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

+ **W.P.(C) 5148/2012 & CM.10518/2012**

% **Judgment dated 17.09.2012**

MS. BHAWNA SINGH Petitioner
Through: Mr.O.P. Agarwal and Mr.Yogendra
Kumar Agarwal, Advocates

versus

JAMIA MILIA ISLAMIA THROUGH REGISTRAR
AND ANR Respondent
Through: Mr.M.A. Siddiqui and Ms.Jaya Goel,
Advocate for respondents.

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

G.S.SISTANI, J (ORAL)

W.P.(C) 5148/2012 & CM.10518/2012

1. Rule. With the consent of counsel for the parties, the present writ petition is set down for final hearing and disposal. The necessary facts to be noticed for disposal of this writ petition are that petitioner after completing her graduation was interested in pursuing her post graduation. The petitioner is also stated to be a sports person and has received many certificates for rifle shootings. She has received a gold medal in Delhi State Shooting Championship in the Sub-Junior Women Competition and the Junior Women Competition. She participated in the Delhi State in 33rd National Games, held at Guwhati in the year 2007. She has secured first prize in the Air Rifle Women-III, during Annual Sports Meet, 2010 and various other achievements of the petitioner have been detailed in the petition. The petitioner was interested in joining the professional course of Mass Communication with Jamia Millia Islamia University.

Accordingly, petitioner had submitted her application under the Sports Quota. As per the prospectus issued for the year 2012-13, a special provision for admission was made for outstanding players.

2. In response to the application filed by the petitioner, respondent issued trial slip in the sports quota bearing Form No.SHT-02. This slip was issued to the petitioner for giving her access to face trial exclusively conducted to test the potential of the petitioner in the field of sports. The petitioner appeared before the Board for facing trial on 10.07.2012. The trial was conducted at the Sports Graft, East Patel Nagar, New Delhi. The petitioner underwent the exams and trial. Petitioner secured 385 marks out of 400. The petitioner was informed that she would be granted admission in the sports quota after the admissions to the General category would be closed. The petitioner also participated in the trial conducted on 19th and 20th July, 2012 at the Shooting Range of Hansraj College, New Delhi, in which she secured 192 marks out of 200.
3. Petitioner was also offered a seat at Delhi University in post graduation in the North Campus, however, the petitioner was keen to study Mass Communication. Accordingly, based on her result in the sports trials and on finding her name in the list of successful sports candidates, she did not pay her fees to the Delhi University. The petitioner's name also finds mention in the list of candidates selected under the Sports Category for the session 2012-13, which was displayed on the notice board of the respondent, college, copy of which list has been filed along with the writ petition. The name of the petitioner was shown under the heading Shooting and the course was shown as Mass Communication. Another candidate by the name of Sohan Singh was also shown in the waiting list under the heading shooting.
4. The grievance of the petitioner is that after petitioner was selected and her

name appeared in the list of selected candidates, she was not granted admission.

5. Notice was issued in the matter and an affidavit has been filed by the respondent. The entire argument of the respondent has been set out in the counter affidavit. The relevant paragraphs of the counter affidavit read as under:

“IV. It is an admitted fact that the Petitioner, following trials, in her discipline of rifle shooting, was recommended as a selected candidate under the sports category. The Petitioner had sought admission in M.A. in Mass Communication/M.A. in Convergent Journalism. Alongwith the Petitioner, three other candidates, namely, Ms.Hasmeet Kaur (Atheletics), Ms.Geo Varghis (Basket ball) and Ms.Monica Menon (Tennis) were also considered for admissions. All the said Applicants made choices for M.A. in Mass Communication.

V. The Vice-Chancellor vide an Office Order (dated 1st August, 2012) approved the names of the various candidates for admissions to the undergraduate / post-graduate courses under the sports category (Annexure P-IV to Writ Petition). In the meantime, the Director of the Mass Communication Research Centre met the Vice-Chancellor and expressed his reservation (s) on admission being granted in a highly technical and a “super specialty” academic course like Mass Communication and its allied elite branch of Convergent Journalism.

