

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C.) No.11167/2009**

% **Date of Decision: 16.09.2009**

Vibha Kumari Petitioners
Through Mr. Naushad Alam, Advocate.

Versus

Controller of Examination, Indian Council of Respondent
Agricultural Research & Ors.

Through Mr. S. Chandra Shekhar & Mr. Manoj
Kumar, Advocates for the respondents.

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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1. The petitioner seeks a writ of mandamus or direction to respondent No.2, Registrar, National Dairy Institute, Karnal, Haryana to grant admission to the petitioner in M.Sc in Animal Biotechnology in terms of allotment done pursuant to counseling held on 9th July, 2009.

2. The petitioner applied for 14th All India Entrance examination for admission to Masters degree programme in Agricultural and Allied science subject and award of ICAR-JRF (PGS) for the academic session

2009-2010 (AIEEA-PG-2009) conducted by Indian Council of Agricultural Research.

3. After the declaration of result petitioner was issued a letter for counselling dated 10th June, 2009 and the petitioner was asked to appear on 9th July, 2009 based on her result of AIEEA-PG-2009. The rank of the petitioner was 9th in OBC (General) category.

4. According to the petitioner after counselling she was allotted a course/stream that is post graduate programme (M.Sc) in Animal Biotechnology at the respondent no.2, National Dairy Institute, Karnal, Haryana.

5. The petitioner has B.Sc. (Hons) degree (Ist class) with Botany, Chemistry, and Zoology from Magadh University Bodh-Gaya. According to the petitioner after allotment of course/stream by respondent No.1 at the Institute of respondent No.2 petitioner approached respondent No.2 on the same day for depositing the amount of Rs.2000/- as was indicated in the counselling letter for confirmation of her admission.

6. The grievance of the petitioner is that respondent No.2 refused to accept the fees amount as was specified in the counseling letter. The

respondent No.2 also did not disclose any cogent reason for not accepting the admission of the petitioner though the seat was allotted to the petitioner by respondent No.1 as per her All India rank in the said entrance examination. The petitioner, therefore, made a representation dated 10th July, 2009, which however was not replied. The petitioner also applied under the Right to Information Act, 2005 with PIO of respondent No.1. In reply petitioner was informed that her application under Right to Information Act has been transferred to respondent No.2. Thereafter in reply to the information sought by the petitioner under Right to Information Act, 2005 it was disclosed that B.Sc (Hons) Botany is not the prescribed qualification for admission to M.Sc (Animal Biotechnology). It was stated that the petitioner should have passed B.Sc with any three of the subjects namely Chemistry, Botany, Zoology, Biochemistry, Microbiology, Physiology, Genetics, Biotechnology.

7. The petitioner has contended that she has B.Sc. (Hons) degree with Botany, Chemistry and Zoology and, therefore, it has been contended that she is eligible and she cannot be denied admission to the said course.

8. The show cause notice was issued to the respondents by order dated 26th August, 2009 and the respondents were also directed to keep

one seat in M.Sc. in Animal Biotechnology. Despite the time granted by this Court, the reply to the show cause notice has not been filed nor any cogent reason has been disclosed for not filing the reply.

10. The learned counsel for the respondent has, however, contended that to be eligible for admission to M.Sc in Animal Biotechnology, the petitioner was required to have qualified that Chemistry, Botany and Zoology as the main subjects and since the petitioner has B.Sc. (Hons) degree in Botany, she did not have Chemistry and Zoology as the main subjects as these subjects in an honors course will be subsidiary subjects as she has obtained B.Sc. (Hons) in Botany.

11. The eligibility conditions as prescribed in the information bulletin for 2009-2010 of AIEEA-PG-2009 for M.Sc. in Animal Biotechnology, is B.Sc with any three of the subjects namely Chemistry, Botany and Zoology. The contention of the learned counsel for the respondent is contrary to the eligibility conditions stipulated in the information bulletin. The eligibility conditions do not stipulate that Chemistry, Botany and Zoology should be the main subject. The eligibility condition only contemplates a B.Sc degree with Chemistry, Botany and Zoology as the subjects. This cannot be disputed that the petitioner has done B.Sc (Hons) in Botany and, therefore, she has qualified B.Sc with Botany.

She also had Chemistry and Zoology as her subjects in the B.Sc. Botany which is apparent from the marks sheet produced by the petitioner. Therefore it cannot be held that the petitioner has not obtained a B.Sc. (Hons) with Chemistry, Botany and Zoology. In any case if a candidate who does B.Sc (General) with three subjects Chemistry, Botany and Zoology is entitled for admission to M.Sc. in Animal Biotechnology, a candidate who has B.Sc (Hons) with Botany as the main subject and Chemistry and Zoology as other subjects even if they are subsidiary subjects shall be eligible and entitled for admission.

12. The eligibility conditions do not categorically spell out that if any of the subjects in B.Sc will be studied as a subsidiary subject it will disentitle a candidate for admission to M.Sc in Animal Biotechnology. The eligibility conditions which are not specifically stated in the bulletin of information cannot be read into it. The plea of the learned counsel for the respondent in any case based on his own oral submission, as no reply to the show cause notice has been filed, cannot be accepted.

13. In the circumstances, the plea of the counsel for the respondents that the petitioner is not eligible for admission to M.Sc in Animal Biotechnology cannot be accepted and it has to be held that the petitioner is eligible for admission to M.Sc in Animal Biotechnology. The

petitioner in fact had been granted admission by respondent No.1 with respondent No.2 which has been denied by respondent no.2 without any legal and rational basis.

14. In the circumstances for the foregoing reasons the writ petition is allowed. The petitioner is entitled for admission to M.Sc in Animal Biotechnology in the institute of respondent No.2. Therefore the respondents are directed to forthwith grant admission to the petitioner in M.Sc in Animal Biotechnology and accept the fees from the petitioner and allow her to join the course and join the classes. The petitioner shall also be entitled for all the benefits which she would have got, as she had been admitted on 9th July, 2009 pursuant to counseling on that date and issue of letter of admission to respondent no.2. Considering the facts and circumstances the petitioner is also entitled for a costs of Rs.10,000 from the respondent no.2.

Dasti.

September 16, 2009
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ANIL KUMAR, J.