

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

Date of decision: 12th January, 2011

+ **W.P.(C) 7155/2010 & CM No.14206/2010 (for stay).**

PALAK KAUR ARORA

..... Petitioner

Through: Mr. I.S. Alag, Mr. J.S. Lamba, Mr.
R.S. Bisht & Mr. Rishabh Bhutani,
Advocates.

versus

**GURU GOBIND SINGH INDRAPRASTHA
UNIVERSITY & ANR.**

..... Respondents

Through: Mr. Mukul Talwar with
Mr. Sradhananda Mohapatra,
Advocates for R-1.
Mr. Raj Kamal, Advocate for R-
2&3.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

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 had sought admission in the B.Tech. Programme in the Sikh Minority Category in the respondent no.2 Institute, a Minority Educational Institution, affiliated to the respondent no.1 University. It was a term for admission in the said category that the applicants were required to produce the Minority Certificate issued by the Delhi Sikh Gurdwara Management Committee. The case of the petitioner is that though the

petitioner produced such a Certificate but was not granted admission for the reason of minor discrepancy in her name; while the name of the petitioner in the CBSE certificate is Palak Arora, in the Minority Certificate issued by the Delhi Sikh Gurdwara Management Committee, the name was Palak Kaur Arora. The petitioner claiming that there is still a vacancy in the said Category, seeks a direction for admission.

2. When the petition came up first before this Court on 26th October, 2010, the counsel for the respondent no.1 University appearing on advance notice informed that the respondent no.1 University had received a letter dated 17th August, 2010 from the Delhi Sikh Gurdwara Management Committee asking the respondent no.1 University to treat as withdrawn, the certificates issued to those candidates whose name in the CBSE documents did not have Singh/Kaur. It was informed that it was in view of the said communication that the petitioner and 30 other similarly placed students were not granted admission.

3. In view of the aforesaid statement of the counsel for the respondent no.1 University, the Delhi Sikh Gurdwara Management Committee was impleaded as respondent no.3 and notice was issued to them.

4. The counsel for the Delhi Sikh Gurdwara Management Committee on 15th November, 2010 informed that on the basis of the averments in the petition they were satisfied that the petitioner belongs to the minority community and gave 'No Objection' to the petitioner being granted

admission. The matter was adjourned on that date to enable the counsels to verify whether there was still a vacant seat in the respondent no.2 Institute.

5. On 16th November, 2010, it was informed that one seat in B.Tech (Electronic & Communication) in the evening shift was available in the respondent no.2 Institute. The petitioner expressed willingness to take admission in the said seat. The counsel for the respondent no.1 University however contended that the said seat would have to be offered as per the merit list of the minority community, first to the students having better marks/rank than that of the petitioner.

6. The counsel for the respondent no.1 University was on 26th November, 2010 asked to obtain instructions as to whether it was at all possible for anyone to join with effect from the semester starting in January, 2011.

7. The matter was thereafter adjourned from time to time awaiting judgment of the Division Bench of this Court in intra court appeal, as to whether relief should be granted to the petitioner approaching the Court only or the vacant seat should be put to re-counseling to all. The counsel for the respondent no.1 University has today handed over the judgment dated 7th January, 2011 of the Division Bench of this Court in LPA No.820/2010 titled ***GGSIU University v. Dhruv Singhal*** where the Division Bench has while reversing the order of this Bench granting admission to the petitioner in that case knocking at the doors of the Court, held that the vacant seat has

to be put to re-counseling to all eligible candidates; however since the academic session had already begun, the Division Bench instead of directing the University to conduct re-counseling of the seat, directed the University to follow the principles laid down in the judgment with effect from the next academic year. The counsel for the respondent no.1 University on the basis of the said judgment has contended that not only can no relief be granted to the petitioner and as per the judgment the vacant seat will have to be put to re-counseling but that also is not permissible in the current year and thus the petition has to be dismissed.

8. It is further informed that even if re-counseling were to be ordered and the most eligible candidate admitted to the semester starting from January, 2011, the said student would still not be entitled to be promoted to the second year because the rule of promotion requires minimum 50% credit in the examination of the two semesters of the first year. It is informed that the maximum credits in the papers of the first semester is 28 and of the second semester is 27 and thus even if the maximum credits were to be achieved by the candidate so admitted in the examination to be held in May, 2011, the student would not be entitled to promotion to the second year and would have to necessarily repeat the remaining papers of the first year.

9. The counsel for the petitioner has contended that the seat should be put to re-counseling and the eligible candidate admitted. He also contends that before the Division Bench in *Dhruv Singhal* (supra), no request for re-

counseling was made.

10. Had the Division Bench in *Dhruv Singhal* been of the opinion that the seat should have been put to re-counseling for making admission to the Academic Year 2010-2011, the said order would have followed in view of the finding to the said effect. However the Division Bench deemed it appropriate to direct the University to make admissions from the next academic year only.

11. As aforesaid, one of the semesters of the first year to which the petitioner had sought admission is already over. The blame for the situation in which the petitioner today is, cannot be put on the respondent no.1 University as it was bound by the directives of Delhi Sikh Gurdwara Management Committee. The curriculum of the respondent no.1 University having prescribed for a student admitted to the first year to undergo two semesters, it is now not deemed expedient to direct the respondent no.1 University to conduct re-counseling for the vacant seat and to make admission thereto. The same would tantamount to this Court interfering in the admission process and in the decision of the respondent no.1 University in academic matters and which the courts have repeatedly held should not be lightly interfered with.

13. In the circumstances even though the Delhi Sikh Gurdwara Management Committee has retracted its objection owing where to the petitioner could not be admitted but owing to halt the academic year being

over, no relief can be granted.

The petition is dismissed with no order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

JANUARY 12, 2011
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