VI. The Mass Communication Research Centre of the Jamia Millia Islamia is a blue chip course of the University. It was established in collaboration with York University, Toronto and the Canadian Development Ad Agency. The main objective of this Centre is to provide intensive and integrated media education that would enable students to develop their individual expertise and high technical skills in the finer aspects of film making etc. The AJK Mass Communication Research Centre is the only Institution of the country which teaches “film production” within the University system. The course is demanding, and absolute focal attention is needed to accomplish it. The courses being undertaken in the field of Mass Communication are highly practical and technical oriented with hands on expertise and demanding

schedules starting from 9 O' clock in the morning and on many occasions continuing beyond normal University hours etc. Therefore, it is virtually impossible for any student who is not completely focused and able to give full time to the course to be able to acquire the necessary skills that the course requires.

Since these are highly technical courses, the number of seats in M.A. (Mass Communication) is confined to 50 and that of M.A. in Convergent Journalism to 20. Keeping in view the limitations of technical infrastructure required in acquiring the necessary skills like equipments, both audio and video, studio facilities, computer laboratories etc. it was felt that justice cannot be done with the over and above seats being introduced in the said courses.

Resultantly, following due consideration, on all aspects, that the Vice-Chancellor refused admissions in courses of Mass Communication on the basis of Sports category.”

6. Mr.Siddiqui, counsel for the respondent submits that Mass Communication course is one of the blue chip courses of the University and it was established in collaboration with York University, Toronto and the Canadian Development Ad Agency. The course requires objective intense and integrated media education, which would enable the students to develop their individual expertise. The course is a very demanding course and it has long and odd working hours. It is contended that the head of the Department was of the view that the course of Mass Communication be not covered under the Sports Quota, having regard to the seriousness attached to the course and in case the course is pursued by any Sports person he would get torn between academics and sports. Accordingly, the Vice-Chancellor, came to the conclusion that the petitioner and no other students should be granted admission to the Mass Communication course under the Sports Quota. The university is willing to offer the petitioner any other course, which is not accepted by the

petitioner.

7. Counsel for the respondent submits that the decision of the Vice-Chancellor stands considered and ratified by the Academic Council in terms of Section 11 (3) of Jamia Millia Islamia Act in its meeting held on 09.09.2012.
8. Counsel for the respondent has relied upon Full Bench decision of Bombay High Court in the case *Ashwin Prafulla Pimpalwar and etc. Vs. State of Maharashtra and Ors.* AIR 1992 Bombay 233 and more particularly paragraphs 31 and 32, which are reproduced below:

“31. The extreme position that a Prospectus once issued by the Government, cannot be altered at all at a subsequent stage has not been canvassed by anyone so far. It would not be correct to lay down such an absolute rule. The Government which has the competence to issue rules or regulations, has, as a corollary, powers to amend or alter or even repeal and reissue such rules and regulations.

32. Does the rule of promissory estoppel operate so that the admission rules once issued could not be altered subsequently by the Government? It is assumed in some decisions that a student preparing for the qualifying examination on the basis of the Prospectus relating to postgraduate courses prevailing at that particular point of time is entitled to continue to receive benefits or advantages arising therefrom and consequently no change can be made to his prejudice. It is difficult to accept such a broad proposition. Students entering educational institutions with the ultimate aim of completing their scholastic career at the peak are expected to strive for academic excellence, and accordingly, it cannot be assumed that a student would only look at a GR operating at or about the time when he intensifies the preparation for the qualifying examination and regulating admission to post-graduate courses. Then again, a student is indeed expected to do his best throughout his scholastic career. The heights are reached not by a sudden

flight. They are reached by those who toil upwards in the night while their companions slept. (The borrowing from the lines of Longfellow is acknowledged). In a highly competitive examination there is a neck to neck race even among those who spare no pains or times to achieve the coveted goal. Quite often, imponderable factors or fortuitous circumstances may affect the fate. Under such circumstances, it would be unrealistic to posit a theory of promissory estoppel based on the elusive concept of the preparation time for the qualifying examination.”

