

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

Date of decision: 20th August, 2010.

+ W.P.(C) No.2475/2010 & CM No.4941/2010 (for stay)

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ANJU

..... Petitioner

Through: Mr. Tariq Siddiqui, Advocate.

Versus

UNIVERSITY OF DELHI & ORS.

.... Respondents

Through: Mr. Mohinder J.S. Rupal, Advocate
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. The petitioner had appeared for the admission test held by the respondent no.1 University of Delhi in the year 2009 for admission for B.Ed. course conducted by the respondent no.3 Central Institute of Education (CIE). The petitioner on being selected for admission was placed/admitted in the respondent no.2 College for the said course which is of one year duration.
2. As per the Information Bulletin published by the respondent no.3 CIE for admission to the said course, the qualifying degree for the said course

was Graduation; however even those candidates who had appeared in the final year examination of Graduation in the year 2009 and whose result were then awaited were also entitled to apply for admission; they were however at the time of provisional enrolment required to furnish a declaration of having appeared in the qualifying examination and their result being awaited; such candidates were required to submit the result of their qualifying examination within 10 days of the declaration of result and in no case later than 31st August, 2009.

3. The petitioner made a declaration of having appeared in the qualifying examination in the year 2009 and of her result being awaited. She was provisionally admitted into B.Ed. course. The petitioner however failed to submit the result of her qualifying examination till 31st August, 2009. It appears that the said default on the part of the petitioner was not noticed and the petitioner continued in the respondent no.2 College. The petitioner in February,2010 submitted proof of having cleared the qualifying examination to the respondent no.2 College and the respondent no.2 College applied to the respondent no.1 University of Delhi for regularizing the admission of the petitioner. The petitioner then represented that she was pursuing Graduation from Indira Gandhi National Open University (IGNOU); that though she had appeared in the final year examination in the May-June 2009 but IGNOU declared her result only in February, 2010. The petitioner thus represented that she should not be made to suffer for the delay by IGNOU in declaring her result.

4. The said representation of the petitioner was rejected by the respondent no.1 University of Delhi on 8th March, 2010 for the reason of the petitioner being required under the Rules to have submitted the result of her qualifying examination by 31st August, 2009 and latest by 16th October, 2009 with the approval of the Vice Chancellor and having not done so.

5. The petitioner preferred this petition impugning the aforesaid decision of the respondent no.1 University of Delhi. Since the examination for B.Ed. was then round the corner, the writ petition was accompanied with an application for interim relief. It is the case of the petitioner in the writ petition as well as in the application for interim relief that she should not be made to suffer for the lapse on the part of IGNOU in delaying the declaration of her result till February, 2010. This Court acting on the said representation of the petitioner, vide order dated 15th April, 2010, while issuing notice of the petition granted interim relief to the petitioner and permitted her to appear in the annual examination of B.Ed. course commencing from 16th April, 2010 and subject to the final orders in this petition. It was further provided that no special equities shall flow in favour of the petitioner and the result of the petitioner shall be kept in a sealed cover.

6. The respondent no.1 University has filed a counter affidavit in which it is *inter alia* stated that the petitioner had misrepresented the facts to the University as well as before this Court; that she had appeared in her qualifying examination held by IGNOU in December, 2009 only and not in

May- June 2009 as required under the Rules for admission. It has also been stated that there was no delay on the part of IGNOU in declaring the result of the petitioner as contended by the petitioner.

7. Though no rejoinder has been filed by the petitioner to the said counter affidavit but the counsel for the petitioner admits that the petitioner had appeared in the qualifying examination of IGNOU in December, 2009. It is however clarified that the petitioner had appeared in the qualifying examination held in June, 2009 also but had failed in the same and again took the qualifying exam in December, 2009 which was cleared by her and the result whereof was submitted to the respondent no.1 Delhi University in February, 2010.

