

(2008) 10 DEL CK 0137

In the Delhi High Court

Case No : Writ Petition (C) 6482 of 2008

Surya Prateek Singh

APPELLANT

Vs

Vice Chancellor, Guru Gobind Singh Indraprastha University
and Others

RESPONDENT

Date of Decision : 21-10-2008

Acts Referred:

Citation : (2008) 10 DEL CK 0137

Hon'ble Judges : Vipin Sanghi, J

Bench : Single Bench

Advocate : Amit Vohra and Jagmohan Singh, for the Appellant; G.D. Goel, Akash Pratap, for GNCTD and Satender Singh, for the Respondent

Judgement

Vipin Sanghi, J.—The petitioner applied for admission to the B.A. LLB (Hons) 5 years programme for the academic session 2008-2009 in the management quota in the respondent No. 2 college. In the common entrance test conducted by the respondent University, he had secured the rank of 1873. On 25.8.2008, the petitioner states that he misplaced his admit card and lodged the police complaint in that respect bearing NCR No. 1335/2008. The petitioner admittedly figured in the merit list prepared by the respondent College for admission under the management quota. There were 16 seats to be filled under the management quota. The petitioner states that when he approached respondent No. 2 College for admission on 27.8.2008, he was informed that since he did not have the original admit card he could not be granted admission. He states that he was required by the respondent college to get the copy of the admit card verified by the respondent University. He submits that when he returned with the verification of his admit card by the respondent University, he was not granted admission on the ground that he did not have the original admit card. Instead, his seat was offered to a candidate lower in merit than him in the management quota merit list. In these circumstances the petitioner has preferred the present writ petition. The submission of the learned Counsel for the petitioner is that the reason for refusal to grant admission to the petitioner was unreasonable and

arbitrary, and he could not have been denied admission on such a hyper-technical and strict interpretation of the brochure conditions, which are merely procedural and directory.

2. The submission of the learned Counsel of the respondent College is that the respondent University mandates that at the time of grant of admission the original admit card should be produced by the candidate. Since the petitioner did not produce the same, he was denied admission though he figured in the merit list of the management quota of 16 seats. The stand of respondent No. 2 College is that in the brochure issued by the University, it is clearly stated that the candidates seeking admission would be required to produce the admit card of CET, 2008 in original. Even in the communication issued to the candidates the said requirement was clearly stated. It is submitted that the said requirement is insisted upon to ensure that a student does not block multiple seats in different colleges, and thereby deny admission to other students desirous of seeking admission. If he is required to submit the original admit card at the time of seeking admission the said practice can be stopped and the seats can be prevented from being wasted.

3. Though the object that the said prescription seeks to achieve i.e. to prevent multiple seats being blocked by the same candidate in different institutions is laudable, in my view the mechanism and measure adopted by the Respondents to achieve that objective and, consequently, the importance that had been attached by the respondents to the production of the original admit card, in all situations, appears to be unreasonable. There could be varied reasons when a candidate may not be able to produce the original admit card, even though he may not have taken admission in one or the other college of the University offering the course in question. In such a situation, the result of the aforesaid prescription would be that such a candidate would be denied admission, though being found meritorious, only because he is not able to produce the original admit card. A candidate should not be denied admission merely because he may have genuinely lost his admit card or the same may have got destroyed, if he is otherwise meritorious. Even if a person were to misplace or lose important documents such as a passport, election card, ration card, driving licence, mark sheets, degrees or a title deed of a property etc. it is possible to obtain a duplicate one and the loss of such a document does not normally lead to such drastic consequences. Counsel for the petitioner also points out that the brochure issued by respondent University states that a candidate would not be issued a duplicate admit card after the holding of CET. In such a situation, the only course open to the petitioner was to get the copy of the admit card verified from the respondent University, which he did. It does not stand to reason that loss of the original Admit Card should result in such severe consequences for a candidate and adversely affect his career prospects. The procedures that the respondent university adopts should factor in realities of life and should not be so rigid and hyper technical so as to defeat merit by depriving the meritorious candidates of admission only because they may have lost/misplaced/accidentally destroyed the

original Admit Card. The respondent University can safeguard against a candidate seeking multiple admission by requiring the candidate who may not be able to produce the original admission card, to furnish a declaration and an undertaking to say that he/she has not taken admission on the basis of the original admit card in any other college of the University, and that in case his/her declaration is found to be false, his/her admission would stand cancelled. The respondent university may also require the filing of a police complaint reporting the loss of the Admit Card as a pre condition. The respondent university has adequate infrastructure and database to identify candidates who may have taken admission in another college affiliated to the university in the same course. The aforesaid condition cannot be accorded such sacrosanct as has been done by the respondents. It would be reasonable to construe such a condition to be directory and capable of being adequately substituted in a reasonable and suitable manner. In U.P. State Electricity Board Vs. Shri Shiv Mohan Singh and Another, the Supreme Court quoted that approval from Crawford on Statutory Construction at page 539. The said quotation reads as follows:

271. Miscellaneous implied exceptions from the requirements of mandatory statutes, in general ? Even where a statute is clearly mandatory or prohibitory, yet, in many instances, the courts will regard certain conduct beyond the prohibition of the statute through the use of various devices or principles. Most, if not all of these devices find their jurisdiction in considerations of justice. It is a well-known fact that often to enforce the law to its letter produces manifest injustice, for frequently equitable and humane considerations, and other considerations of a closely related nature, would seem to be of a sufficient calibre to excuse or justify a technical violation of the law.

4. The decision in U.P. SEB (supra) was in turn quoted along with the aforesaid extract in Dove Investments Pvt. Ltd. and Others Vs. Gujarat Industrial Inv. Corporation Ltd. and Another, , I find support in the view that I have taken from the aforesaid extract.

5. The petitioner has placed on record the NCR by which he has reported the loss of the admit card. He also makes a categorical statement that he has not taken admission in the 5 years B.A. L.L.B. (Hons) Programme in any college of the respondent University on the basis of the original admit card. He is willing to give a declaration and an undertaking as aforesaid. I am, therefore of the view that the petitioner was wrongly denied admission by the respondent college.

6. The respondent college has filed an affidavit to say that all the 16 management quota seats stand filled. However, in the general quota seats to be filled on the basis of the merit in CET, out of 144 seats, 7 students have not reported at the College. They have also not filled up the examination forms for the end term examination to be held in the month of December, 2008 which were to be filled up by 25.9.2008. Counsel for respondent No. 2 further states that the 7 seats lying vacant, in any event, shall remain unfilled and unutilized and the claim of no other candidate, more meritorious than the petitioner, would be

compromised even if the petitioner were to be granted admission against one of the vacancies.

7. Keeping in view the peculiar facts of this case, I, therefore, direct that the petitioner be granted admission by the respondent College against one of the 7 seats lying vacant in the 5 years B.A. LLB (Hons) Programme.

8. The petitioner had been granted provisional admissions under the orders of the Court dated 10.9.2008. The petitioner is permitted to fill up examination form for the end term examination to be held in December, 2008, subject to his fulfilling all the other conditions. The petitioner shall also furnish a declaration to the effect that he has not taken admission on the basis of the lost original Admit Card in any other college in the 5 year B.A.LLB (H) Course, and an undertaking that in case his declaration is found to be false, his admission shall stand cancelled and he shall accept the cancellation of his admission. The declaration-cum-undertaking shall be executed on non judicial stamp paper of requisite amount and be notarized by a Notary Public.

Petition stands disposed of.