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IN THE HIGH COURT OF DELHI AT NEW DELHI

1 W.P.(C) 5478/2012 & CM.11174/2012

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Judgment dated 15.10.2012

UDAY KIRAN SURI

..... Petitioner

Through: Mr.Manish Gandhi, Advocate

versus

UNIVERSITY OF DELHI AND ORS

..... Respondent

Through: Mr.M.J.S. Rupa., Advocate for D.U.

Mr.Pawan Kumar Agarwal, Adv. for Rs-2 & 3

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (ORAL)

1. Present petition has been filed by petitioner under Article 226 of the Constitution of India seeking a writ, order or direction in the nature of mandamus directing respondent no.2 college to admit the petitioner under Squash Sport Quota. The petitioner also seeks a direction to quash the impugned email dated 21.8.2012, whereby the admission to the petitioner in respondent no.2 college under Squash Sport Quota was refused.
2. As per the petition, the petitioner on 12.06.2012 had applied to respondent no.2. college, for admission in Economics (Hons.), as the first option, and B.Com. (Hons.) as the second option, under Sports quota (Squash) being a Junior National level player of the game. As per the petitioner, the petitioner fulfils all the eligibility requirements under the sports admission policy and, thus, he is an eligible candidate for the purpose of being considered for admission under the sports quota in accordance with the

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By:AMULYA

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guidelines laid down by respondents no.1 and 4. Counsel for the petitioner submits that respondents no.2 and 3 conducted sports trial for the admission of candidates under sports quota, for which the petitioner participated. Respondent no.2 declared the list of candidates in accordance with the result of the respective sports trials along with the waiting list for the admissions. The petitioner was informed that he had secured third rank in the sports trial and there were only 2 seats reserved under sports quota (squash) in July, 2012. Both the candidates holding ranks 1 and 2 were admitted to the respondent no.2, college. Subsequently, the candidate holding rank no.2 withdrew his admission from the respondent no.2, college on 18.7.2012 and, thus, the petitioner became eligible for admission on a vacancy being created, as a result of withdrawal of the second rank holder. The petitioner waited till the last date of admissions but respondent no.2 college did not declare any other list except the first list for admission under squash sports quota. The petitioner approached respondent no.2 college for admission, being the next eligible candidate for admission in squash category under sports quota, as one seat had been vacated on withdrawal by one of the successful candidate who had earlier been offered admission. Respondent no.2 refused to admit the petitioner, which has forced the petitioner to knock the door of this Court for justice.

3. Counsel for the petitioner submits that despite the request made by the petitioner the seat was not offered to him. It is further pointed out that no waiting list was prepared. Counsel further submits that on 25.07.2012 father of the petitioner made an application under the Right to Information Act to respondent no.4. The petitioner also served a notice on 27.07.2012 to the Central Grievance Committee of Respondent no.2. In reply to the RTI Application, respondent no.2 admitted that one seat had been vacated

by the candidate admitted under the Squash quota. On 20.08.2012 petitioner sent a legal notice to the respondent no.2 in response to which respondent no.2 vide email dated 21.08.2012 replied to petitioner refusing to admit the petitioner. As despite the fact two students under the squash sports quota had withdrawn their admission with respondent no.2 college and thereafter on 31.08.2012 the present writ petition was filed.

4. Counsel for the petitioner submits that the petitioner was successful in the trials and his name finds mentioned at serial no.1 in the waiting list, since both the candidates who were granted admission withdrew their admissions, the petitioner should have automatically been offered a seat. It is submitted that the action of the respondent is arbitrary and illegal.
5. The present petition is opposed by counsel for the respondent, university. Mr.Rupal submits that the writ petition has been filed on the last date for closing of admissions. It is further submitted that the seats offered under the sports quota (Extra Curricular Activities Admission) are supernumerary seats and not part of the regular quota seats, thus the petitioner has no vested right for grant of a seat under the Sports quota, over and above the regular students.
6. It is further contended that the students, who have been granted seats under the sports quota, withdrew their admission on 18.07.2012 and 11.08.2012 and the sports committee closed the admission and in their wisdom decided not to admit any further students after 09.07.2012. The attention of the court is also drawn to the prospectus, which makes it clear that the college may admit a few students not exceeding 5% on the basis of performance in music, dance, drama, debates and other such activities.
7. Mr.Aggarwal, counsel for respondents no.2 and 3 submits that the sports candidates are also included in the list of Extra Curricular Activities

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Admission and also there is special category of sports admission, which is part of the Extra Curricular Activities Admission.

8. It is submitted that irregularity has not been committed by the college nor the college has acted in any illegal manner. Mr.Rupal, counsel for the University further submits that after 31.08.2012, no admission can be granted to any student, and there is no irregularity on the part of the college in not offering a seat to the petitioner on account of the fact that sports quota seats belong to supernumerary quota and not in the regular quota.
9. I have heard learned counsel for the parties, considered their rival contentions, and also perused the pleadings and the annexures placed on record. Admittedly, two candidates, namely, Aditya Advani and Anshu Jain both holding rank 1 and 2 respectively were granted admission by the stipulated date 05.07.2012 with the respondent no.2 college. It is noticed that after the closure of admissions on 05.07.2012, a waiting list was prepared and notified on 06.07.2012 for admissions till 09.07.2012 to fill up the vacant seats under the sports / ECA quota and after which the admission committee decided not to make any further admissions under sports / ECA quota. Further it is only after closure of admissions both candidates holding rank 1 and 2, who were admitted for the sport of squash under sports / ECA quota, withdrew their admissions only on 18.07.2012 and 11.08.2011 i.e., after the college admission committee decided not to make any further admissions under the sports / ECA quota. Having regard to the fact that the seats offered under the sports quota (Extra Curricular Activities Admission) are supernumerary seats and not part of the regular quota seats, thus the petitioner has no vested right for grant of a seat under the Sports quota, over and above the regular students. It may also be noticed that no waiting list in the case of the

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sports / ECA quota was prepared after the closure of admissions on 05.07.2012, so it was not possible for the respondent college to offer seat to the petitioner or to any other students. The court cannot also lose track of the fact that the petitioner has approached this court on 30.08.2012 and the last date for admission was on 31.08.2012, which stands closed. It may also be noticed that the petitioner has been granted admission to another college. Therefore, I find no merit in the submissions made by the petitioner. No grounds made out to entertain the present petition. Accordingly, the petition and the application stand dismissed.

OCTOBER 15, 2012

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G.S.SISTANI, J