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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 4436/2012

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Judgment dated 06.08.2012

LALIT (MINOR) THROUGH SH. KARAN SINGH Petitioner

Through: Mr.Mayank Mikhail Mukherjee for Mr.Viraj
R. Datar, Advocates

versus

DIRECTORATE GENERAL OF HEALTH SERVICES
MINISTRY OF HEALTH AND FAMILY WELFARE AND ORS
Respondent

Through: Ms.Saroj Bidawat and Mr.A.S. T.Shimraj,
Advocate for respondent no.1/IOI
Ms.Ritika Nagpal and Mr.Amit Bansal,
Advocate for respondent no.2/CBSE
Mr.M.J.S. Rupal, Adv. for respondent/
Delhi University.

+ [57] W.P.(C) 4691/2012

AKSHAT SUMAN Petitioner

Through: Mr.Alim Lashkar and Mr.Rajnish K. Singh,
Advocate

versus

DIRECTORATE GENERAL OF HEALTH SERVICES
AND ORS Respondent

Signature Not Verified
Digitally Signed
By:AMULYA

Through Ms.Ritika Nagpal and Mr.Amit Bansal,
Advocate for respondent no.2/CBSE

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Mr.M.J.S. Rupal, Adv. for respondent/
Delhi University.

+ [61] *W.P.(C) 4706/2012*

ABHISHEK GUPTA

..... Petitioner

Through: Mr.Naushad Ahmad Khan with
 Mr.M.Hassan, Advocates

versus

UNIVERSITY OF DELHI AND ORS

..... Respondent

Through: Mr.Ashish Kumar, Adv. for MCI
 Mr.Himanshu Bajaj, Adv. for R-2/IOI
 Mr.M.J.S. Rupal, Adv. for respondent/
 Delhi University.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (ORAL)

1. Rule.
2. With the consent of counsel for the parties, the present writ petitions are set down for final hearing and disposal. Counsel for the parties submit that basic facts are identical in all the petitions [W.P.(C) 4436/2012, W.P.(C) 4691/2012 & W.P.(C) 4706/2012], hence, the same are being disposed of by a common order.
3. Counter affidavit has been filed by the University in W.P.(C) 4436/2012. Necessary facts for disposal of the petitions are that on 01.04.2012 the petitioners appeared in All India PMT/ PDT Entrance Examination 2012 (hereinafter referred to as 'AIPMT') which is conducted by the Central Board of Secondary Education for admission to MBBS/BDS courses in various government colleges in India. The exam is conducted on All

India basis. The petitioner in the petition [W.P.(C) 4436/2012] has appeared as an OBC candidate; the petitioner in the petition [W.P.(C) 4691/2012] has appeared in the general category; and the petitioner in the petition [W.P.(C) 4706/2012] has appeared as an unreserved physically handicapped candidate. The result of the AIPMT examination was declared on 13.04.2012. The petitioners qualified the examination and were declared eligible to appear in the Main Examination of AIPMT. The result of this examination was declared on 02.06.2012. Subsequently, the result was modified on 22.06.2012 and all the petitioners were declared successful. Admissions to all the colleges are done on the basis of rank obtained by an individual candidate in the AIPMT exam. As per the petitions, the examination is conducted by the respondent/ CBSE and its responsibility is limited to conduct of the entrance examination, declaration of result and providing of merit list to respondent no.1. Thereafter University of Delhi conducts its own counselling for the successful candidates and after counselling the particular medical/ dental college is allotted to the candidate, as per the rank, choice and availability. All the admissions in the colleges of respondent/ Delhi University are made as per rank obtained in the AIPMT exam and the respondent / Delhi University, did not conduct its separate examination this year for admission to their 85% quota of seats to be filled by the students from the State of Delhi. The respondent/ CBSE displayed the result of the petitioners on their website www.results.nic.in.

4. It is the case of the petitioners that respondent / CBSE displayed all the important information for the qualified candidates in their official website.
5. As per the petitioner, information regarding admission process was available only on three websites i.e. www.cbse.nic.in, www.aipmt.nic.in and www.mohfw.nic.in.

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6. Counsel for the petitioners further submits that the respondents have not given any information on the abovementioned websites that admission forms of respondent / Colleges of Delhi University were to be filled up separately for admission in their colleges for 85% quota of seats available to students from Delhi.
 7. The submission of counsel for the petitioner is that this is the first year the Delhi University has taken the merit list from the AIPMT and no separate examination was held by the university. Counsel also submit that the petitioners being students between 17 to 20 years of age, were misled by the admission brochure of the AIPMT examination, according to which all relevant information was available only at the three websites and they did not fill up the separate forms for the Delhi University by 29.06.2012, which was the last date.
 8. Petitioners pray that they may be allowed to apply for admission in the colleges of respondent/ Delhi University, subject to they being eligible in all other respects. It is further submitted that in case their admission forms are not accepted, they will suffer irreparable loss, as despite having succeeded in the entrance examination of AIPMT they would lose an opportunity to seek admission in the college of respondent/ University of Delhi.
 9. These petitions are opposed by counsel for the respondents. Mr.Rupal, submits that as per Rule 1.21 of the Bulletin of information of the Delhi University it was made clear that any application which has not been received by 29.06.2012 will not be entertained. It is submitted that this rule has not been challenged. Mr.Rupal, further submits that the advertisement, circular and notifications were issued by the University of Delhi, which was put up on the website of the University of Delhi on 06.01.2012, bringing to the notice of all the candidates that application

forms are to be filled and submitted before 29.06.2012. It is submitted that since last date is over and counselling is to begin on 07.08.2012 and the petitioners themselves are responsible for the lapse, they should not be allowed to take part in the counselling.

