

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

Date of decision: 19th January, 2011.

+ W.P.(C) 13513/2009 & CM No.15058/2009 (for stay)

% MS. MEENAKSHI Petitioner

Through: Mr. K. Venkatraman, Adv.

Versus

UNIVERSITY OF DELHI & ORS. Respondents

Through: Mr. Mohinder J.S. Rupal, Adv. for R-1, 2 & 5.

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. The petitioner having failed to secure admission in the academic year 2009-2010 in the Doctorate of Philosophy (Ph.D.) programme in the subject of Hindi of the respondent University and her representations in this regard having been rejected by the Dean (Research) and Deputy Registrar, Colleges respectively of the respondent University, this writ petition was filed challenging the orders of rejection of representation and claiming direction to the respondent University to admit the petitioner in the academic year 2009-2010. Though the writ petition came up before this Court first on 2nd December, 2009 and on 9th December, 2009 notice was issued but on the

contention of the counsel for the respondent University appearing on advance notice that the petitioner had concealed facts, no interim relief was granted to the petitioner. Since then the pleadings have been completed. The counsels have been heard.

2. The counsel for the petitioner has raised only two arguments qua the defective admission process in the year 2009-2010. Firstly, it is contended that the respondents while making admission in the year 2009-2010 erred in giving weightage of 10 marks to those candidates who had cleared the National Eligibility Test (NET). It is argued that if the said weightage had not been given, the petitioner would have been amongst the admitted students. Secondly, it is contended that the case of the petitioner has not been considered under Clause-6 of Ordinance VI-B of the respondent University.

3. Qua the first of the aforesaid grounds, it is admitted position that the Ordinance VI-B (supra) which came into force with effect from 29th July, 2008 materially altered the admission criteria for the Ph.D. programme from as existed earlier. The admission to the Ph.D. programme was in the said Ordinance prescribed through an entrance examination or interview and the Departmental Research Committees (DRC) were empowered to lay down further admission criteria in this regard. The DRC for Department of Hindi while laying down the criteria for admission to Ph.D. in Hindi for the academic year 2008-2009 (in which the petitioner had not applied) vide

Minutes dated 6th September, 2008 at page 104 of the paper book provided for weightage of 10 marks to be given to NET qualified candidates. It is however the case of the petitioner that notwithstanding the same, the respondent University while making the admissions in the academic year 2008-2009 did not give any weightage of 10 marks to NET qualified candidates. The counsel for the petitioner along with rejoinder has filed a computation showing that while computing the merit list of the students admitted in the year 2008-2009, no weightage of 10 marks to those who had qualified NET, was given.

4. The counsel for the petitioner contends that the DRC of Department of Hindi in meeting held on 24th July, 2009 for laying down the criteria for admissions for the year 2009-2010 (in which the petitioner had applied), decided to follow the same procedure as prescribed in the year 2008-2009. In the Minutes of meeting dated 24th July, 2009 it was also again expressly mentioned that weightage of 10 marks shall be given to the NET qualified candidates.

5. It is not in dispute that while making the admissions for the academic year 2009-2010, the respondent University did give weightage of 10 marks to NET qualified candidates. The petitioner being not NET qualified, was not given the said weightage. Upon the merit list being drawn up, the petitioner though stated to have got high marks in interview, but without the weightage aforesaid, did not make it to the merit list and was accordingly

not admitted.

6. The contention of the petitioner is that since inspite of DRC providing for weightage of 10 marks to NET qualified candidates in the year 2008-2009 also, no such weightage was given and further since the same criteria as of 2008-2009 was agreed to be followed in 2009-2010 also, the respondent University in the year 2009-2010 also ought not to have given the weightage to NET qualified candidates; and if such weightage had not been given, the petitioner would have been entitled to admission.

7. I am unable to agree.

8. The DRC in the year 2008-2009 had also provided for weightage of 10 marks to be given to the NET qualified candidates. The recommendations of DRC are binding. The non giving of such weightage while making admissions in the year 2008-2009, is clearly erroneous. However, the admissions of that year are not in challenge before this Court. The candidates who would have been wrongly admitted, are not even before this Court.

