apparent that there was a mistake on the part of respondent-CBSE in checking the papers. This Court is of the view that had there been no delay on the part of

respondent-CBSE in releasing the result of re-evaluation, whereby petitioner's marks in English subject increased from 87% to 95% and his aggregate in best of four increased from 95.5% to 97.5%, respondent-College would have admitted him in B.Com.(H) in normal course as his marks are more than the cut-off.

22. This Court is also of the view that if the argument advanced by the respondents is accepted, the entire exercise of re-evaluation would lose its significance and meaning. After all, the re-evaluation exercise is not an "exercise in futility". It has to have some significance and import. After all a student applies for re-evaluation not just for "statistical reasons", but to take benefit of the increase in marks, if any.

23. In *Asha Vs. Pt. B.D. Sharma University of Health Sciences and Others*, , the Supreme Court has held that even the strict cut-off date stipulated for medical examination can be waived in certain circumstances. The relevant portion of the aforesaid judgment is reproduced hereinbelow:-

"30. There is no doubt that 30th September is the cut-off date. The authorities cannot grant admission beyond the cut-off date which is specifically postulated. But where no fault is attributable to a candidate and she is denied admission for arbitrary reasons, should the cut-off date be permitted to operate as a bar to admission to such students particularly when it would result in complete ruining of the professional career of a meritorious candidate, is the question we have to answer.

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32. Though there can be the rarest of rare cases or exceptional circumstances where the courts may have to mould the relief and make exception to the cut-off date of 30th September, but in those cases, the Court must first return a finding that no fault is attributable to the candidate, the candidate has pursued her rights and legal remedies expeditiously without any delay and that there is fault on the part of the authorities and apparent breach of some rules, regulations and principles in the process of selection and grant of admission. Where denial of admission violates the right to equality and equal treatment of the candidate, it would be completely unjust and unfair to deny such exceptional relief to the candidate. (Refer *Miss Arti Sapru and Others Vs. State of Jammu & Kashmir and Others*, , *Chhavi Mehrotra (Miss) Vs. Director General Health Services*, and *Arvind Kumar Kankane. Vs. State of U.P. and Others*,)

xxxx xxxx xxxx xxxx

38.2.Question (b): 30th September is undoubtedly the last date by which the admitted students should report to their respective colleges without fail. In the normal course, the admissions must close by holding of second counselling by 15th September of the relevant academic year (in terms of the decision of this Court in *Priya Gupta Vs. State of Chhatisgarh and Others*,). Thereafter, only in

very rare and exceptional cases of unequivocal discrimination or arbitrariness or pressing emergency, admission may be permissible but such power may preferably be exercised by the courts. Further, it will be in the rarest of rare cases and where the ends of justice would be subverted or the process of law would stand frustrated that the courts would exercise their extraordinary jurisdiction of admitting candidates to the courses after the deadline of 30th September of the current academic year. This, however, can only be done if the conditions stated by this Court in *Priya Gupta Vs. State of Chhatisgarh and Others*, and this judgment are found to be unexceptionally satisfied and the reasons therefor are recorded by the court of competent jurisdiction."

(emphasis supplied)

24. Consequently, this Court is of the opinion that if the respondent- CBSE increases the marks of the student upon re-evaluation, the petitioner cannot be denied the logical consequence of the same, till the last cut-off date for admitting the students by University has expired.

25. In fact, the Division Bench judgment in *Ms. Jainidh Kaur (supra)* settles the controversy in petitioner's favour. In the said case the respondent- University had undertaken to this Court that it shall admit all students even if they produce their marks after re-evaluation till the last cut-off date, irrespective of the availability of seats. The said statement was held to be binding not only on respondent-University but also on its constituent and affiliated colleges.

26. Also, upon a perusal of all the orders passed in *Ms. Jainidh Kaur (supra)*, this Court is of the view that the only difference between it and the present case is that while in the said case the marks increased on rechecking, in the present case marks increased on re-evaluation by CBSE.

27. The argument of the respondents that *Ms. Jainidh Kaur (supra)* refers to "cut-off" date of a particular course of a particular college and not "cut-off" date stipulated by the University, is not correct. This is because if the student was to produce his revised mark sheet till the last cut-off date stipulated by a particular college, then the college in any case would not deny him admission and there would be no issue of availability of seats. The expression "cut-off" date has to be understood with reference to the issue which was before the Division Bench, that means the student had been denied admission by the college on the ground that admission was already closed when he had approached it after increase of marks by CBSE. It is pertinent to mention that the statement before the Division Bench was given by the University and not by the college and hence the expression "cut-off" date has to refer to "cut-off" date stipulated by the University.

28. This Court is of the opinion that the undertaking given by the University and accepted by the Division Bench strikes a fine balance inasmuch as it neither awaits for the result of re-checking and re-valuation endlessly nor it restricts the same to the cut-off stipulated by the College. It is to be noted that even CBSE supports the case of the petitioner. Consequently, the respondents cannot be

allowed to wriggle out of their own undertaking given in Ms. Jainidh Kaur (supra).

29. Accordingly, present writ petition is allowed and the respondent- College is directed to grant admission forthwith to petitioner in B.Com. (H) course for Academic Year 2014-15 and for this purpose, if required, a supernumerary seat is directed to be created by the University of Delhi. The application also stands disposed of.

30. Further, keeping in view the fact that the overwhelming majority of the students admitted to University of Delhi belong to CBSE Board, this Court directs the Chairman, CBSE to have a meeting with the Vice Chancellor of University of Delhi to ensure that from next academic year, students' re-evaluation marks are taken into account while granting admission to colleges of University of Delhi. For this purpose, either re- evaluation process may be cut-short or cut-off date of colleges may be postponed by a reasonable time. Let the said meeting be held within the next two weeks and a decision be taken within eight weeks thereafter. The minutes of meeting are directed to be placed on record within a period of twelve weeks.