

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

Date of decision: 8th October, 2010.

+ **W.P.(C) No.5456/2010 & CM No.10752/2010 (for interim relief)**
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SAYEED AHMAD PETITIONER

Through: Ms. Deepali Gupta, Adv.

Versus

**NATIONAL INSTITUTE OF FASHION
TECHNOLOGY RESPONDENT**

Through: Ms. Vibha Datta Makhija, Adv. with
Mr. Philemon Nongbri, Adv.

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 filed the present writ petition aggrieved from the refusal of the respondent to admit the petitioner for the reason of the petitioner having failed to appear in counselling for admission to Bachelor of Design (B.Des.) course. Though the petitioner had approached this Court long after (on 13th August, 2010) the scheduled date for counselling, on 21st June, 2010, notice of the writ petition was issued on the plea of the petitioner of seats being still available in the course in which the petitioner had sought admission. The counsel for the respondent was directed to take

instructions on the said aspect.

2. There being some ambiguity in the counter affidavit filed by the respondent, vide order dated 21st September, 2010, the respondent was directed to file an additional affidavit.

3. The affidavit dated 27th September, 2010 has been filed by the respondent and in which it is stated that:-

(i) as per the admission schedule, the last date for submission of application forms was 9th January, 2010; written entrance examination was held on 21st February, 2010, its results was declared in the first week of April, 2010 and group discussion/interviews were held in the mid of May, 2010 and the final results declared in mid of May, 2010 and counselling commenced from 3rd June, 2010 and closed on 20th July, 2010 and the academic session started on 26th July, 2010;

(ii) it is further stated that the respondent has a Policy of not extending any date in the admission schedule since it is imperative for the programme to start on the stipulated date;

(iii) that all the seats in the General Category were filled up except, one seat each in SC & ST category and seven seats in OBC Category were left vacant for the reason of those shortlisted for counselling not opting for the courses offered therein;

(iv) it is stated that no further time was left to call students from the reserved categories for counselling to fill up these seats;

(v) that another round of counselling for filling up the said vacant seats which constitute merely 1.3% of the total seats was felt to be counter productive inasmuch as the same would have delayed the commencement date of the session from 26th July, 2010;

(vi) it is further stated that it is the Policy of the respondent that only in the event of more than 10% of the seats remaining vacant that another round of counselling is held;

(vii) it is yet further pleaded that the petitioner cannot have any legitimate expectation for admission to the said vacant seats also since the said vacant seats belong to the reserved category and even if another round of counselling with respect thereto were to be ordered, the option therefor would have to be given to the other candidates in the reserved category only and not to the petitioner who belongs to the General Category.

4. In view of the aforesaid categorical position, duly supported by documents and further in view of the fact that already about two and a half months have passed since the commencement of the session and yet further in view of the fact that the petitioner himself approached the Court after considerable delay, no case for granting the relief to the petitioner is made out.

5. The Supreme Court in *Neelu Arora Vs. Union of India* (2003) 3 SCC 366 held that when detailed scheme has been framed and the manner in

which it has to be worked out is also indicated therein, merely because a certain number of seats are not filled up is not a reason enough for adopting one more round of counselling, if there is no scope therefor under the Scheme. It was held to be not advisable to go on altering the scheme as and when seats are found vacant.

6. The Supreme Court in *Arvind Kumar Kankane Vs. State of U.P.* AIR 2001 SC 2800 held that if counselling goes on continuously for a long period, it will upset the course of study.

7. A Division Bench of this Court in *Maharaja Agarsen Institute of Technology Vs. GGSIP University* 116 (2005) DLT 290 held that once the dramatic performance starts, no one is allowed to enter—similarly counselling for seats must stop once the course of study commences. Again in *Ms. Sunint Kaur Vs. GGSIP University* ILR (2005) 1 Delhi 215 it was held that even if seats are unfilled that cannot be a ground for making mid session admissions.

8. In the present case also, as aforesaid, the writ petition was filed after the commencement of classes.

9. There is no merit in the writ petition; the same is dismissed. No order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

8th October, 2010/‘bs’