

6

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 19.07.2011

W.P.(C) No. 3620/2011 & CM Nos. 7573/2011

Ritu Aggarwal

..... Petitioner.

Through: Mr. Sameer Nandwani, Advocate.

Versus

Indian Institute of Foreign Trade

..... Respondents

Through: Mr. Pramod Gupta, Advocate

W.P.(C) No. 3618/2011 & CM Nos. 7569/2011

Namrata Panwar

..... Petitioner.

Through: Mr. Sameer Nandwani, Advocate.

Versus

Indian Institute of Foreign Trade

..... Respondents

Through: Mr. Pramod Gupta, Advocate

W.P.(C) No. 3845/2011 & CM Nos. 8018/2011 & 9415/2011

Mayank Gupta

..... Petitioner.

Through: Father of the petitioner in person.

7

Versus

Indian Institute of Foreign Trade

.....Respondents

Through: Mr. Pramod Gupta, Advocate

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR

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?

✓
per

KAILASH GAMBHIR, J. Oral:

1. This common order shall dispose off three writ petitions bearing WPC No. 3620/2011, WPC No. 3618/2011 and WPC No.3845/2011.

2. By these petitions filed under Article 226 of the Constitution of India, the petitioners seek directions to direct the

respondent not to cancel their admission in the MBA course for the session 2011-13.

3. The background of facts that has led to the filing of the present petitions is in response to the advertisement given by the respondent Institute for entrance exam for admission in MBA course for the session 2011-2013, the petitioners had applied and thereafter appeared in the written test for the same. It is the case of the petitioners that they had qualified the said written test conducted by the respondent after which they were intimated that by qualifying written test they entered the second stage of the admission process, which includes Essay writing, Group Discussion and Interview scheduled for 15th February, 2011. It is further the case of the petitioners that the respondent vide its letters dated 5.4.2011 informed all these petitioners that they have been selected on provisional basis to seek admission with the respondent institute in the said two years MBA (International) business programme 2011-2013 at its Delhi campus. These petitioners were also called upon to pay the

9

required fee for provisional admission and in pursuance thereof they had deposited the fee, which was duly accepted by the respondent. It is further case of these petitioners that all of a sudden vide e mails dated 13.5.2011 they were intimated by the respondent that their admission has been cancelled due to some mistake at the time of data entry operation conducted by the concerned staff of the respondent and in fact the petitioners had not secured adequate marks to grant them admission in the said course with the respondent institute. After having received the said communication from the respondent, the petitioners immediately approached the office of the respondent so as to plead their case for not cancelling their admission as already they had foregone their admissions at various other prestigious institutes and cancellation of their admission at this stage by the respondent would result into losing one precious year of these students for no fault on their part. As per these petitioners the respondent did not respond to their request and, therefore,

18

feeling aggrieved with the same, they have approached this Court to seek redress of their grievances.

4. Initially three students had approached this Court in WPC No.3617/11, 3619/11, 3947/11 to seek the same relief and a counter affidavit was filed by the respondent in W.P.(C) No. 3617/2011 and along with its counter affidavit, the respondent had also placed on record a statement in tabulated form showing the actual marks obtained by these petitioners and the marks declared erroneously due to the error committed as a result of the data entry operation. As per the stand taken by the respondent, the petitioners became entitled to seek admission as per their rankings at the Kolkata campus of the respondent institute for the said programme and selection letter dated 24.6.2011 was duly sent by the respondent to these petitioners. The respondent in the said counter affidavit also took a stand that these petitioners cannot be granted admission at the Delhi campus since their ranking in the merit list is much below than the ranking of those candidates who were given admission at the

11

Delhi campus. The respondent also took a stand that the discrepancy in the recording of the actual marks of these petitioners had occurred at the time of data entry operation, which led to the declaration of erroneous result. The respondent also took a stand that as per para 3 of the offer of admission it was made clear to the candidates that if at the time of joining the programme or at any later date it is found that they do not fulfill the eligibility criteria in any manner, their enrolment to the programme will stand cancelled forthwith. The respondent has further submitted that these petitioners do not have any vested right to claim any equity or to take any undue benefit on account of such error committed by the staff of the respondent at the time of data entry operation.

5. Mr. Sameer Nandwani, counsel appearing for the petitioner has vehemently argued that all these petitioners are meritorious candidates and after having known their result through the written communication dated 5.4.2011 all these petitioners had deposited their admission fee and, therefore,

none of these petitioners can be deprived from undergoing the said course at the Delhi campus. Counsel also submits that had these petitioners been told that they would get admission at the Kolkata campus, then they would have exercised some other better option to seek admissions in other prestigious institutes in the country and all these petitioners got fascinated only because of the fact that they were given admission at the Delhi campus of the respondent. Counsel further submits that these petitioners are not interested to join the course at the Kolkata campus and in the event of the respondent not permitting these students to undergo the said course at the Delhi campus, one precious year of the petitioners would go waste.