10. Counsel further submits that respondent/ Delhi University through advertisements invited admission forms from qualified students of AIPMT for admission to the college of Delhi University i.e. Maulana Azad College. The last date for submitting the admission forms in Delhi University was 29th June, 2012. It is also submitted that the petitioners could not apply for admission in the colleges of respondent/ Delhi University, as they were not aware of the procedure to be adopted and it is only after the last date that the petitioners came to know about the process of admission for 85% quota for Delhi residents in the colleges of respondent / Delhi University. The applications made thereafter were not accepted by respondent / Delhi University.
11. Mr.Rupal, also submits that the University has also received representation(s) from various other students which has/have not been considered by the Delhi University and the petitioners have chosen even not to make any representation.
12. Mr.Rupal, counsel for the University of Delhi also submits that similarly situated students, who have made representations would be adversely affected, in case the court allows the petitioners to sit for counselling, who have not even made the representation.
13. I have heard counsel for the parties and also perused the communication dated 03.07.2012 addressed to the petitioner in the Writ Petition No.4436/2012. Operative portion of this communication dated 03.07.2012 reads as under:

“2. You are requested to read the information Bulletin Counselling carefully available on www.cbse.nic.in and www.mohfw.nic.in and take the action accordingly on all issues pertaining to counselling. Remain in touch with www.mohfw.nic.in till the admission process is over.

3. The allotment of seats will be made by the Directorate General of Health Services as per the Counselling Category Rank only. The schedule for online counselling would be available on website www.mohfw.nic.in.

6. As per the online counselling scheme approved by the Hon'ble Supreme Court of India, a total of five times of seats available for allotment or all qualified candidates whichever is less will be given chance to participate in online counselling conducted by Directorate General of Health Services, Ministry of Health & Family Welfare, Government of India, the details of the online counselling shall be provided by Directorate General of Health Services on website www.mohfw.nic.in.”

14. I have also perused copy of the important information, which has been filed by the petitioner as Annexure P/3. Paragraph 2 of the Important Information reads as under:

“2. All candidates are advised to remain in touch with CBSE website www.cbse.nic.in and www.aipmt.nic.in as well as Ministry of Health & Family Welfare website, www.mohfw.nic.in till completion of UG admission process for any additional result, counselling schedule, instructions etc.”

15. As per the communication dated 03.07.2012, the petitioners were

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requested to read the information bulletin and information available on the website which was mentioned in this communication. Similar directions were issued in the important information. CBSE should have informed the candidates that they would have to fill up a separate form in case they were seeking admission in the Delhi University.

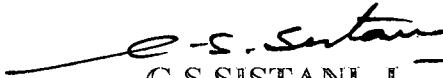
16. A bare reading of the communication dated 03.07.2012 and important information placed on the website do lead to an ambiguous situation and it is possible that the students would have been mis-led that no separate form was to be filled up for the Delhi University.
17. I am of the opinion that in case the petitioners, who have cleared the examination, are not allowed to participate in the counselling, great prejudice would be caused to them. The object of the admission, test and counselling is to select meritorious students for admission to MBBS and BDS courses.
18. It would be open for the University to allow all such candidates to participate in counselling, who have made representation upto today. It is made clear that besides the petitioners and those who have made the representation upto today, no other candidate would be given this benefit, as the counselling is to begin from tomorrow i.e. 07.08.2012 and the admission process cannot be stalled.
19. Accordingly, all the petitions [W.P.(C) 4436/2012, W.P.(C) 4691/2012 & W.P.(C) 4706/2012] are allowed. Petitioners will be considered at the time of counselling, subject to their fulfilling all other criteria. It is clarified that this order has been passed in the peculiar facts of the case and shall not be treated as a precedent, as this is the first year when the Delhi University did not take the separate examination and relied upon examination conducted by CBSE.
20. Counsel for the petitioner in the petition [W.P.(C) 4706/2012] submits

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that petitioner has already deposited original documents with Delhi Technological University and got admission in B.Tech. and he has a receipt from the said institute to this effect. Counsel for the petitioner in the petition [W.P.(C) 4706/2012] also submits that petitioner will produce the original documents on 08.08.2012. Ordered accordingly.

21. The petitioner in the petition [W.P.(C) 4706/2012], can participate in the counselling to be held on 07.08.2012, subject to his producing all original documents by 08.08.2012.
22. DASTI to counsel for the parties under the signatures of the Court Master.

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AUGUST 06, 2012
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G.S.SISTANI, J