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

+ W.P.(C) 2251/2013

% **Judgment dated 30.04.2013**

VANI

..... Petitioner

Through: Mr.Arun Khatri, Adv.

versus

UNIVERSITY OF DELHI AND ORS Respondents

Through: Ms. Manish Singh, Adv. for R1-2

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (ORAL)

1. Present writ petition has been filed by the petitioner under Article 226/227 of the Constitution of India seeking a writ, order or direction in the nature of mandamus directing the respondents to confirm her admission, allow her to attend the classes and permit her to sit in M.Sc second semester examinations, to be held in May, 2013.
2. As per the petition, the petitioner completed her B.Sc programme from Hans Raj College, in the year 2012. After completing her B.Sc, the petitioner applied for M.Sc. (OR) in the Department of Mathematical Sciences, University of Delhi. The petitioner secured admission in the MS.c (OR) after being successful in the entrance exam, group discussion and interview. The petitioner was offered admission by Hindu College and at present the petitioner is in the second semester of M.Sc (OR). The petitioner was granted provisional admission since her result of B.Sc (Final) had not been declared. In August, 2012, the petitioner received her B.Sc (Final) result, which was submitted by her to respondent no.2. As

per the result of B.Sc (Final) the petitioner had two essential repeats. This fact was conveyed to the respondents in August, 2012. The petitioner appeared in the essential repeats in October, 2012, however, she continued with her studies in M.Sc (OR). In the month of October, 2012, the petitioner appeared for her internal assessment exams of the first semester of M.Sc (OR) and in the month of December, 2012, the petitioner appeared in the first semester exam of M.Sc (OR) subject to the condition that her admission would be contingent on her successfully clearing her essential repeats in B.Sc (Final). In January, 2013, the second semester of M.Sc (OR) commenced, however, the petitioner was not allowed to attend the classes. The petitioner made enquiries from the respondents but no satisfactory response was received. The petitioner in the meanwhile kept waiting for her result in the essential repeats in B.Sc (Final) and in the month of February, 2013, she deposited fee for the M.SC second semester examination.

3. It is the case of the petitioner that although the fee for M.SC second semester examination was accepted by the respondents but she was not allowed to attend classes. The result of the essential repeats of B.Sc (Final) was declared on 8.3.2013 as per which the petitioner cleared the essential repeats and the result was submitted with respondent no.2. A copy of the result has been filed along with the writ petition. Since the provisional admission of the petitioner in M.Sc (OR) has not been confirmed by the respondents this has led to the filing of the present writ petition.
4. Learned counsel for the respondents submits that the petitioner is guilty of concealment of facts and has not approached this Court with clean hands. It is further submitted that the petitioner was not eligible for admission in M.Sc (OR) course as she had failed to clear her B.Sc Physical Science

Final examination before the cut off date for admission to M.Sc (OR) course. It is next submitted that the petitioner had qualified the Common Entrance Test consisting of written test, group discussion and interview, and accordingly the petitioner was offered provisional admission in M.Sc (OR) course since her result was awaited. It is contended that a notice dated 24.8.2012 was displayed on the Notice Board of the Department of Operational Research, Faculty of Mathematical Sciences, which clearly mentioned that the first semester students of M.Sc (OR) were required to submit their final year graduation mark sheet by 31.8.2012 or else their admission would be cancelled. The petitioner submitted her B.Sc Physical Science (Final) result wherein she had obtained two essential repeats and, thus, was not eligible for admission to the M.Sc (OR) course. Counsel also contends that after scrutinising the documents available of three students including the petitioner herein a note sheet dated 20.11.2012 was submitted to the Controller of Examinations by the then Head of the Department of Operational Research to seek a suggestion as to whether the petitioner and two other students could be allowed to appear in the first semester examination of M.Sc (OR), however, on 7.12.2012 the Controller of Examination sent the said note sheet to the Department of Operational Research along with a noting that the admission of the petitioner and two other students must be cancelled with immediate effect.

5. Learned counsel for the respondents further submits that the petitioner was allowed to appear in the first semester examination of M.Sc (OR) subject to an undertaking that the petitioner would herself be responsible in case the respondents disqualify the petitioner from the said examination. The admission of similarly two other students also stands cancelled. Counsel also submits that the petitioner was well aware of the fact that she did not meet the eligibility criteria for admission to the M.Sc

(OR) as she had two essential repeats and provisional admission was granted to her only to await the final year result of the B.Sc, which she had to qualify to seek admission in M.Sc (OR). It is further contended that the petitioner was not permitted to attend classes since January, 2013, but she did not approach this Court at the first opportunity available. Since the petitioner was aware that at that point of time her result for essential repeat in B.Sc (Final) had not been declared, she would be unable to justify as to how she would meet the eligibility criteria.

6. Learned counsel for the petitioner submits that a vested right has been created in favour of the petitioner as she was granted provisional admission, she was allowed to attend classes, permitted to appear in the first semester examination and, thus, she cannot be denied admission to the second semester.
7. I have heard learned counsel for the parties and considered their rival submissions. It is not in dispute that the petitioner was granted provisional admission upon her being successful in clearing the Common Entrance Test for the M.Sc (OR) course. It is also not in dispute that the respondents had fixed a cut off date as 31.8.2012 for students to submit their final year graduation marksheet. When the result of the petitioner for M.Sc (Final) was declared she did not clear the B.Sc (Final) examination as she had two essential repeats. In effect in case the result of the petitioner had been declared prior to her having been granted provisional admission she would not have been offered provisional admission as she did not met the eligibility criteria.
8. There is no force in the submission made by counsel for the petitioner that the petitioner was allowed to appear in the first semester examination of M.Sc (Final) and, thus, a vested right has been created in favour of the petitioner. The petitioner has suppressed the fact that she had voluntarily

signed an undertaking that she would be appearing in the first semester examination of M.Sc (OR) at her own risk and she would abide by the decision of the University and further that she would be responsible if the examination Incharge cancels her admission. A copy of this undertaking has been placed on record by the respondents. There is also merit in the submission made by learned counsel for the respondents that the petitioner intentionally did not approach this Court soon after she received the letter of cancellation as by that date the result of reappear had not been declared and she was fully aware that even on that date i.e. January, 2013, she did not meet the eligibility criteria. On the contrary there is no explanation by the petitioner as to why the petitioner did not approach this Court uptill 5.4.2013. Since the petitioner did not meet the eligibility criteria no relief can be granted to the petitioner. The writ petition is without any merit and the same is accordingly dismissed.

G.S.SISTANI, J

APRIL 30, 2013
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