

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 4th May, 2011

+ LPA 401/2011

UNIVERSITY OF DELHI Petitioner
Through: Mr.M.J.S.Rupal, Advocate with
Mr.Aravind Varma, Advocate

versus

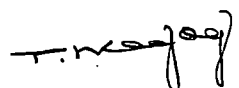
SANWAL RAM Respondent
Through: Mr.S.C.Pathak, Advocate with
Mr.R.R.Jangu, Advocate

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE SURESH KAIT

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

PRADEEP NANDRAJOG, J.(Oral)

For orders, see LPA No.400/2011.


(PRADEEP NANDRAJOG)
JUDGE


(SURESH KAIT)
JUDGE

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UNIVERSITY OF DELHI Petitioner
Through: Mr.M.J.S.Rupal, Advocate with
Mr.Aravind Varma, Advocate

Versus

VARUN KAPUR Respondent
Through: Mr.J.P.Sengh, Sr.Advocate with
Mr.Manish Kumar and Mr.Dheeraj
Sachdeva, Advocate

LPA 401/2011

UNIVERSITY OF DELHI Petitioner
Through: Mr.M.J.S.Rupal, Advocate with
Mr.Aravind Varma, Advocate

versus

SANWAL RAM Respondent
Through: Mr.S.C.Pathak, Advocate with
Mr.R.R.Jangu, Advocate

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE SURESH KAIT

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

PRADEEP NANDRAJOG, J.(Oral)

1. Vide impugned judgment and order dated 10.3.2001 writ petitions filed by the respondents have been allowed and a declaration has been granted that the respondents are entitled to a confirmation of their provisional admission and thereby permit them to take the ensuing semester end term examination as per rules.
2. Issue pertains to the admission to the Bachelor of Law (LLB) course in the University of Delhi for the academic year 2010-11, eligibility whereof as per bulletin information issued by the appellant mandated that the candidate must have either a Graduate or a Post-Graduate degree of any recognized University or equivalent degree with at least 50% marks. Admission was as per merit obtained at an Entrance Test. Since by the date the results of the entrance exam were declared and admissions effected it was known to the University that quite a few final year results pertaining to Graduate or Post-Graduate courses are not declared, those who successfully cleared the entrance examination were given provisional admission subject to their securing the requisite 50% marks at the Graduate/Post-Graduate level.
3. Whereas respondent Sanwal Ram was pursuing a BBA course with a University at Rajasthan and was to secure a degree in the year 2010, respondent Varun Kapoor was pursuing a Graduate degree course from a College affiliated to the University of Delhi. Both cleared the Entrance Test and since the final result pertaining to the Graduate course which the two were undertaking had not been declared the University gave provisional admission and unfortunately for

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the two when their results were declared, having failed in one subject each, both of them were placed in compartment and were permitted to take a supplementary examination pertaining to the paper in question, which they took and successfully cleared, but by that time a date of significance had lapsed. The date was 31st August 2010 by which they had to submit the requisite documents pertaining to their eligibility and which meant that the two had to produce a final or a provisional degree issued by their respective University along with the mark-sheet evidencing that the two had acquired Graduate degree with at least 50% marks.

4. The University permitted both to continue attending classes and raised the issue somewhere in the month of December when the first semester end term examination was to be conducted and denied a right to both of them to sit at the examination. The University threatened to cancel their admission and the two were compelled to file the two writ petitions which have been allowed in their favour.

5. Whereas the respondents would urge before the learned Single Judge that having cleared the supplementary examination the result thereof would relate back to the date when the main result was declared as held by a Division Bench of this Court in the judgment reported as AIR 2001 Delhi 28 Prashant Srivastava vs. CBSE, which decision followed and earlier decision dated 7.9.1999 in LPA No.385/1999 Neha Kattyar vs. CBSE and thus submitted that they would have to be deemed to be treated as eligible by the requisite date i.e. 31.8.2010 by which date the result of the main examination held had been declared. Per contra, the University would urge

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that as per the decision reported as 2004 (72) DRJ 428 Ankur Wahi vs. UOI held to the contrary.

6. The learned Single Judge has noted that the decision in Ankur Wahi's case is by a Single Judge and whereas the two decisions relied upon by the respondents were by a Division Bench. The learned Single Judge has given a further reason, being that, the bulletin information issued by the University did not clearly state that those who were awaiting results were required to clear the qualifying examination at the first instance.

7. There is merit in the plea sought to be urged by learned counsel for the University that if a cut-off date is prescribed by which eligibility has to be secured, an eligibility secured at a later date would be inconsequential, but the argument ignores the fact that where law requires something deemed to have come into existence, one cannot boggle down the consequence thereof and whatever logically flows from the deemed existence of a thing having come into being, the same has to be treated as having come into being.

8. In our opinion the University not having clarified, as observed by the learned Single Judge, that eligibility must be acquired at the main examination and not the supplementary, the alternative reasoning of the learned Single Judge merits acceptance.

9. If the University has any issue on the second reasoning, it is easily capable of being rectified inasmuch as the University can, in future, clearly stipulate in the bulletin information that eligibility, de-jure as also de-facto, has to be obtained by the cut-off date and that those who are placed in

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compartment would be treated as ineligible. Further, we see no reason why the University should not scrutinize the cases of provisional admissions by the cut-off date and bring an end to the issue the day next.

10. Learned counsel for the appellants concedes that it is too late in the day for the University to fill up the two vacant seats if respondents are held ineligible candidates on the ground as urged by the University, notwithstanding that both of them have cleared the supplementary examination and are deemed to be candidates having obtained Graduate degree at par with the rest.

11. Why should we not be situationalist Judges and not rationalist Judges? We think we should. It is not a case where wholly ineligible persons or persons who have obtained admission by dubious means would continue as students of the University of Delhi in the Faculty of Law. If we hold against the respondents, two seats would go abegging, and this in our opinion would be contrary to public interest and thus the compulsion of the situation compels us to be situationalist Judges and uphold the view taken by the learned Single Judge.

12. For the future years, the University of Delhi can certainly incorporate a clause in the bulletin information as observed by us in para 9 above.

13. Both appeals are dismissed but without orders as to costs.

14. CM No.8394/2011 and CM No.8395/2011 in LPA No.401/2011 and CM No.8390/2011 and CM No.8391/2011 in LPA No.400/2011 which exemption as prayed are allowed. CM No.8392/2011 in LPA No.400/2011 and CM No.8396/2011 in

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Section

LPA No.401/2011 which seek stay of the operation of the impugned judgment are dismissed as infructuous.

(PRADEEP NANDRAJOG)
JUDGE

(SURESH KAIT)
JUDGE

MAY 04, 2011
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