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

+ W.P.(C) 4345/2012 & CM 9010/2012

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Judgment dated 28.09.2012

AMIT CHAUDARY Petitioner
Through : Mr.Bahar-U-Barqi, Adv.

versus

UNIVERSITY OF DELHI Respondent
Through : Mr.M.J.S. Rupal, Adv.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (ORAL)

1. Present writ petition has been filed by petitioner under Article 226 of the Constitution of India seeking a direction to quash the letter/orders dated 27.12.2011 by which the petitioner's admission to the LLB Course in Law Centre II has been disputed by the respondent. The petitioner also seeks a direction to the respondents to recognize the admission of the petitioner for the LLB Course, to permit the petitioner to continue with his LLB course and permit him to attend the classes from the third semester onwards of the LLB Course.
2. This is the second round of litigation between the parties. The petitioner had filed a writ petition bearing No.2892/2011, challenging the communications dated 24.01.2011 and 10.03.2011. The aforesaid writ petition was dismissed, Thereafter the petitioner filed an LPA No.653/2011 which was also dismissed on 26.08.2011. The operative portion of the order dated 26.8.2011 passed in LPA reads as under:

“After arguing sometime, Mr.Bahar U. Barqi, learned counsel for the appellant submitted he may be permitted to withdraw the appeal with the liberty to make a representation to the University authorities for sympathetically considering his case as he has pursued the course for some time.

With the aforesaid liberty, the appeal is permitted to be withdrawn.”

3. According to the present writ petition, pursuant to leave having been granted to the petitioner, the petitioner made a representation to the Vice-Chancellor vide letter dated 12.09.2011 which also stands rejected, which has led to filing of the present writ petition.
4. The necessary facts, to be noticed for disposal of this writ petition, are that the petitioner completed his graduation in B.Com (Hons) from Delhi University in the year 1997- 98 with third division. The percentage secured by the petitioner did not make him eligible for admission to the Delhi University LLB course. The petitioner appeared for the Management Aptitude Test (in short MAT) conducted by Centre for Management Services (in short CMS) which is a specialized division of All India Management Association (in short AIMA) and undertakes testing and other management services which the petitioner duly qualified. Thereafter the petitioner took admission in a two years' Post Graduate Diploma in Business & Marketing from Wigan and Leigh College (UK), which he claims to be equivalent to a MBA Degree. It is the case of the petitioner that since MAT is approved by Ministry of HRD, Government of India as a National Entrance Test, the aforesaid 2 year course is recognized all over the country and in fact this was the reason that the petitioner was found eligible at the time of admission to the LLB Degree course despite the fact that he had less than 50% marks in B Com (Hons). Mr.Barqi submits that on 30.05.2010 the petitioner appeared in the

entrance test conducted by the Respondent No. 2 for the 2010-11 session. The petitioner qualified the said entrance test with 795th rank against 2310 seats offered by the University. On 16.06.2010 the petitioner was called for counseling by the admission committee of the Respondent No. 2 and was granted admission at Law Centre II of the Faculty of Law, Delhi University.

5. Mr. Bahar-U-Barqi, learned Counsel for the petitioner further submits that the eligibility of the petitioner for appearing in the entrance test for the LLB course nor his admission on the basis of having cleared the entrance test was ever questioned, nor the petitioner was stopped from attending the classes for the first semester, which commenced from 21.07.2010 to 20.11.2010. In fact petitioner attended 95% classes. It is next submitted by counsel for the petitioner that on 25.11.2010 when the petitioner was preparing for his First Semester exams, the petitioner received a call from the office of the Respondent No. 2 regarding his PGDBM/ MBA course. On the very next day i.e. 26.11.2010 the petitioner on the instructions of the official of the Respondent no. 2 submitted a representation along with the relevant details with regard to his PGDBM/ MBA Course. It is at this point of time that the petitioner was informed that the PGDBM/MBA course would be considered by the equivalence committee based on the representation made by the petitioner qua the details of the said course.
6. To the shock and surprise of the petitioner, petitioner was asked not to appear in the First Semester LLB exams and to appear for the same along with the next semester exams since the representation of the petitioner regarding PGDBM/MBA course was under consideration. It is next submitted that in the hope that the petitioner would not be denied justice, he opted to follow the instructions, despite of the fact that he had already invested 6 months of his life in pursuing the course.