9. Mr. Agarwal, counsel for the petitioner, in support of his plea that the terms of the prospectus are to be respected, has relied in the case of **Parmender Kumar & Ors. Vs. State of Haryana & Ors.** 2012 (1) SCC 177 and more particularly paragraphs 23 and 24, which are reproduced below:

“23. As has also been pointed out hereinbefore, this Court took notice of the fact that the Full Bench, on whose decision the High Court had relied, ultimately directed that the selections for admission should be finalised in the light of the criteria specified in the Government Orders already in force and the prospectus, "after ignoring the offending notification introducing a change at a later stage." In fact, this is what has been contended on behalf of the Appellants that once the process of selection of candidates for admission to the Post-Graduate and Diploma Courses had been commenced on the basis of the prospectus, no change could, thereafter, be effected by Government Orders to alter the provisions contained in the prospectus. If such Government Orders were already in force when the prospectus was published, they would certainly have a bearing on the admission process, but once the results had been declared and a select list had been prepared, it was not open to the State Government to alter the terms and conditions just a day before counselling was to begin, so as to deny the candidates, who had already been selected, an opportunity of admission in the aforesaid courses. It is no doubt true that the benefits of admission in the reserved category are

many, but the same is the result of the policy adopted by the State Government to provide for candidates from the reserved category and since the Appellants had been selected on the basis of merit, in keeping with the results of the written examination, the submission made by Mr. Patwalia that such admissions in the reserved category will have to be made keeping in mind the necessity of upholding the standard of education in the institution, as was observed in Mamata Mohanty's case (supra), is not applicable in the facts of this case. The Appellants have shown their competence by being selected on the basis of their results in the written examination. The submission made by Mr. Vikas Singh for the State, that the NOCs had been given to the Appellants from the open category, also does not appeal to us, since the Appellants were candidates in respect of the reserved category of the HCMS.

24. We, accordingly, have no hesitation in allowing the appeals and setting aside the judgment and order of the Division Bench of the Punjab and Haryana High Court. However, we appear to be facing the same problem, as was faced by this Court in Dr. Vinay Rampal's case (supra). The counselling process in these appeals was to be conducted on 6th April, 2011 and the academic session was to commence on 10th May, 2011. In other words, the Appellants have already lost about six months of the courses in question. As was observed in Dr. Vinay Rampal's case (supra), the sands of time had run out which is inevitable in judicial process. Following the same reasoning, as was adopted in the aforesaid case, we direct that the Appellants shall be admitted in the Post-Graduate or Diploma Courses, for which they have been selected, for the new academic year without any further test or selection.”

10. I have heard counsel for the parties and considered their rival contentions. The short question which comes up for consideration before this court is as to whether the rules of the game can be changed once the game commences. The answer is in the negative.
11. It would be useful to reproduce the observations made by the Supreme

Court in the case of *K.Manjusree v. State of Andhra Pradesh*, reported at (2008) 3 SCC 512:

“But what could not have been done was the second change, by introduction of the criterion of minimum marks for the interview. The minimum marks for interview had never been adopted by the Andhra Pradesh High Court earlier for selection of District & Sessions Judges, (Grade II). In regard to the present selection, the Administrative Committee merely adopted the previous procedure in vogue. The previous procedure as stated above was to apply minimum marks only for written examination and not for the oral examination. We have referred to the proper interpretation of the earlier resolutions dated 24.7.2001 and 21.2.2002 and held that what was adopted on 30.11.2004 was only minimum marks for written examination and not for the interviews. Therefore, introduction of the requirement of minimum marks for interview, after the entire selection process (consisting of written examination and interview) was completed, would amount to changing the rules of the game after the game was played which is clearly impermissible. We are fortified in this view by several decisions of this Court. It is sufficient to refer to three of them P. K. Ramachandra Iyer v. Union of India 1984 (2) SCC 141, Umesh Chandra Shukla v. Union of India 1985 (3) SCC 721, and Durgacharan Misra v. State of Orissa 1987 (4) SCC 646.”

12. The case of the petitioner is to be considered in the light of the observations made by the Supreme Court.
13. Admittedly, the petitioner applied to the respondent, college under the Sports Quota. Clause 7 of the prospectus reads as under:

“7. SPECIATION PROVISIONS FOR ADMISSIONS

7.1 Outstanding Players

- (a) A specified number of seats, over and above the sanctioned strength, in both the under-graduate and post-graduate courses, may be earmarked by the Majilis-i-Talimi (Academic Council) for admission of outstanding players and sports persons, who have represented their Universities/

Region/ State, provided that they have passed the qualifying examination.

