

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 3rd October, 2011

W.P.(C) 6656/2011

Ms. Salma Khan

.....Petitioner

Through: Mr.R.K. Saini and Mr. Sitab Ali
Chaudhary, Advs.

Vs.

University of Delhi

.....Respondent

Through: Mr. MJS Rupal with Ms. Shawana
Bari, Advs.

CORAM:

HON'BLE MR. JUSTICE KAILASH GAMBHIR:

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

KAILASH GAMBHIR, J. (Oral)

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1. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks directions to direct

the respondents to grant her admission in the LLB Ist year course in the OBC category against the vacant 50 seats of LLB Session 2011-12.

2. The brief background of facts which has led to the filing of the present petition is that the petitioner had secured 209 marks in the LLB entrance test and in the OBC category her rank was 444. It is the case of the petitioner that she was called to participate in the counseling on 13.7.2011 as per her rank but was not given admission on that day despite her rank being called but she was given an 'option form' to fill her choice out of the three centers in the faculty of law. It is also the case of the petitioner that in fact the petitioner was provisionally admitted on 13.7.2011 but she was not granted final admission as the matter regarding the criteria for filling up the quota of 27% reservation for the OBC category was pending consideration before the Hon'ble Apex Court. It is also the case of the petitioner that all the OBC candidates were required to appear on 20.7.2011 before the respondent Faculty of Law and when

the petitioner had appeared on 20.7.2011 then she was told that the respondent was still awaiting the final decision of the Hon'ble Apex Court in the matter of *P.V. Indiresan Vs. Union of India, Civil Appeal no. 7084/2011*, and as and when the Hon'ble Apex Court decides the matter, the petitioner would be informed to seek admission as per her rank. It is further the case of the petitioner that she had visited the respondent faculty on 1.8.2011 and 12.8.2011 when again she was told that the matter before the Apex Court was still pending consideration. The petitioner thereafter went to her parental home Etah, Uttar Pradesh on 13.8.2011 and remained busy to attend the marriage of her real sister which was scheduled for 4.9.2011 and when she returned back to Delhi on 8.9.2011 and visited the office of the respondent, then she came to know that the respondent had already conducted open house counseling on 20.8.2011 and in the said counseling they had given admissions to all those OBC candidates who had appeared on that day. It is also the case of the petitioner that the last candidate who was

granted admission in the OBC category had secured 56 marks in the entrance examination with the rank of 1017 in the OBC category, but the petitioner whose rank was 444 was denied admission for no fault on her part as she was never informed about the said open house counseling through any means.

3. Mr.MJS Rupal, learned counsel for the respondent University vehemently opposes the present petition. Counsel on instructions submits that the petitioner herself is to be blamed for not participating in the counseling which was held on 20.8.2011 for the OBC candidates. Counsel also submits that in fact the petitioner was never granted admission on 13.7.2011 as on that day the rank of the petitioner was much below than the last candidate who was granted admission on that day in the OBC category. Counsel also submits that on 13.7.2011 the candidates securing rank in the OBC category merit list from 301 to 450 were required to attend counseling and the last candidate admitted on that day from the OBC category had secured 236 marks in the entrance test and

rank 330. Counsel further submits that the said criteria was adopted in terms of the Delhi High Court interim order in operation on that day requiring giving of 10% weightage to the OBC candidates from the maximum marks in the entrance test and the maximum marks in the entrance test were 700 marks. Counsel thus submits that adopting the said criteria, the candidates belonging to the OBC category were given advantage of 70 marks and therefore those candidates who had secured upto 236 marks were provisionally admitted against OBC reserved seats in the LLB first year course. Counsel further submits that so far the candidates in the merit list of OBC category beyond rank 331 upto 450 were concerned, they were required to fill up their option forms so as to participate in the next counseling, which as per the brochure was scheduled for 20.7.2011. Counsel submits that on 20.7.2011 the counseling in fact was not held in view of the pendency of the matter before the Hon'ble Apex Court in *P.V. Indiresan Vs. UOI (Supra)*. Counsel also submits that thereafter the counseling for OBC candidates

was held on 20.8.2011 after the decision of the Apex Court in the aforesaid matter on 18.8.2011, wherein the Apex Court took a view that all eligible OBC candidates have to be given admission and if the seats still remain vacant then such OBC seats will be converted to the general category. The contention of the counsel for the respondent is that through the notice dated 12.8.2011, the counseling was duly notified through the notice board, and through the website as well, and the petitioner although was eligible to participate in the said counseling which was held on 20.8.2011, but she did not choose to participate in the said counseling due to her personal reasons and for which the respondent cannot be blamed. Referring to Instruction No.10 which forms part of the Bulletin of Information issued by the Faculty of Law, counsel submits that the respondent University was not obligated to send individual communication to each and every candidate inviting them to participate in the counseling. Counsel also submits that the academic session for the first year has already begun from 1.8.2011 and the

classes of the first semester will close on 20.11.2011, and now the petitioner cannot be granted midstream admission.

