

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

+ **W.P.(C) 7214/2010 & CM No.14288/2010 (for stay).**

UTKARSH SHARMA

..... Petitioner

Through: Mr. M.K. Bhardwaj, Advocate.

versus

UOI AND ORS

..... Respondents

Through: Mr. Sachin Datta with Ms. Gayatri Verma, Advocates for R-1&2.
Mr. Atul Kumar, Advocate for R-4.
Dr. A.L. Sangal, Registrar of R-3.

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. Dr. A.L. Sangal, Registrar, Dr. B.R. Ambedkar National Institute of Technology, Jalandhar (Respondent no.3) appears in person. He states that he has no Advocate and will argue in person. He has contended that the rules of admission are framed by the Central Counselling Board (Respondent no.2) constituted each year and as per which rules of admission the students are required to produce the original certificates disclosing eligibility for admission latest by 15th September; that the petitioner did not produce any certificates; not even of having passed the class Xth examination. It has been enquired from Dr. A.L. Sangal as to why the class

Xth certificate is required. He states that the same is required as a proof of date of birth. He however admits that mere production of Xth class certificate without the XIIth class certificate would not have been sufficient. He further contends that the petitioner had submitted an affidavit at the time of provisional admission undertaking to produce the said certificate by 15th September, 2010 and was in breach of the said undertaking also.

2. The aforesaid arguments are the same as the arguments raised by the counsel for the respondents no.1&2 on the last date of hearing and dealt with in the order dated 10th November, 2010. This Court in ***Deepika Chaudhary Vs. University of Delhi*** 64(1996) DLT 503 held that a student exercises no control over the declaration of result and when there is no fault attributable to the student, the provision has to be benevolently interpreted and reasonably administered and having regard to the welfare of the student. It was further held that the University cannot be permitted to follow a rigid approach by depriving the petitioner of her seat for the course to which the student has been admitted on merit. To the same effect is the judgment of the Apex Court in ***Shalini Vs. Kurukshetra University*** (2002) 2 SCC 270 also holding that a student cannot be faulted for the delay in declaration of result.

3. For the reasons stated in the order dated 10th November, 2010, the petition is allowed. The order dated 17th September, 2010 of the respondent no.3 of cancellation of provisional admission of the petitioner is quashed. The petitioner to furnish the original Xth & XIIth class certificates to Dr. A.L.

Sangal on 26th November, 2010 at 1100 hours, as agreed.

4. Dr. A.L. Sangal at this stage points out that the practical examinations of the First semester are over and the theory examinations are scheduled from 22nd to 29th November, 2010. He further states that the petitioner has attended only eight classes in a subject in the First semester and is far below the eligibility of 75% attendance and is not entitled to appear even in the theory papers on this account.

5. The counsel for the petitioner contends that the petitioner was not allowed to attend the classes though willing to.

6. Since the petitioner was not allowed to attend classes owing to the order dated 17th September, 2010 and which order has now been quashed, it is felt that the deficit in attendance ought not to come in the way of the petitioner in taking the examinations of the theory papers scheduled from 22nd to 29th November, 2010. This Court in *Avanija Sundaramurti Vs. University of Delhi* 139(2007) DLT 220 held that where shortage of attendance is for the reason of delay attributable to the University in grant of admission, the student cannot be penalized.

7. Dr. A.L Sangal however insists that the course being a professional one, the petitioner without attending the classes, would not acquire proficiency. He further states that even if the petitioner is permitted to take the theory examinations, he has already missed the practical examinations and if the Court directs the respondent no.3 to hold fresh practical examinations for the petitioner it would put the respondent no.3 Institute to a

lot of difficulty. He states that rather than making the petitioner take the examination without attending the classes, it would be more appropriate if the petitioner joins with effect from Second semester commencing in January, 2011. On enquiry as to how the same is possible, he states that the First year of the course comprises of twelve papers; that the said twelve papers are divided into two groups of six papers each and the first year students are also divided into two groups, with one group studying one group of six papers and the other group studying the other group of six papers in the First semester and vice-a-versa in the Second semester. He states that in this way the petitioner, though will suffer delay of six months in completing the course in comparison to the others admitted along with him but would at least have an opportunity to attend the classes and which is essential.

8. The aforesaid suggestion of Dr. A.L Sangal is found by this Court to be preferable and beneficial. The father of the petitioner present in person had also expressed reservations about the petitioner being made to undergo the examinations immediately and had contended that the petitioner would need time to prepare for the same. He is also agreeable to the said suggestion.

9. It is accordingly directed that the petitioner shall join the course with effect from the commencement of the Second semester in January, 2011 and the maximum period for completing the course in his case would also be counted therefrom. Dr. A.L. Sangal has assured that the petitioner would

have no impediments in completing the course in the manner as suggested by him save for the delay of six months.

10. The writ petition is allowed with the aforesaid directions leaving the parties to bear their own costs.

Dasti under signatures of court master.

**RAJIV SAHAI ENDLAW
(JUDGE)**

18th November, 2010
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