9. However, the error if any committed in the year 2008-2009 cannot be permitted to be perpetuated in the year 2009-2010 with which the petitioner is concerned. When the DRC in the meeting of 24th July, 2009 provided for the same norms for admission as in the year 2008-2009 to be followed, it was obviously referring to the norms as approved by it in the year 2008-2009 and the contention of the counsel for the petitioner that the reference

should be deemed to be to the norms as followed in making the admissions and not as prescribed, cannot be accepted. Allowing the same would tantamount to this Court interfering with the decision of the DRC and which in any case is not under challenge in these proceedings.

10. The respondent University along with counter affidavit has filed the notice dated 27th July, 2009 stated to have been put up at the time of admission in the year 2009-2010 which clearly provided for and informed the students that weightage of 10 marks shall be given to NET qualified candidates. It was in fact on the plea of suppression of the document that the interim relief was denied to the petitioner. The counsel for the petitioner of course denies that the said notice was put up or was intimated to the applicant/petitioner.

11. Be that as it may, the admissions in the year 2009-2010 being in accordance with the directives of the DRC cannot be found fault with on this ground.

12. The second challenge by the counsel for the petitioner is that while Clause-6 of Ordinance VI-B provided that students who were initially registered for the Master of Philosophy (M.Phil.) and who obtain a score of 60% or more marks in Part-I examination of the M.Phil. programme (which is stated to be of two years) would be eligible for admission to Ph.D. without completing their M.Phil. on the specific recommendation of the DRC; on the basis thereof the counsel for the petitioner has contended that the petitioner

had more than 60% marks in her M.Phil. and ought to have been considered at least for admission under the said Clause.

13. The counsel for the respondent University has per contra contended that the petitioner was not covered under the said Clause. On enquiry, it is informed that the petitioner had before the admissions for the Ph.D. in the academic year 2009-2010 completed her two year M.Phil. programme. The counsel for the respondent University has contended that Clause-6 enables those who had done only first year of M.Phil. having more than 60% marks in the first year, to abandon the second year M.Phil. and get admission directly in Ph.D. It is also informed that prior to Ordinance VI-B, there was no such window and completing M.Phil. was necessary for admission to Ph.D. He has thus contended that the petitioner having completed her M.Phil., could not be considered for admission under the said provision.

14. The counsel for the petitioner has rejoined by contending that the petitioner had more than 60% marks in first as well as second year of M.Phil. and there is no reason for depriving her of consideration under Clause-6.

15. I am afraid, the said argument also cannot be accepted. Clause-6 is clearly applicable to only those who, at the time of seeking admission to Ph.D., were still to do the second year of M.Phil, and if were to be held to apply to even those who had completed M.Phil., then the same would create two streams of admission i.e. under Clause 4A & 4B on the one hand and

under Clause 6 on the other hand and which cannot be permitted. Thus no merit is found in the said contention also.

16. The counsel for the petitioner has at this stage also urged that the respondent University is not following a uniform process, while DRCs of some departments are giving weightage of 5 marks for NET eligible candidates, others are given the weightage of 10 marks.

17. The Ordinance of the respondent University having left the matter to the DRC and the different departments being governed by their respective DRCs, are found entitled to fix their own criteria. Even otherwise, admittedly the same does not form the part of the writ petition, though the said ground is taken in the additional affidavit filed.

18. The counsel for the respondent University has also informed that the petitioner had applied for admission in the academic year 2010-2011 also but did not make in the merit list.

19. I am also of the opinion that the petitioner having claimed admission in the year 2009-2010, in any case could not, even if had succeeded on merits, have been granted admission in the current year, if had been wrongly denied admission in the year 2009-2010.

The writ petition is therefore dismissed but with no order as to costs.

**RAJIV SAHAI ENDLAW
(JUDGE)**

19th January, 2011/bs.