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

+ W.P.(C) 8879/2011

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Judgment dated 16.07.2012

SHAKTI AGRAWAL

..... Petitioner

Through : Mr. Lalit Kumar Jha, Adv.

versus

UNIVERSITY OF DELHI AND ORS

..... Respondents

Through : Mr.M.J.S. Rupal, Adv. for University.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (ORAL)

1. By the present petition, filed under Article 226 of the Constitution of India, petitioner seeks a direction to respondents to grant hostel accommodation to the petitioner, who is suffering from double disabilities i.e. visually challenged and severe osteoporosis.
2. The facts, as stated in the present writ petition, are that the petitioner is pursuing his Ph.D in law at Faculty of Law, University of Delhi. The petitioner is the only second student in the History of Faculty of Law, who is completely visually challenged and who has been able to get enrolled in Ph.D. course.
3. Learned counsel for the petitioner submits that the petitioner is pursuing his education despite all odds of his life. Counsel further submits that respondents no.3 and 4 are determined to keep the petitioner out of the hostel with active connivance of respondent no.2. Counsel next submits that petitioner had joined M.A. History course in the year 2004 and after completing his M.A. the petitioner got admission in the year 2006 in LL.B

in CLC, Faculty of Law, Delhi University. After completing the LL.B the petitioner got admission in LLM in Faculty of Law, Delhi University in the year 2009 and after successfully completing the LLM in the year 2011 the petitioner sought admission in Ph.D in Faculty of Law, Delhi University. Counsel also submits that petitioner is economically weak student and is being supported by his married sister. It is contended that the petitioner is being singled out and subjected to cruel behaviour by the respondents solely for the reason that the petitioner had filed a petition, being W.P.(C) 6136/2010, in this Court seeking a direction for fool-proof security arrangement in the hostels of University of Delhi particularly with respect to persons with disabilities.

4. It is contended by learned counsel for the petitioner that the petitioner was compelled to file the said writ petition after the laptop of the petitioner was stolen, which he purchased after considerable financial hardships. It is further contended that on account of his approaching this Court on an earlier occasion respondents are determined to deny the right of the petitioner under false excuses. It is also contended that the period of six years, which has been fixed by the respondents for availing hostel facilities, is arbitrary, as a law student takes three years to finish his LL.B. and in case he decides to study further he would spend two years in LLM and in case he pursues PH.D then it is for a period of four years. Thus, a student should be permitted to stay in the hostel for a period of nine years and not six years.
5. Learned counsel for the petitioner has drawn the attention of the Court to the Draft Policy Document on Differently Abled persons and submits that the aim of this policy is to provide facility to differently abled persons irrespective of the fact whether they are visual challenged or orthopedic or suffering from any kind of impairment.

6. Mr.M.J.S. Rupal, learned counsel for the Delhi University, submits that the submissions made by counsel for the petitioner are factually incorrect and he has denied that the petitioner has been singled out or that he has been asked to leave the hostel accommodation on account of his having filed an earlier writ petition. Counsel further submits that in any case the earlier writ petition, which was filed by the petitioner, was directed against the Police and not against University of Delhi, although the University was made a party in the said writ petition. Counsel has drawn the attention of the Court to the Handbook of Information and Rules, 2011-2012, more particularly Rule 6 of Eligibility, which reads as under:

“ELIGIBILITY

A student seeking admission or re-admission to Gwyer Hall should:

- (vi) not have resided in any University of Delhi hostel facility for a course of the same level earlier, or should not have completed six years residence in any other post-graduate hostel of the University.”

7. Mr.Rupal further submits that petitioner has already overstayed by one year although he was entitled to use the hostel for six years only. The petitioner left the hostel only after completing seven years of his studies. Counsel also submits that large numbers of students are studying in the University of Delhi from Delhi and outside Delhi including handicapped students, and the purpose of making rules and fixing six years as maximum period to stay in the hostel is with a view to regulate the admissions to hostels and strike a balance so as to accommodate the maximum number of students. Counsel next submits that this hostel is meant for post graduate and above courses. Counsel contends that although post graduate course is only for two years, the University of Delhi has allowed a student to stay upto six years in the hostel and in this manner it cannot be said that the rule is either arbitrary or framing of rules

is a mere colourable exercise of power. Counsel also contends that in the present writ petition no grounds have been raised by the petitioner to show that there is anything arbitrary and discriminatory.

8. I have heard learned counsel for the parties, considered their rival contentions and also perused the pleadings, and the Handbook of Information and Rules of the Gwyer Hall, University of Delhi, which have been placed on record. It is not in dispute that petitioner is 30 years of age and has been studying in Delhi University since the year 2004. There is nothing on record to show that respondents have acted in a discriminatory manner against the petitioner. Admittedly, the earlier writ petition was primarily against the Police for providing fool proof security arrangement in the Hostel. The writ petition was not directed against the University and even otherwise the Hand Book of Information and Rules, which contain the legibility criteria for hostel accommodation, was drafted earlier in point of time. Thus the ground for discrimination is baseless and without any force. Since the hostel is meant for post-graduate and above courses fixing of six years period to stay in the hostel during such period is with a view to strike a balance and allow as many students as possible to avail hostel facilities. The period of six years fixed by the University of Delhi is not whimsical, unfair and unreasonable and thus warrants no interference by this court and it is best left to the university to decide the period of stay for any student. It has repeatedly been held that courts should not ordinarily interfere with the functioning of educational institutions, unless there is clear violation of some statutory rule or legal principle. Petitioner has already taken advantage of the rule and used the hostel facilities.
9. As far as aim and object of Draft Policy Document on the Differently Abled, which is relied by counsel for the petitioner, is concerned, the

same are not in dispute. The Policy is to be followed uniformly and in case the petitioner is permitted to stay in the hostel meant for post graduate and above courses, for more than six years, then other disabled persons will be deprived of hostel accommodation.

10. In view of above, no grounds are made out to entertain the present petition and the same is accordingly dismissed.

G.S.SISTANI, J

JULY 16, 2012

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