6. Mr. Pramod Gupta, counsel appearing for the respondent, on the other hand, submits that the ranks of these petitioners are much lower than the rank of the last candidate who secured admission in the Delhi campus and, therefore, as per the rank of the petitioners they are eligible to get admission only at the Kolkata campus. Pointing out the wide gap between

the actual ranks secured by the petitioners vis-à-vis their erroneously declared ranks the counsel pointed out that the actual ranking of Namrata Panwar of W.P. (C) No. 3618/2011 was at serial No. 423 and her erroneously declared rank was 95; Ritu Aggarwal of W.P. (C) No. 3620/2011 had secured actual rank at serial No. 441 while her erroneously declared rank was 90 and similarly actual ranking of Mr. Mayank Gupta W.P.(C) No. 3845/2011 was at serial No. 370 and his erroneously declared rank was 91. Counsel thus submits that the petitioners cannot claim any special advantage or equity over the other meritorious candidates who on their ranking in the merit list were given admission at the Delhi campus. Counsel also submits that any indulgence by this Court in favour of these petitioners would open a flood gate of claims on behalf of other students who are higher on merit list. Counsel also submits that neither there is any mala fide act and nor any such action has been complained by the petitioners and, therefore, just because of a human error the petitioners cannot claim their admission at the

Delhi campus to which legally they are not entitled as per the rankings secured by them.

7. I have heard learned counsel for the parties at considerable length and gone through the records.

8. The petitioners have not disputed the fact that there is a wide gap between their actual rank and the rank erroneously declared by the respondent because of the error committed by some staff member at the time of inserting their marks at the data entry level. Hence, the precise question before this Court is whether because of an act committed by some staff member of the respondent who had inserted wrong marks at the time of data entry operation, these petitioners can become legally entitled to seek their admission at the Delhi campus. It is not disputed that these petitioners have been granted admission at the Kolkata campus according to their ranking in the merit list, but these students are insisting to get their admission at the Delhi campus despite the fact that some of the students who

also become victims of the said erroneous result had already accepted their admission at the Kolkata campus.

9. The grievance of the petitioners in these petitions is that they cannot be made to suffer for no fault on their part and the respondent is estopped from canceling their admissions once they were granted admission. The rescue of the doctrine of promissory estoppel will not be available to the petitioners in the present case as the doctrine is an equitable doctrine and it must yield when equity requires. The respondent has committed a patent mistake in wrongly declaring the result and if admissions of the petitioners herein are allowed to subsist, it would lead to injustice to those who are not before the court and have achieved meritorious positions to secure their admissions. Also, it cannot be lost sight of the fact that the respondent institute has within reasonable time realized the error on its part and cancelled the admission within reasonable time, and it is not as if the petitioners herein had pursued a substantial period of their MBA programme. It is a settled legal position that the an order

which was wrong and illegal at its very inception cannot become the foundation for perpetuating further illegality, it cannot be allowed to exist to the detriment of the others who are the rightful claimants. It is also a settled legal position that the courts in exercise of the writ jurisdiction should not interfere in academic matters and no orders should be passed for protecting the interests of the students on the grounds of misplaced sympathy. Therefore, this court is not inclined to exercise its equitable jurisdiction for passing any order in favour of these petitioners.

10. It is manifest and cannot be overlooked, that the criteria laid down by the respondent for admission consisting of a written test and then for a group discussion, essay writing and interview etc. is with the object to select the best from the lot for the said MBA (International Business) programme. Today in the time of cut throat competition, there are umpteen number of candidates vying for every single seat and it is a hard hitting reality that admission to various colleges, especially to the

professional institutes like the respondent have become a Herculean task. It is unlike the bygone days when the marks in the last examination cleared would entitle you to admission in a professional course as now a lot of factors are taken into consideration which are measured by the yardstick of written examination, group discussion ,etc. Undertaking a professional course from a prestigious college guarantees the future in the job arena and hence students prepare for months for these exams, enrolling themselves in coaching centers, taking tuitions, so that they are able to make it to the top notch institutes. Merit and merit alone is the mantra today and being able to get admission in the desired college is a dream come true for many. Undoubtedly, the respondent and other such institutes have to be very careful and diligent with the expert staff in place to prepare the correct result of such candidates and any wrong declaration of the result, can jeopardize the career and future of these students. It is no doubt possible that had these petitioners known that they were selected for the Kolkata campus they

18

certainly could have tried their luck to seek admission in some other course or with some other professional institute. Admittedly their ranking in the merit list is much lower than the ranking of the last candidate who secured admission at Delhi, which is a case of one Arnav Kapoor, who secured the rank of 286 and while the last candidate who secured admission at the Kolkata campus was at the rank of 592. Certainly there cannot be any justification to perpetuate such a wrong and that too such a wrong which would demoralize the meritorious candidates. The writ jurisdiction is jurisdiction of equity and this equitable jurisdiction cannot be exercised in favour of those who are not entitled to such a relief. If the case of these petitioners is accepted then even a student having failed in exam but wrongly declared successful in the admission will also claim his admission because of such wrong declaration in his results. The petitioners thus cannot claim any advantage and rather undue advantage because of the error committed by data operator at the time of insertion of their marks.

11. However, this court is inclined to put a premium on the callous indifference on the part of the respondent institute and the officials responsible for such inadvertence which if not detected at the opportune time would have caused havoc with the life and career of so many young men and women seeking admission in this institute. Hence a cost of Rs.50,000/- is imposed upon the respondent institute to be paid to each petitioner. The said cost shall be recovered by the respondent institute from the officials responsible for erroneous declaration of result after holding an enquiry. A compliance affidavit to this effect shall be filed by the respondent within a period of three months from the date of this order.

12. Hence, in the light of the aforesaid, this court does not find merit in the present petitions, the same are hereby dismissed.

JULY 19, 2011
rkr


KAILASH GAMBHIR, J