

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

Date of decision: 27th October, 2010.

+ W.P.(C) 7006/2010 & CM No.13882/2010 (ex parte ad interim relief)

REKHA

..... Petitioner

Through: Mr. Naushad Ahmed Khan, Mr. V.
Elanchezhiyan & Mr. Rajesh Kumar
Verma, Advocates.

versus

UNIVERSITY OF DELHI AND ORS

..... Respondents

Through: Mr. Mohinder J.S. Rupal, Advocate
for R-1 to 4.

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 belonging to OBC category applied for admission to M.A. English course through the channel of admission test in the respondent University of Delhi. The said course is offered at North & South Campus of the University and also at Non-Collegiate Women's Education Board (NCWEB) which is impleaded as respondent no.4. The petitioner, in the admission test secured 41 marks and a rank of 46 in OBC category. The respondent University admitted only those OBC candidates whose marks were within the 10% bandwidth of the marks of the last candidate admitted

in the General category. The marks of the petitioner being not in the said bandwith, admission was denied to the petitioner.

2. This petition has been filed relying on the judgment dated 7th September, 2010 in W.P.(C) No.4857/2010 titled *Apurva Vs. UOI* in which this Bench struck down the criteria aforesaid of 10% bandwith. The petition came up before this Court first on 20th October, 2010 when the counsel for the respondent University sought time to take instructions as to whether NCWEB is a part of the respondent University or not and also on as to when the classes for the academic year had commenced.

3. The counsel for the respondent University today informs that NCWEB is a part of the University of Delhi. On enquiry he states that though if the judgment in *Apurva* were followed, the petitioner may have qualified for admission in OBC category in North/South Campus but he has not taken instructions on the said aspect since the counsel for the petitioner on the last date of hearing had confined the relief for admission for the course in NCWEB. He further states that for admission at NCWEB, the petitioner besides registering at the North Campus was also required to register with the NCWEB and which the petitioner did not do. Attention is invited to Annexure P-8 to the petition wherein the petitioner in a communication to the respondent University admitted that she was not aware of the provision for applying separately to NCWEB but had nevertheless sought admission for pursuing the course of M.A. English at

NCWEB. Attention is also invited to Clause 7 at page 6 of the Bulletin of Information for Admission to Post Graduate Courses in the Academic Year 2010-2011 published by the University of Delhi providing for such separate registration with NCWEB.

4. The counsel for the petitioner has argued that the “Information for Candidates” (copy whereof is annexed as Annexure P-2 to the petition) appended to the Admission Form did not contain any such requirement for registration separately with NCWEB and rather provided for registration at North Campus only giving preference for admission to North Campus/South Campus/ NCWEB. He states that for the said reason the petitioner did not register with NCWEB.

5. I have also perused the Bulletin of Information (supra) handed over by the counsel for the respondent University. Though the same provides for separate registration with NCWEB in the general chapter but does not so provide in the specific chapter dealing with admission for M.A. English course.

6. I have also enquired from the counsel for the respondent University as to what is the significance of separate registration with NCWEB and what is the impact of non-registration by the petitioner therein. The counsel in response has drawn attention to Clause 10 of Information for Candidates (supra) which provides “candidates belonging to Delhi are eligible for

getting admission in NCWEB category”. It is stated that NCWEB at the time of registration satisfies itself as to whether the applicant has domicile of Delhi. It has been further enquired from the counsel for the respondent University as to why domicile of Delhi is insisted upon for pursuing the course at NCWEB. The counsel states that though he has no instructions but his opinion and understanding is that since NCWEB is primarily meant for working women, and holds classes on weekly basis therefore proximity of residence is insisted upon. He further informs that his understanding is that Delhi includes the NCR. It is informed that the petitioner in her application had given address of Bahadurgarh and would not qualify as belonging to Delhi.

7. The counsel for the petitioner informs that the petitioner has undertaken her under graduation course from University of Delhi and that way belongs to Delhi. It is further urged that there is no such restriction for admission for the course in North/South Campus where daily classes are held. The counsel for the respondent University also does not controvert the said position.

8. The counsel for the respondent University on enquiry informs that the weekly classes at NCWEB for the current academic year commenced only in the month of September.

9. In the entirety for the aforesaid circumstances, even though notice has been issued in the Special Leave Petition against the judgment in *Apurva*, finding that the petitioner appears to have been denied a seat in OBC category in North/South Campus, it is deemed expedient to overlook the default of the petitioner in non-registration with NCWEB particularly when the requirement for such separate registration with NCWEB is contained only in the general chapter and neither in the specific chapter regarding admission to M.A. English course nor in the Information for Candidates published by the respondent University. Even though the last date for admissions i.e. 30th August, 2010 has already lapsed but since the weekly classes in NCWEB to which the petitioner is seeking admission commenced only in September, 2010, it is felt that the said provision of last date does not create a bar. Moreover the said aspect has been dealt in detail by the undersigned in a recent judgment dated 18th October, 2010 in W.P.(C) No.6641/2010 tilted *Dhruv Singhal Vs. GGSIP University* and need is not felt to reiterate the same reasons herein.

10. The counsel for the respondent University contends that the rules of admission cannot be given a go by, particularly when there is no challenge even thereto. Reliance in this regard is placed on *Sunil Oraon Vs. CBSE* (2006) 13 SCC 673 reiterating the law as laid down in *A.P. Christians Medical Educational Society Vs. Govt. of A.P.* (1986) 2 SCC 667. However that case was concerned with the Statutes and Ordinances of the University.

In the present case it is not shown that the requirement of belonging to Delhi is a part of any Statute/Ordinance/Regulations.

11. The counsel for the respondent University then seeks time to file counter affidavit but since the petition would become infructuous if further time is allowed to elapse and further in view of the position which has emerged, need is not felt therefor.

12. As far as the requirement of domicile of Delhi is concerned, I find that the expression used is only “belonging to Delhi”. The petitioner who has done her under graduation from Delhi University would certainly fall in the said category. Moreover no rationale is found in insisting upon residence at Delhi for those who have to attend weekly classes and not imposing any such condition for those who have to attend daily classes. The counsel for the respondent University again contends that the petitioner has not challenged the Rules of the respondent University in this regard. However it is not deemed expedient to enter into legalese in as much as any further delay would make the petition infructuous.

13. It was also enquired from the counsel for the respondent University whether there are any vacancies in the M.A. English course in NCWEB. The counsel while replying in the affirmative has stated that though the vacancies exist but there is a dearth of teaching space and infrastructure and he has been told that the admitted students even have to stand in the weekly

classes. However since the vacancies exist, lack of infrastructure cannot come in the way of admission.

14. In the peculiar facts and circumstances aforesaid, the petition is allowed to the extent aforesaid. Subject to the petitioner complying with the formalities for admission for M.A. English in NCWEB, the petitioner be admitted to the said course at NCWEB within one week of today. No order as to costs.

Dasti.

**RAJIV SAHAI ENDLAW
(JUDGE)**

27th October, 2010

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