

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ **W.P.(C) 2391/2012 and CM 5141/2012**

Date of Decision: 3rd May, 2012

IN THE MATTER OF

JASMEET SINGH

..... Petitioner

Through: Mr. S.D. Dixit, Advocate

versus

GURU NANAK INSTITUTE OF MANAGEMENT AND ANR Respondents

Through: Mr. Bhagwant Singh, Advocate with
Mr. Mansimran Singh and Ms. Manpreet Kaur,
Advocate for R-1/Institute.

Mr. Mukul Talwar, Advocate with Mr. Rajesh Kumar,
Advocate for R-2/University.

CORAM

HON'BLE MS.JUSTICE HIMA KOHLI

HIMA KOHLI, J. (Oral)

1. The petitioner has filed the present petition praying *inter alia* for setting aside the order dated 09.04.2012 passed by the respondent No.1/Institute, cancelling his admission in the Master of Computer Applications (MCA) course on the ground of non-submission of his final year graduation results within the submission date.

2. In a nutshell, the facts of the case are that the petitioner was enrolled as a student in the Bachelor of Computer Applications (BCA) course in the Punjab Technical University, Jalandhar for a three year course spread over the academic years 2008-09 to 2010-11. On 06.08.2011, the petitioner had applied for admission to the MCA course with the respondent No.2/University and on the basis of his CET ranking, he was granted provisional admission in the respondent No.1/Institute.

3. One of the conditions stipulated by the respondent No.2/University in the Admission Brochure was that the candidates appearing in the qualifying examination would be eligible to apply subject to the conditions as set out in Note (2) at page 74, the relevant extract of which is reproduced hereinbelow for ready reference:-

"2. The Candidates appearing in the qualifying examination are also eligible to apply provided:-

(a) That they are able to produce the proof of having acquired minimum prescribed qualifications at the time of counselling/admission.

OR

(b) If the 12th class/final year/final semester (as the case may be) result of qualifying degree/certificate examination is not declared by the concerned Board/University till the date of counselling/admission, his/her admission in that case will be provisional subject to the following conditions:

(i) Affidavit on non-judicial stamp paper of ₹10/- in the prescribed Proforma (please see **Appendix 3**). Further, in case the candidate is minor i.e. below 18 years of age; in that case, the affidavit shall be signed by his/her parent/guardian. Candidates/parents/guardians may further note that submission of **false affidavit is a punishable offence;**

(ii) The candidate will have to submit the final result of qualifying degree proving his/her eligibility on or before **30th September, 2011 (Friday) to their Concerned Dean/Principal/Director of their respective School/College/Institute where the admission has been granted.** The Concerned Dean/Principal/Director must submit the details of the results of these provisionally admitted students within 07 days, i.e., 7th October, 2011 to the Joint Registrar (Academic), Academic Reception Counter, Administrative Block, GGS Indraprastha University, Sec 16C, Dwarka, New Delhi-110075, duly signed by the authority;

(iii) In case the candidate fails to submit his/her final result of qualifying degree in the manner as prescribed under (ii) above to prove his/her eligibility on or before **30th September, 2011,** whatsoever the reason may be, his/her admission will be treated as null and void (cancelled) and the **entire fee will be forfeited** and under no any circumstances he/she will be allowed to appear in the End Term Exam. **No extension beyond 30th September, 2011 shall be allowed by the university in any case. The Dean of the Schools/Director/Principal will be responsible to ensure that the eligibility of all students are checked by them to ensure correctness of admissions specially incase of provisional students. The provisional admission will automatically stand cancelled if the candidates fail to submit result in time, i.e. 30th September, 2011.**

Note: Those candidates who are seeking provisional admission due to non-declaration of their final year/final semester/12th class (please see Appendix 3) will however

have to provide proof of having passed all papers in all the previous years/semesters of qualifying degree examination (whichever relevant)."

