

(2012) 05 DEL CK 0669

In the Delhi High Court

Case No : Writ Petition (C) No. 3208 of 2012 and Cm No. 6861 of 2012

Ujjwal Madan and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 25-05-2012

Acts Referred:

Citation : (2012) 05 DEL CK 0669

Hon'ble Judges : Sunil Gaur, J

Bench : Single Bench

Advocate : Jayant Bhushan, with Mr. Vikas Mehta and Ms. Aditi Bhat, for the Appellant; Aslam Khan, Advocate, for respondent No.1. Mr. Sanjeev Sachdeva with Mr. Preet Pal Singh, Ms. Priyam Mehta, for respondent No.2/BCI, Mr. Sandeep Sethi with Mr. Anand Varma and Mr. Amit Pathak, Advocates for respondents 3 and 4, for the Respondent

Judgement

Sunil Gaur

1.The result of Common Law Admission Test (hereinafter referred to as "CLAT") conducted by the third respondent on 13th May, 2012 is to be declared on 28th May, 2012. The three petitioners herein have approached this Court on 23rd May, 2012 to seek a direction to the fourth respondent to produce the question paper of the CLAT conducted on 13th May, 2012, as it is asserted by the petitioners that the questions put in the General Knowledge and Legal Aptitude section of this examination were beyond the scope of the syllabus prescribed by the third respondent. A direction is also sought to the contesting respondents i.e. the third and fourth respondents i.e. the contesting respondents to exclude the questions which were out of the syllabus and to then declare the result of this examination. A prayer for institutionalizing CLAT examinations to maintain a consistent standard has been also sought in this petition. At the hearing of this petition, learned senior counsel for the petitioners had drawn the attention of this Court to the Information Brochure issued by the contesting respondents for the CLAT, 2012 to point out that it was clearly stipulated therein that in the General

Knowledge/Current Affairs Examination, the knowledge of Current Affairs of the students would be tested broadly pertaining to matters featuring in the mainstream media between March, 2011 and March, 2012.

2. To show that the General knowledge/ Current Affairs section of CLAT, 2012 was out of syllabus, learned Senior Counsel for the petitioners drew the attention of this Court to the questions (Annexure-P-2). Recollection of these questions (Annexure P-2) put in the CLAT, 2012 is said to be based upon the memory of the petitioners.

3. Regarding the Legal Aptitude section of CLAT, 2012, it was asserted by learned senior counsel for the petitioners that 35 out of 50 questions on the subject were completely out of syllabus as the questions put in the Legal Aptitude section had assumed that the students had a prior knowledge of law and that the questions on legal aptitude relied upon principles which did not explain the technical terms used therein, whereas, the Information Brochure of CLAT, 2012 had made it clear that the students/ candidates would not be tested on any prior knowledge of law or legal concepts and if a technical/ legal term is used in the question, that term will be explained in the question itself and that the Legal Aptitude section of CLAT, 2012 is of vital importance in breaking the tie between the two students scoring even marks. To indicate that the questions put in the Legal Aptitude section of CLAT, 2012 were out of syllabus, few illustrations from the Legal Aptitude section of CLAT, 2012, based upon the memory of the petitioners is appended as Annexure-P3 with the writ petition.

4. To contend that the questions which are out of syllabus have to be excluded from consideration, learned senior counsel for the petitioners had placed reliance upon a Division Bench decision of this Court in *Gunjan Sinha Jain Vs. Registrar General, High Court of Delhi*,

5. Learned senior counsel for the contesting respondents resists this writ petition by urging that it is premature and that the General Knowledge/ Current Affairs section of CLAT, 2012 is not confined to Current Affairs only and so it cannot be said that the General Knowledge/ Current Affairs section of CLAT, 2012 is out of syllabus. It was pointed out by learned senior counsel for the contesting respondents that the representations already received from the other candidates alleging that the questions set in CLAT, 2012 are out of syllabus, is already under active consideration of the contesting respondents and a decision thereon would be positively taken before the declaration of the results of CLAT, 2012. It is the assertion of learned senior counsel for the contesting respondents that the petitioners have not made any such representation and in any case the grievance made in this petition is already under active consideration in the representations of other candidates, which is being promptly dealt with. The decision in *Gunjan* (supra) relied upon by the petitioners is stated to be subject matter of a pending SLP before the Apex Court.

6. Attention of this Court was drawn by learned senior counsel for the contesting

respondents to a recent decision of the Apex Court in *Sanchit Bansal & Anr. Vs. Joint Admission Board & Ors.*, (2012) I Supreme Court Cases 157 to highlight that the Courts refrain from interfering with evaluation procedures of IIT-JEE or the like even if it is not accurate or efficient, until and unless malafides or arbitrariness is alleged and in any case, no mala fides or arbitrariness can be imputed to the contesting respondents.

7. It is true that merely because representations of similarly situated candidates are pending consideration with the contesting respondents, it would not oust the petitioners, but since the factual aspects are subject matter of dispute between the contesting parties, therefore, it is neither advisable or feasible to derail the selection procedure for CLAT, 2012.

8. In the considered opinion of this Court, it is found to be not feasible to direct the contesting respondents to produce the question papers of General Knowledge/ Current Affairs section and Legal Aptitude section of CLAT, 2012 or to entertain this petition to find out whether the question put under the aforesaid sections in CLAT, 2012 were out of syllabus or not, because the contesting respondents are already actively considering this aspect while promptly dealing with the representations of the other candidates. In any case, the decision in *Gunjan* (supra) relied upon by the petitioners, does not advance their case as the challenge to the Delhi Judicial Service (Preliminary) Examination of the year 2011 was laid by the candidates after the result of the said examination was declared.

9. The process of achieving the objective of selecting candidates for specialized courses are technical matters in the academic field and the Courts will not interfere with the evaluation process. The pertinent observations made by the Apex Court in this regard in *Sanchit Bansal* (supra) are as under:

39. The procedure adopted in JEE 2006 may not be the best of procedures, nor as sound and effective as the present procedures. In fact the action taken by the appellants in challenging the procedure for JEE 2006, their attempts to bring in transparency in the procedure by various RTI applications, and the debate generated by the several views of experts during the course of the writ proceedings, have helped in making the merit-ranking process more transparent and accurate. IITs and the candidates who now participate in the examinations must, to a certain extent, thank the appellants for their effort in bringing such transparency and accuracy in the ranking procedure. But there is no ground for the courts to interfere with the procedure, even if it was not accurate or efficient, in the absence of mala fides or arbitrariness or violation of law. It is true that if in JEE 2006, a different or better process had been adopted, or the process now in vogue had been adopted, the results would have been different and the first appellant might have obtained a seat. But on that ground it is not possible to impute mala fides or arbitrariness, or grant any relief to the first appellant. Therefore, the appellant will have to be satisfied in being one of the many unsung heroes who helped in improving the system.

10. light of aforementioned dicta of the Apex Court and in view of the fact that the contesting respondents are already seized with the matter of some questions put in CLAT, 2012 being out of course, which is seriously disputed by contesting respondents, this Court is not inclined to exercise its discretionary extra ordinary writ jurisdiction to entertain this petition, which is dismissed in limini while refraining to comment upon the issue of questions put in CLAT, 2012 being out of course or not. Needless to say, that uninfluenced by this order, the contesting respondents would effectively deal with the representations made by the other candidates before declaring the result of CLAT, 2012 and dismissal of this petition as premature, would not preclude the petitioners from seeking the remedy as available in law after declaration of the result of CLAT, 2012. With the aforesaid observations, this petition and the pending application stand disposed of.