

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

Date of decision: 5th October , 2010.

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W.P.(C) No.1887/2010

SH. KRISHNA MOHAN SHARMA

..... PETITIONER

Through: Mr. R.V. Sinha with Ms. Sangita Rai,
Advocates.

Versus

**GURU GOBIND SINGH INDRAPRASTHA
UNIVERSITY & ORS.**

..... RESPONDENTS

Through: Mr. Mukul Talwar with Mr.
Sradhananda Mohapatra, Advocates
for R-1.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

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

RAJIV SAHAI ENDLAW, J.

1. This order is in continuation of the order dated 19th August, 2010. The counsel for the respondent University in pursuance thereto has filed an affidavit enclosing therewith a copy of letter dated 13th January, 2010 sent by the respondent University to the petitioner prior to the petitioner appearing in the admission test and in which it was clearly stated that the petitioner should ensure his eligibility. The counsel for the petitioner admits receipt of the said letter and states that a copy thereof has been filed by the

petitioner himself. In view of the said letter, the query raised in the order of 19th August, 2010 stands answered that the appearance in the admission test does not indicate that the petitioner was then considered eligible for admission for Ph.D. Programme in Management Studies.

2. The petition is thus liable to be dismissed.

3. The counsel for the petitioner however urges that the respondent University has not produced any prospectus or print out from its website laying down any condition of the candidates being required to satisfy themselves of their own eligibility. It is contended that the letter dated 13th January, 2010 (supra) is in the nature of an Admission Card and the said condition in the Admit card is of no avail.

4. I am unable to agree. The only question which had troubled this Court during the hearing on 19th August, 2010 was the factum, of a student who is stated to be not eligible, having been permitted to take the admission test. Else this Court had not found any merit in the petition. It was held that the Court would not interfere with the eligibility conditions fixed by the respondent University for its various programmes.

5. The counsel for the petitioner has however sought to re-open the entire argument. Notwithstanding the fact that the challenge by the petitioner in this regard stood concluded on 19th August, 2010, it is deemed expedient

to record the submissions of the counsel for the petitioner. The counsel for the petitioner has contended that the respondent University is arbitrarily not treating the Master's Degree of the petitioner in the subject of Science as making him eligible for Ph.D. in Management Studies. Alternatively it is argued that the Master's Degree of the petitioner in the subject of Mass Communications & Journalism with 59.9% marks ought to be rounded off to 60% marks and the same in any case should be held eligible for admission to Ph.D. in Management Studies.

6. Reliance is placed on

- (i) ***Uttam Chand Vs. State of Bihar*** (1995) II LLJ 1019 Patna laying down that when an order is passed by a public authority, the said order must stand or fall on the grounds recited in it and cannot be subsequently improved upon or supplemented to by fresh reasons in the form of affidavit;
- (ii) ***Sethi Auto Service Station Vs. DDA*** (2009) 1 SCC 180 laying down that notings in a departmental file do not have the sanction of law to be an effective order; and
- (iii) Judgment dated 22nd February, 2010 of this Court in W.P.(C) No.2877/2003 titled ***Dr. Ravinder Singh Vs.***

Medical Council of India where 49.7% marks were rounded off to 50% by applying principle of rounding off.

7. The respondent University in the present case has not considered the Master's Degree held by the petitioner in Mass Communications & Journalism and in Science to be Degrees in the "relevant field", to entitle the petitioner to admission for Ph.D in Management Studies. This Court in exercise of jurisdiction under Article 226 of the Constitution of India would not interfere with such a decision. The Division Bench of this Court in *Dental Council of India v. Integrated Education Development Organization* (2000) 56 DRJ 283 held that the question whether or not a technical College should be granted permission to admit students and to start classes has to be left to the concerned authority constituted for such purpose and the High Court sitting in extraordinary jurisdiction under Article 226 of the Constitution normally ought not to interfere as such a matter does not lie in the province of the Court; the power to interfere exists only when the decision suffers from *mala fide* and arbitrariness and is unjust, unfair or unreasonable.

8. The Supreme Court also in the *Dental Council of India Vs. Subharti K.K.B. Charitable Trust* (2001) 5 SCC 486 and recently in *Dr. Basavaiah*

Vs. Dr. H.L. Ramesh 2010 (7) SCALE 529 held that the jurisdiction of the Court to interfere with the decision of the expert bodies is limited.

9. Another Division Bench of this Court in ***Dr. V.K. Agrawal Vs. University of Delhi*** 125 (2005) DLT 468 held that the Court cannot interfere with the decision of experts unless there is a violation of some statute or there is some shocking arbitrariness and that in academic/educational matters Courts should be reluctant to interfere; whether a candidate fulfils the requisite qualifications or not is a matter which should be entirely left to be decided by the academic bodies and the concerned selection committees which invariably consists of experts on the subjects relevant to the selection.

10. The Supreme Court in ***Maharishi Dayanand University Vs. Surjeet Kaur*** JT 2010 (7) SC 179 held that the Court has no competence to issue a direction contrary to law, nor the Court can direct an authority to act in contravention of statutory provisions. It was held that the High Court cannot be generous or liberal in issuing such directions which in substance amount to directing the authorities concerned to violate their own statutory Rules & Regulations. It was further held that there can be no estoppel/promissory estoppel to debar a public authority from enforcing a statutory provision. The mistake on the part of the University in that case in allowing an applicant to appear in the examination was held to be conferring no right in the applicant if not entitled under the Rules & Regulations to pursue a

course. It was held that the Rules & Regulations cannot be allowed to be defeated merely because the University erroneously allowed a candidate to appear in the examination.

11. The judgments cited by the counsel for the petitioner are not found apposite.

There is no merit in the petition, the same is dismissed. No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

5th October, 2010
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