4. As is apparent from a perusal of the aforesaid Note, the petitioner was required to submit his final year result of the qualifying degree on or before 30th September, 2011, failing which his admission would be treated as null and void, and further, no extension beyond 30th September, 2011 would be allowed by the University in any case. At the time of submitting his application for admission, the petitioner had also submitted an affidavit to the respondent No.2/University stating *inter alia* that he had appeared in the examinations of final semester of the BCA course and that his results would be declared by 30th September, 2011.

5. Fact of the matter is that in the first week of August 2011, i.e., on the date of filing of the aforesaid affidavit, the petitioner had only appeared in his internal examinations in the third year of the BCA at Punjab Technical University that were held in the month of July, 2011 and he had yet to appear for his external examinations in the 6th semester that finally took place on 15th and 20th September, 2011. In the first week of October 2011, the Punjab Technical University declared that the results of the 6th semester BCA course would be declared in the third week of November 2011. A copy of the said declaration dated 04.10.2011 was handed over by the petitioner to respondent No.1/Institute. Simultaneously, the petitioner

filed an application before respondent No.2/University seeking extension of time till the third week of November 2011 for submitting his 6th semester BCA mark-sheet. Counsel for the petitioner states that the aforesaid application was duly received by the respondents and not only was the petitioner allowed to attend the classes held in the MCA first year course, but he was also allowed to deposit the additional fee of ₹29,750/- with the respondent No.1/Institute on 08.11.2011. As soon as the petitioner received his confidential result of the BCA 6th semester from the Punjab Technical University on 28.11.2011, he forwarded the same to the respondent No.1/Institute.

6. Counsel for respondent No.1/Institute states that the Institute had submitted a letter dated 10.10.2011 to the respondent No.2/University submitting *inter alia* the proof of eligibility documents of the MCA students admitted in the Institute. An extract of the said list has been enclosed with the aforesaid letter, wherein the name of the petitioner features at Sr. No.12 and in the second but last column, he has been shown as eligible for admission with a remark in the last column to the effect that his result would be declared till the end of November 2011. Accompanying the said list is a copy of the declaration dated 04.10.2011 issued by the Punjab Technical University. Copies of the aforesaid documents are handed over by learned counsel for respondent No.1/Institute and taken on record. In the month of

December 2011, the petitioner was issued an admit card for appearing for his first semester examinations in the MCA course. The petitioner had not only appeared in the examinations, he had cleared the same by securing fourth position in the respondent No.1/Institute. Thereafter, the petitioner was permitted to continue attending his classes in the second semester and in the month of March, 2012, he deposited another installment of his tuition fee of ₹12,250/- in the office of respondent No.1/Institute. However, on 09.04.2012, the petitioner was informed by the respondent No.1/Institute that his examination had been cancelled due to delay in filing of his mark-sheet of the 6th semester BCA course, thus occasioning the present writ petition.

7. Learned counsel for respondent No.2/University hands over the Admission Brochure and states that Note (2) of the Brochure clearly stipulates the eligibility conditions of a candidate appearing in the qualifying examination and as per the same, a candidate was required to submit the result of his qualifying degree in the prescribed proforma and the proof of his eligibility in this regard on or before the cut-off date, i.e., 30th September, 2011, failing which his fee was liable to be forfeited and in those circumstances, such a candidate would not be allowed to appear in the end term examination. It was further clarified that the Dean of the school or the Principal of the concerned institute was responsible to ensure that the

eligibility of all the students be checked by the institute, particularly, in the case of provisional admissions, failing which the provisional admission would stand automatically cancelled in case of failure to submit the result in time. Mr. Talwar states that though the cut-off date was fixed by the University as 30th September, 2011, in the present case, the said timeline was extended by a period of one month to 30th October, 2011 and despite the extension of one month granted to the petitioner, he did not furnish the requisite documents within the extended time. He states that it was also incumbent on the respondent No.1/Institute to have taken necessary steps to disallow the petitioner from continuing with the classes knowing very well that after 30th October, 2011, no extension had been granted by the respondent No.2/University and consequently, the provisional admission of the petitioner stood automatically cancelled.