7. The respondent rejected the representation of the petitioner. Thereafter the petitioner filed the first writ petition which was dismissed by a detailed order passed by the Single Judge of this Court and the LPA filed against the order of Single Judge was also dismissed. By the present writ petition, the petitioner has challenged the order of rejection passed by the respondent on the representation made by him.
8. This writ petition has been opposed by counsel for the respondent on the ground that all the grounds which are sought to be urged by counsel for the petitioner in this writ petition already stand rejected by a Single Judge as well as by Division Bench of this court, and liberty was only granted to the petitioner to make a representation which was to be considered sympathetically. Since the matter has attained finality and even the representation made after dismissal of the LPA has been rejected, the present writ petition is not maintainable.
9. Counsel for the petitioner, however, submits that the similarly situated students, who appeared from BAHA Institute of Higher Education were granted admission by the respondent, and thus, the petitioner has been discriminated and further this fact could not be brought to the notice before the Single Judge or before the Division Bench, and thus, the present writ petition is maintainable.
10. I have heard learned counsel for the parties, considered their rival contentions and also perused the relevant material placed on record, including the file of W.P.(C) 2982/2011, which was called in court during the hearing of this petition. The file of W.P.(C) 2982/2011 reveals that the respondents had handed over in Court the minutes of the meeting dated 3.11.2010 to show that the matter was referred to the Equivalence Committee. A list of the students from different institutes is also available in the Court file of WP(C)No.2982/2011, which shows that the case of the

petitioner was rejected. In the list at Sl. No.9 against the name of the petitioner it had been mentioned that the AIU i.e. Association of Indian University has not accorded equivalence to the Diploma Level Programme of Wigan & Leigh (UK) in India. This list also shows that at least two students were granted admission from BAHA Institute and the endorsement before their names reads as under:

“Already approved by the Equivalence Committee dated 20.10.2009.”

11. Accordingly, the record of W.P.(C) 2892/2011 fortifies the submission made by counsel for the respondents that the documents were handed over in Court and the list did contain the name of the students, who had been granted admission from BAHA Institute. It was for the petitioner at that stage to raise the objection, either before the Single Judge or the Division Bench as the petitioner had knowledge of the same.
12. Even on merits this court is not inclined to agree with the submissions made by counsel for the petitioner on account of the fact that against the name of the students from BAHA Institute it had been clearly mentioned that BAHA Institute has been approved by the Equivalence Committee on 28.10.2009. Another reason to reject the submission made by counsel for the petitioner is that the students had appeared in B.A. Law course from BAHA Institute whereas the petitioner herein had appeared in the Post Graduate Diploma in Business Management. The subjects of the petitioner and those students of BAHA Institute are also different. The subject of the petitioner is unrelated to law and, thus, there can be no infirmity in the opinion of the Equivalence Committee.
13. Since the petitioner had an option to raise this objection at the first round of litigation i.e. in the writ petition and thereafter in the second round of

litigation i.e. in the LPA, the petitioner cannot be allowed to agitate the same issue in the third of litigation.

14. Law is well settled that while exercising its extra ordinary writ jurisdiction the court will not interfere in the decision arrived at by the Equivalence Committee, which comprises Members who are experts in their fields, such Members are fully competent to take decision relating to academics based on their rich experience and expertise. [See Guru Nanak Dev University vs. Sanjay Kumar Katwal (2009) 1 SCC 610], wherein it has been held:

“Equivalence is a technical academic matter. It cannot be implied or assumed. Any decision of the academic body of the university relating to equivalence should be by a specific order or resolution, duly published. The first respondent has not been able to produce any document to show that appellant university has recognized the M.A. English (OUS) of Annamalai University through distance education as equivalent to M.A. of appellant university. Thus it has to be held that first respondent does not fulfil the eligibility criterion of the appellant university for admission to three year law course.

14. The first respondent made a faint attempt to contend that the distance education system includes 'correspondence courses' and therefore recognition of M.A. (correspondence course) as equivalent to M.A. course of appellant University, would amount to recognition of M.A. - OUS (distance education) course, as an equivalent. For this purpose, he relied upon the definition of "distance education system" in Section 2(e) of Indira Gandhi National Open University Act, 1985. But there is nothing to show that Annamalai University has treated correspondence course and OUS (distance education) course as the same. What is more important is that the appellant university does not wish to treat correspondence course and Distance Education Course as being the same. That is a matter of policy. Courts will not

interfere with the said policy relating to an academic matter.”

15. Even otherwise all issues raised in this writ petition stand rejected by a Single Judge, whose decision has been upheld, thus no relief can be granted to the petitioner herein. Accordingly, present writ petition and application stand dismissed. Let the file of W.P.(C) 2892/2011 be sent back to the record room.

G.S.SISTANI, J

SEPTEMBER 28, 2012

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