4. I have heard learned counsel for the parties at considerable length.

5. On 13.7.2011, the candidates securing rank in the OBC category merit list from 301 to 450 were required to participate in the counseling and as per the stand taken by the respondent University; which has not been disputed by the counsel for the petitioner; that the last candidate admitted on that day from the OBC category had secured 236 marks with the rank 330 in the entrance test. The rank of the petitioner was 444, and therefore the petitioner cannot claim that she was granted provisional admission on 13.7.2011. The fact that the petitioner had merely filled in the 'option form' to opt for a particular centre would not be construed as that the petitioner was granted provisional admission. It is also an indisputable fact that the issue as to what should be the "*cut off*" for admission of candidates of OBC category in the Central Education Institutions, whether

10% below the cut off marks of general category candidates or 10% below the eligibility criteria of admission was pending consideration before the Hon'ble Apex Court in the matter of *P.V. Indiresan(supra)* and due to the pendency of the said matter the respondent University deferred the admission process, so far filling up OBC seats was concerned. The Apex Court decided the aforesaid matter on 18.8.2011, and as per the notice dated 12.8.2011, the respondent had already notified the counseling of the OBC candidates for 20.8.2011 and the petitioner should have ensured her presence on that day. As per Instruction No. 10, relied upon by the counsel for the respondent, which forms part of the Information Bulletin issued by the respondent Faculty of Law, every student seeking admission was made known that no personal communication for the counseling was to be sent by the respondent University. For better appreciation Instruction No.10 is reproduced as under:

“10. The result of the Entrance Test shall be notified on the Notice Board of the Faculty of Law. The result would also be available on the University website: www.du.ac.in. All notices relating to admission, counseling, etc. shall be displayed only

on the Notice Board of the Faculty of Law. No individual communication will be sent to any candidate for this purpose.”

Not only the date of counseling of 20.8.2011 was notified by the respondent through the notice board, but the said date was also notified on their website. The website of the respondent university could have been diligently checked by the petitioner wherever she had gone and therefore to say that the petitioner remained busy in arranging and attending the marriage of her real sister at Etah, U.P. cannot be considered as a valid excuse for not checking the information on the website of the respondent Faculty of Law for updating herself. It would be pertinent to refer to the recent decision of this court in the case of *Dakshesh Sharma vs. Vice Chancellor, Delhi University WPC 5568/2011 decided on 1.9.2011* wherein I had the occasion to deal with the a similar grievance raised by the petitioner of non intimation of the counseling and I held as under:

"It is also a fact that the petitioner applied under the RTI for seeking information regarding the existing vacancies to gauge his chance and on the reply received under the said application by the

Officiating Head of the Department he came to know that there were 10 vacancies, in response to which he wrote to the Coordinator Admission for conducting another counseling so that the vacant seats be filled. Admittedly, the petitioner did not get any reply to the aforesaid representations and had thus consigned to his fate and did not follow up his case any further. It has been admitted by the petitioner that he did not check the website of the respondent after he did not get any response to his representations and therefore did not come to know about the extended second round of counseling. In the peak time of admissions, the educational Institutions like the respondents are flooded with representations and requests and it is nothing but a grossly naïve presumption on the part of the petitioner that as the representations have not been replied to, there would be no chance for any other counseling to take place. It is a caveat to the students that it is their bounden duty to keep a tab on the admission processes taking place in the institutes where they are vying for admission. Time is the essence in today's arduous and cut throat competition for admission and the petitioner should have been more diligent, vigilant and on his toes for following up the process of admissions in the respondent institute.

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This court also does not find any force in the contention of the counsel for the petitioner that the respondents did not intimate him and he received no SMS through mobile or internet or by post for conducting the extended round of counseling as there is no reason to attribute any malafide to the respondent for discriminating the petitioner vis a vis other candidates who were called for the extended counseling and attended the same. Even otherwise, the onus is on the petitioner to keep himself abreast with the developments and not for the respondents to keep track once they have timely uploaded the said information on their website which is a public portal accessible to all."

6. Thus, it has been a consistent view of the courts that the students seeking admission have to remain on his/her toes and must diligently go through the instructions contained in the Information Bulletin issued by the

universities and institutes and should actively follow up till he/she gets admission in a particular course applied by him/her. Personal excuse of attending marriage or being engaged in some other job cannot be read into the Information Bulletin of the respondent university to grant any special concession to the petitioner so as to take admission in the LLB first year course. A student who is negligent and who does not give utmost priority to his/her career is ultimately bound to suffer and he/she should be aware about the crucial time of admission and be updated about the developments taking place on that front. The petitioner thus due to her own laxity has lost her right as an OBC candidate to avail admission against the said vacant seats.

7. Hence, in the light of the above discussion, this court does not find any merit in the grievance raised by the petitioner in the present petition. However, this court in a connected writ petition bearing W.P.(C) No. 6933/2011 filed by the candidates belonging to the general category wherein challenge has been made by them against the action of the

respondent University in not converting the unfilled OBC seats into the general seats, despite the directions given by the Hon'ble Apex Court in *P.V. Indiresan's case (Supra)*, has taken a view that such an act of the respondent is in clear defiance of the directions given by the Hon'ble Apex Court and therefore, this court has directed special counseling for the candidates belonging to the general category after the conversion of the vacant 50 OBC seats into the general category by the respondent University. Hence, taking into consideration the aforesaid direction, the petitioner herein is permitted to participate in the said special counseling, however as a general category candidate as per her overall merit and rank in the entrance test to try her luck.

8. With these directions the present petition stands disposed of.

October 03, 2011
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KAILASH GAMBHIR, J