

(2019) 10 DEL CK 0404

In the Delhi High Court

Case No : Civil Writ Petition No. 9296 Of 2019, Civil Miscellaneous No. 42374 Of 2019

Venkat Narayan

APPELLANT

Vs

Vice Chancellor, Faculty Of Science, University Enclave & Ors

RESPONDENT

Date of Decision : 22-10-2019

Acts Referred:

Citation : (2019) 10 DEL CK 0404

Hon'ble Judges : Rajiv Shakdher, J

Bench : Single Bench

Advocate : Apurb Lal, Meenu Pandey, Mohinder J.S. Rupal, Kausik Ghosh

Final Decision : Disposed Of

Judgement

Rajiv Shakdher, J

1. In the instant writ petition, the grievance of the petitioner is that even though he belongs to the EWS category, he could not obtain admission in that category as the application form did not advert to EWS category.
2. The petitioner seeks admission in the academic session 2019-2020 in LL.B. course. It is not in dispute that the petitioner sat in the Delhi University Entrance Test (in short "DUET") and was ranked 123 in the common merit list.
3. Mr. Mohinder J.S. Rupal, who appears on behalf of the University of Delhi, says that since the petitioner did not advert to the fact that he belongs to the EWS category, he was not considered under the said category, and therefore, the petitioner's grievance that those who were lower in rank and belonged to the EWS category were given admission in the EWS category is untenable.
4. Mr. Rupal, though, concedes that the application form which had to be uploaded online did not refer to the EWS category while it did advert to other categories such as OBC/CW/PWD, SC and ST.
5. Mr. Rupal, however, seeks to place reliance on the Bulletin of Information for

Admission to Postgraduate Courses (2019-2020), University of Delhi (in short "Information Bulletin"). Based on the information given therein, Mr. Rupal contends that the petitioner ought to have perused the same to ascertain as to whether or not he was entitled to seek admission under the EWS category.

6. It is, however, not in dispute that insofar as the undergraduate courses for academic session 2019-2020 are concerned, the following leeway was given:

"Merit based UG Admissions may continue in Seventh Cut-Off subject to the availability of seats.

Please take utmost care to enter the correct details in the portal to avoid Corrigendum."

7. It is, therefore, the grievance of the petitioner, assuming without admitting, that he failed to read the information contained in the Information Bulletin that such an opportunity to make corrections in the application form was not given for postgraduate courses.

8. In support of this submission, Mr. Apurb Lal, who appears on behalf of the petitioner, has drawn my attention to the fact that when the petitioner became aware of the fact that he could seek admission under the EWS category, he had made an application to the Chairperson, Central Admission Grievance Redressal Committee, University of Delhi on 20.08.2019.

9. The contention is that despite such an application being made, there was no resolution of the grievance articulated in the complaint and, therefore, the petitioner was compelled to approach this court.

10. The record shows that on 27.08.2019, after briefly recording the petitioner's grievance, notice was issued in the writ petition. On the returnable date i.e. 02.09.2019, the matter was adjourned due to unavailability of counsel.

11. On the date i.e. 05.09.2019, Mr. Rupal had sought adjournment in the matter to obtain instructions. Mr. Rupal also made a statement that if a seat was vacant, the same would not be filled-up.

12. On 11.09.2019, the captioned writ petition was taken up along with W.P. (C)No.9635/2019, titled Shashwat Tyagi v. University of Delhi. On that date, Mr. Rupal was granted 10 days to file a reply in the matter.

12.1 Furthermore, Mr. Rupal had indicated that two seats are available. Accordingly, the University of Delhi was directed to keep two seats vacant till further orders of the court.

13. The matter was posted for today i.e. 22.10.2019. In the interregnum, the petitioner moved an application before this court on 23.09.2019. This application was numbered CM No.42374/2019.

14. On that date, the respondents, albeit, without prejudice to their rights and contentions, were directed to permit the petitioners to attend the classes.

15. Furthermore, the respondents were asked to maintain a separate record of the petitioner's attendance. It was also made clear that the petitioner would not claim equity only on account of the fact that he had been permitted to attend the classes.

16. I may only indicate that insofar as the petitioner in the other writ petition is concerned, i.e. W.P.(C)No.9635/2019, titled Shashwat Tyagi v. University of Delhi, in the combined merit list, he is ranked 125.

17. Today, Mr. Rupal informs me that only one seat in the EWS category is available. It is obvious that there was a mistake made by Mr. Rupal in the statement made before the court on 11.09.2019.

18. Be that as it may, the court is faced with a position that only one seat is available in the EWS category. It is in this context that, for the moment, only the captioned writ petition is taken up for hearing and final disposal.

19. What has emerged upon hearing the counsel for the parties and perusing the record is that the Information Bulletin included step-by-step instructions for uploading the application. For the sake of convenience, insofar as it is relevant to the case, that part of the bulletin is extracted hereafter:

"STEP BY STEP INSTRUCTIONS TO FILL THE APPLICATION FORM

Upload Section

xxx

Uploads consist of xxx xxx xxx

E. Caste Certificate: Applicable for ST, ST & OBC (Non-Creamy Layer) Applicants.

Must be self-attested and not more than 100KB in size. The format must be JPG/JPEG/PNG/PDF."

(emphasis is mine)

20. A perusal of the aforementioned extract would show that while under placitum E, there is a reference to caste certificates, as applicable to the candidates falling under SC, ST and OBC (non-creamy layer), there is no mention of the EWS category.

21. Therefore, the petitioner is right in a sense that he could not have been faulted for not knowing that he could apply under the EWS category.

22. That being said, the University of Delhi, as noticed above, has taken recourse to the contents of the Information Bulletin wherein concededly, there is a reference to EWS category.

23. Though the defence of the University of Delhi, according to me, is thin, it still gives them a veneer of protection. If this was the only ground on which the

action of the University of Delhi was assailed, I may not have entertained the writ petition.

24. However, the petitioner makes a substantive point which is that while a leeway in correction of application forms was given for undergraduate courses, no such leeway was given for postgraduate courses.

25. I fail to see as to what was the difference between the candidates who had applied for undergraduate courses as against postgraduate courses. Assuming that the petitioner had made a mistake in not adverting to the EWS category in the first instance, since an application had been made to the grievance-committee, the issue raised therein should have been addressed.

26. Notably, the application to grievance-committee was made well before the cut-off date.

27. The record would show that the petitioner has approached this court well before the cut-off date.

28. Given these circumstances, I am inclined to allow the writ petition.

29. It is ordered accordingly.

30. The petitioner will be allotted one seat in the EWS category forthwith upon fulfilling other prerequisites.

31. The captioned writ petition is disposed of in the aforesaid terms.

32. Needless to add, the connected writ petition i.e. W.P.(C)No.9635/2019, will be taken up for hearing separately.