8. From the aforesaid admission now, it is clear that the petitioner not only hid the correct facts from the respondent no.1 University but also indulged in falsehood in representing that the result of the qualifying exam took by her in June, 2009 was delayed by IGNOU till February, 2010. The petitioner made false pleadings in the present petition also. The Supreme Court in *Chandra Shashi Vs. Anil Kumar Verma* (1995) 1 SCC 421 observed:

“The stream of administration of justice has to remain unpolluted so that purity of court's atmosphere may give vitality to all the organs of the State. Polluters of judicial firmament are, therefore, required to be well taken care of to maintain the sublimity of court's environment; so also to enable it to administer justice fairly and to the satisfaction of all concerned. Anyone who takes recourse to fraud, deflects the course of judicial proceedings; or if anything is done with oblique motive, the same interferes with the administration of justice.

Such persons are required to be properly dealt with, not only to punish them for the wrong done, but also to deter others from indulging in similar acts which shake the faith of people in the system of administration of justice.”

9. The petitioner having failed in the qualifying examination, was not entitled to be admitted to B.Ed. course. Had the petitioner disclosed to the respondent no.1 University that she had failed in the qualifying examination, the result whereof was declared in August, 2009 itself, the provisional admission of the petitioner to B.Ed. course would have been cancelled and the question of the petitioner continuing to attend the classes would not have arisen.

10. The petitioner in the petition has also pleaded that the respondent no.1 University has given admission to another student namely Ms. Jaskiran Arora even after 16th October, 2009. Though the respondent no.1 University in the counter affidavit has not replied to the said plea but the counsel for the petitioner has in Court handed over the documents obtained through the medium of Right to Information Act, 2005; from the same it appears that the said Ms. Jaskiran Arora was admitted in B.Ed. course after 16th October, 2009. The counsel for the respondent no.1 University states that he will have to seek instructions in this regard. However in my opinion the same would not make any difference whatsoever. The petitioner having abused the process of this Court is not entitled to any equity from this Court; rather the petitioner, who is training to be a teacher is building her career on the edifice of falsehood. She cannot be expected to instill morality in children

who she intends to teach. A teacher is not only required to impart knowledge to his/her students, but also a sense of duty, righteousness and dedication. The petitioner in the instant case can hardly be expected to guard society's faith reposed in teachers; rather would cause incalculable harm not only to the cause of education but to the society at large by generating a wrong sense of values in the minds of young and impressionable students. I am therefore, inspite of the fact of the respondent no.1 University having admitted another student beyond the prescribed date, not inclined to consider the case of the petitioner. Even if an illegality has been committed vis-à-vis Ms. Jaskiran Arora, the same does not entitle the petitioner to any relief and the remedy of the petitioner is only to apply for cancellation of the admission of the said Ms. Jaskiran Arora. The Supreme Court in ***Gursharan Singh Vs. NDMC*** (1996) 2 SCC 459 has held that guarantee of equality before law under Article 14 is a positive concept and cannot be enforced by any citizen or court in a negative manner-if any illegality or irregularity has been committed in favour of any individual then others cannot invoke jurisdiction of court that same illegality or irregularity be committed by State or Authority qua them also. To the same effect is ***Chandigarh Administration Vs. Jagjit Singh*** (1995) 1 SCC 747.

11. Even though this Court had directed the result of the examination, taken by the petitioner of B.Ed. course under orders of this Court, to be kept in a sealed cover but it appears that the said result has been declared. The petitioner claims that she has cleared the B.Ed. examination in 1st Division.

The counsel for the petitioner urges that on this premise the petition should be allowed and the petitioner be burdened with some costs. However no benefit of the examination undertaken under interim order of this Court and which order was obtained by misrepresentation, can be given. The order dated 15th April, 2010 itself provides that no equities will flow in favour of the petitioner for the reason of having undertaken the said examination.

12. Though I was not inclined to grant any relief to the petitioner but purely on compassionate grounds the only relief which can be granted to the petitioner is to, on the basis of the admission test cleared by her last year, allow her admission in B.Ed. course this year even though the admissions for this year have closed. Thus while dismissing the petition, the respondent no.1 University is directed to admit the petitioner for the current year in B.Ed. course subject to the petitioner complying with all the requisite formalities including as to fee etc. within 10 days of today. The result of the petitioner of the B.Ed. examination undertaken under orders of this Court shall axiomatically stand cancelled.

The petition is dismissed. No order as to costs.

Copy of this order be given *dasti* under the signatures of the court master to the counsel for parties.

**RAJIV SAHAI ENDLAW
(JUDGE)**

20th August, 2010
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