
(2012) 09 DEL CK 0504
In the Delhi High Court
Case No : Writ Petition (C) 6317 of 2011

Yogendra Singh

APPELLANT

Vs

Delhi Technological University and Anr

RESPONDENT

Date of Decision : 05-09-2012

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2012) 09 DEL CK 0504

Hon'ble Judges : G.S. Sistani, J

Bench : Single Bench

Advocate : R.K. Saini and Ms. Manisha Tyagi, for the Appellant; Khalid Arshad, for Ms. Rameeza Hakeem, for the Respondent

Final Decision : Allowed

Judgement

G.S. Sistani, J.—Present petition has been filed by petitioner under Article 226 of the Constitution of India seeking to restrain respondents from cancelling the admission granted to the petitioner in B.Tech 1st year for the academic year 2011-2012 under OBC category and allotting the said seat to any other candidate in the subsequent rounds of counselling. The petitioner also seeks a direction to the respondents to grant fifteen days time to the petitioner to submit OBC category certificate for confirmation of his admission in B.Tech 1st year. Rule. With the consent of counsel for the parties, present writ petition is set down for final hearing and disposal.

2. The necessary facts, to be noticed for disposal of this writ petition, are that the petitioner belongs to the OBC Category. The petitioner qualified his Class XII examination and thereafter appeared in the All India Engineering Entrance Examination (AIEEE-2011) for admission into engineering courses. The petitioner obtained the All India Rank of 84377 and in the OBC category his rank was 21273. The petitioner's chance for admission came in the sixth round of on-line counselling on 23.8.2011 and he was allotted a seat in the Engineering Physics (EP) under the OBC category. A provision letter of seat allotment dated

23.8.2011 was issued to the petitioner and the petitioner was asked to report at the University along with documents mentioned in the letter. The petitioner was provisionally selected in the sixth round of counselling. Accordingly, the petitioner appeared before the University to claim benefit of the OBC category. The petitioner was required to produce the caste certificate to be issued by the Government of NCT of Delhi and no other caste certificate was to be accepted as per Note 2 of the letter. As the petitioner did not have the said certificate from Government of NCT of Delhi, he immediately applied for the same in the Office of Deputy Commissioner, South-East District, Nand Nagri, Delhi, on 25.8.2011 and thereafter reported at the University for admission with all other documents. At the time of counselling the petitioner was unable to produce the OBC certificate from the GNCT Delhi. The petitioner sought fifteen days' time to produce the same, which was denied to him, which led to the filing of the present writ petition.

3. On 30.8.2011 while issuing notice in the matter another Single Judge of this Court had directed the respondents to reserve one seat in the B.Tech course in the OBC category till the next date of hearing and the matter was thereafter adjourned to 10.10.2011, when this Court directed the respondents to grant provisional admission to the petitioner as by that time the petitioner had obtained the OBC certificate issued by Government of NCT. Since 10.10.2011 the petitioner has been studying in the allotted course, he is stated to have completed his first year and has now been promoted to the second year.

4. Learned counsel for the respondents submits that the present writ petition is misconceived and the petitioner has failed to establish that the respondent has acted in an arbitrary, discriminatory, unreasonable or irrational manner. It is contended that Note of Clause 3.5.2 of the DTU prospectus 2011-2012 makes it abundantly clear that a candidate under SC/ST/CW/PH/SG category would be required to produce the original certificate of the respective reserved category issued by the Competent Authority at the time of counselling and if the category certificate is not found to be in order, no benefit of the reserved category would be given to the candidate. Relevant portion of Note of Clause 3.5.2 reads as under:

3.5.2 Certificates required for reserved seats at the time of admission

(DELHI REGION CANDIDATES SEEKING ADMISSION UNDER SC/ST/OBC ARE REQUIRED TO SUBMIT THE CERTIFICATE ISSUED BY GOVERNMENT OF NCT OF DELHI ONLY)

NOTE :

iv. It is the sole responsibility of the candidate to prove his/her eligibility for claiming reservation under any of the reserved categories. The candidates under SC/ST/CW/PH/SG categories will be required to produce the original certificate of the respective reserved category issued by the Competent Authority (as given in "CERTIFICATE REQUIRED" in para 3.5 below) at the time of counselling. If the

category certificate is not found to be in order, no benefit of the reserved category will be given.