8. Counsel for respondent No.1/Institute states that on its part, the Institute had taken all precautions by submitting the relevant documents relating to the petitioner, to the respondent No.2/University well before the extended cut-off date i.e., 30th October, 2011, while indicating that his results would be declared till the end of November, 2011, and it had also furnished a declaration issued by the Punjab Technical University. He thus states that the respondent No.1/Institute cannot be faulted for permitting the petitioner to appear for his first semester examinations, more so when

nothing further was heard from the respondent No.2/University after the Institute had forwarded the information in respect of the petitioner on 10.10.2011.

9. Counsel for the petitioner states that the petitioner cannot be made to suffer on account of the failure on the part of the Punjab Technical University to forward his final year graduation results of the BCA course within the time stipulated by the respondent No.2/University and that the position of the petitioner is very precarious today as he has not only appeared for and cleared his first semester examinations but he has also continued attending classes in the respondent No.1/Institute till date and now, just before the examinations for the second semester are to commence on 7th May, 2012, he has been served with the impugned rejection order dated 09.04.2012 issued by respondent No.1/Institute declining to formalize his admission. He urges that if the petitioner is not permitted to take his second semester examinations, his entire academic year would be jeopardized. He also points out that academically the petitioner is a very bright student and he is being made to suffer for no fault attributable to him more so, when the documents placed on record itself reveal that it was the Punjab Technical University that had forwarded the confidential results of the 6th semester of the BCA course of the petitioner as late as on 28.11.2011

and the same was submitted by the petitioner to respondent No.1/Institute without losing any time.

10. The sequence of events as narrated above makes it expressly clear that the petitioner had made sincere efforts to obtain his 6th semester results in the BCA course by approaching the Punjab Technical University well in time, but due to the fact that the external examinations of the said course took place on 15th and 20th September, 2011, the Punjab Technical University declared the result only by the last week of November, 2011, which was beyond the extended timeline granted by the University. Respondent No.2/University had undoubtedly clarified in its Admission Brochure that no extension beyond 30th September, 2011 would be allowed by the University for submission of eligibility document and even though, later on it had extended the said cutoff date by one month but again, the petitioner could not avail the said extension of time by submitting the relevant documents, as his results were not declared by Punjab Technical University till the end of November, 2011. Pertinently, the petitioner had cleared his 6th semester examinations in the BCA course in the first attempt and did not appear in the compartment examinations held later on. It is therefore not a case where malafides can be attributed to the petitioner or a case of concealment of facts.

11. It is also relevant to note that much water has flown under the bridge in this period. The petitioner has continued attending his classes at the respondent No.1/Institute and has been regular in his studies, he has appeared in the first semester examinations and successfully clearing the first semester, he has continued his studies in the second semester. This only goes to indicate that the petitioner has been a diligent student. Now, at the fag end of the second semester, for the respondents to oust the petitioner and prevent him from taking the second semester examinations would be highly unfair and iniquitous, more so when the examinations are to commence after four days, i.e., from 7th May, 2012. The delay in completing the formalities of submitting the final year graduation results cannot be attributed to any one of the parties before the Court and therefore, the petitioner cannot be left high and dry in a situation which was not of his own making and beyond his control and where he stands to lose an entire academic year, if he is now prevented from appearing for his second semester examinations. Preventing the petitioner from continuing his studies in the MCA course only on account of belated submission of his 6th semester results of the BCA course, would be too high a price for the petitioner to pay.

12. Having regard to the aforesaid peculiar facts and circumstances of the case, it is deemed appropriate to quash the impugned letter dated

09.04.2012 issued by respondent No.1/Institute cancelling the admission of the petitioner. The respondents are directed to confirm the provisional admission of the petitioner in the MCA course. The respondents shall ensure that the petitioner is not prevented from appearing for his second semester examinations that are to commence from 7th May, 2012 and all formalities in that regard shall be completed at the earliest.

13. The petition is disposed of alongwith the pending application while leaving the parties to bear their own costs. It is however made clear that the order passed in the present case shall not be treated as a precedent in any other case as the same has been passed in the peculiar facts and circumstances of the case.

DASTI under the signatures of the Court Master.

MAY 3, 2012
rkb/anb

(HIMA KOHLI)
JUDGE