(b) There shall be no such provision for admission to outstanding sportspersons in courses in the Faculty of Engineering and Technology, Architecture and Ekistics, Dentistry, and in such other courses as the prescribed by the Majilis-i-Talimi (Academic Council) from time to time.

(c) Such candidates will be nominated by the Shaikul Jamia (Vice-Chancellor) over and above the seats allotted to each course, on the recommendation of the Games and Sports Committee.”

14. The prospectus for the year 2012-13 provides for accepting students under the Sports quota. It has not been disputed that the sports quota was extended to the Mass Communication Course. It may also be noticed that for the academic sessions 2008-2009 and 2009-2010 the University in its wisdom had deleted Mass Communication from one of the courses, in which the students could apply under the Sports Quota, however, for the academic sessions 2011-2012 and 2012-2013 Mass Communication has been included in the Sports Quota which would show that the university had taken a conscious decision to consider students under the Sports category for the Mass Communication Course academic years 2011-12 and 2012-13.
15. In the case of *Varun Kumar Agarwal v. Union of India & ors.*, reported at 179 (2011) DLT 24, more particularly para 14, which reads as under, a Division Bench of this Court, has held that terms *of* prospectus are to be respected and followed.

“14. Presently we shall refer to certain authorities in the field that have dealt with sanctity of a prospectus or brochure and the legal impact when it is changed in the midstream. In *Dr.M. Vannila v. Tamil Nadu Public Services Commission*, 2008 (3) CTC 69, a Division Bench of the High Court of Madras has opined thus:

19. The principle that the prospectus is binding on all persons concerned has been laid by the Supreme Court in *Punjab Engineering College, Chandigarh v. Sanjay Gulati*, AIR 1983 SC 580. Following the same, a Division Bench of this Court has also observed in *Rathnaswamy, Dr. A. v. Director of Medical Education* (1986 WLR 207) that the rules and norms of the prospectus are to be strictly and solemnly adhered to. The same view is also taken by another Division Bench of this Court in *Nithiyan P. and S.P. Prasanna v. State of Tamil Nadu* (1994 WLR 624). The same principle is reiterated in the case of *Dr.M. Ashiq Nihmathullah v. The Government of Tamil Nadu and Ors.* reported in 2005 WLR 697. It is clear that the prospectus is a piece of information and it is binding on the candidates as well as on the State including the machinery appointed by it for identifying the candidates for selection and admission.”

16. Having regard to Clause 7 of the prospectus, the trials were conducted and a list of selected candidates was prepared, at this late stage respondents cannot be allowed to deprive the petitioner the seat offered in Mass Communication. While no malafide may be attached to this decision and the reasoning may be justifiable, the University should have considered this aspect before publishing the prospectus, or inviting applications. After the student has appeared in the trials and selected and after the merit list was prepared and displayed on the notice board the University cannot be permitted to deny admission to the petitioner.
17. For the reasons stated, the writ petition is allowed. Petitioner will be considered eligible in the Sports quota, as per notice dated 03.08.2012 published by respondent, in which name of the petitioner finds mention. It is made clear that petitioner will strictly adhere to the attendance norms, as per the University and also simultaneously participate in the Sports events, on the basis of which she has been granted admission.

18. Before parting with the matter, I would like to notice that the matter was adjourned on 11.09.2012 to enable the petitioner to appear before Vice-Chancellor, to counsel her. During the course of hearing, Mr.Siddiqui, counsel for the respondent has informed this court that the meeting was rather unfortunate and the petitioner was rude to the Vice-Chancellor, which fact is of course denied by counsel for the petitioner. However, in case there is any truth in the submission of Mr.Siddiqui, counsel for the respondent, it is extremely unfortunate that a student, who is seeking admission in an institute, has behaved in such a manner, showed disrespect and disregard to a teacher and more so, the Vice-Chancellor of a Central University.

G.S.SISTANI, J

SEPTEMBER 17 2012
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