5. Counsel further submits that the terms of the prospectus are to be respected. Counsel also submits that the ignorance cannot be a defence on the part of the petitioner. It is further contended that in order to seek admission the petitioner should have been eligible on the date he appeared for the counselling and at that point of time he was to produce all the necessary documents including the desired OBC certificate. Counsel also contends that the petitioner cannot claim any special equity in his favour on his having completed one year of course, which is evident from the reading of the order dated 10.10.2011. Counsel further contends that it is trite law that at the time when a person seeks admission he should be eligible and should have in his possession all the necessary documents. In support of his submission counsel has relied upon a decision rendered by a Division Bench of this court in the case of Delhi Subordinate Services Selection Board and Anr Vs. Ram Kumar Gijroya and Others, .

6. Learned counsel for the petitioner in response to the submission made by counsel for the respondents submits that it was never in dispute that the petitioner was an OBC candidate as he had in his possession an OBC certificate from Uttar Pradesh. Counsel further submits that the aim and object of insisting for an OBC certificate from Delhi is to check the menace of persons producing false, fake and fabricated caste certificate. Counsel next submits that even in cases where students are unable to produce their final mark sheets the University has granted time up to 31.8.2012 in some cases and even up to 31.9.2012 in other cases, which would show that the request of the petitioner was neither unreasonable nor unfair. It is submitted that it is not a case where the petitioner was taking undue advantage of seeking admission and without being eligible in order of merit or in the absence of his being an OBC candidate.

7. Learned counsel for the petitioner submits that having completed one year of his studies the petitioner should not be deprived of a seat at this stage, especially, in view of the fact that during the pendency of the writ petition and at the time of hearing of the stay application a provisional admission was granted to the petitioner as the petitioner had produced the OBC certificate issued by Government of NCT of Delhi. Counsel further submits that in case the petitioner is deprived of the admission, not only the seat would go a waste but the same would be a complete loss of national resources.

8. I have heard learned counsel for the parties, considered their rival submissions and also perused the material placed on record including the DTU prospectus 2011-2012. The basic facts of the case are not in dispute that the petitioner had appeared in the All India Engineering Entrance Examination (AIEEE) 2011 for admission into engineering courses. The petitioner obtained the All India ranking of 84377 and 21273 in the OBC category. The petitioner was issued provisional letter of admission dated 23.8.2011 whereby he was asked to report at the University along with relevant documents mentioned in the letter.

As the petitioner did not possess the OBC certificate from Government of NCT of Delhi, the petitioner immediately applied for the same in the office of Deputy Commissioner, North-East District. At the time of reporting the petitioner informed the respondents that he had applied for the OBC certificate and sought fifteen days time to submit the same which request was declined.

9. There is force in the submission made by learned counsel for the respondents that the petitioner was to produce all the relevant documents at the time of admission, I am also of the view that the respondents did not act in an unfair manner in view of Note of Clause 3.5.2 of the DTU prospectus 2011-2012. In case the petitioner was seeking admission in the OBC category he was duty bound to produce the certificate at the time of counselling. The Division Bench has also held to the same effect that all the relevant documents should be available with a person and must be produced on the relevant date.

10. By an order dated 30.8.2011 the respondents were directed to reserve one seat in B.Tech Course in the OBC category. Admittedly, no appeal was filed against the order dated 30.8.2011. During the pendency of the writ petition the petitioner filed CM 16425/2011 wherein in para 4 the petitioner brought to the notice of the Court that he had received the OBC certificate from Deputy Commissioner, North-East District, Delhi, dated 22.9.2011. By an order dated 10.10.2011 the respondents were directed to grant provisional admission to the petitioner on petitioner completing all the formalities including submission of original OBC certificate which was issued by the Government of NCT, Delhi. The respondents thereafter granted provisional admission to the petitioner. It may be noticed that pursuant to the order dated 10.10.2011 petitioner was granted provisional admission and the petitioner has attended classes for one year and also cleared the examination. Petitioner at this stage also stands promoted to the second year. The short question which arises for consideration before this Court at this stage is whether having regard to the clear terms of the prospectus the admission granted in favour be cancelled. In my view having regard to the peculiar facts of this case where by an interim order dated 30.8.2011 one seat was kept vacant, thereafter by an order dated 10.10.2011 provisional admission was granted to the petitioner and the petitioner was also allowed to sit for the examination, which he has cleared, the present petition is to be allowed. Another factors which the Court cannot lose track is that in case the admission of the petitioner is cancelled not only will he lose two years, but the seats already granted to the petitioner will go a waste.

11. Accordingly, present writ petition is allowed. Rule is made absolute and admission of the petitioner stands regularized. It is clear that the order, which has been passed today by this Court in the facts and circumstances of the present case, will not be treated as a precedent. Writ petition stands disposed of in view of above.