

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

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Date of Decision: 24.07.2013

+ W.P.(C) 4363/2013

PUSHPA KUMARI

..... Petitioner

Through: Mr M.C. Dhingra and Mr Arvind Kr. Singh,
Advs.

versus

UNIVERSITY OF DELHI & ANR.

..... Respondents

Through: Mr Mohinder J.S. Rupal, Adv.

CORAM:

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

1. An entrance examination called NEET PG, 2013 was conducted by National Board of Examination (NBE) for admission to MD/MS courses. The petitioner was declared not qualified in the communication sent on her e-mail address. Later a revised list of the qualified candidates was declared, but the revised result was not communicated to the petitioner. In the meanwhile on 15.01.2013, University of Delhi came out with its brochure for admission to MD/MS courses, requiring submission of applications to Delhi University, on or before 12.02.2013. The brochure permitted the applicants to submit the admission the admission form, without waiting for declaration of NEET PG, 2013 results. According to the petitioner, he was admitted in hospital on 16.01.2013 due to gynecological complications and was operated upon. She delivered a baby who was critical for 5-6 days. On discharge from the hospital, when the petitioner was recouping at

home, her father-in-law suffered brain hemorrhage and was admitted to hospital, where he passed away on 29.01.2013. The petitioner then went to the native place of her father-in-law to perform his rituals, which continued for 12 days. Thereafter, the mother-in-law of the petitioner fell sick and was hospitalized. Her elder daughter also fell sick at the same time. While the petitioner was at her native place, she learnt on 16.05.2013 about the result of NEET PG, 2013 and found that she had been declared not qualified. The first counseling for admission to the said courses was conducted from 16.06.2013 to 19.06.2013. The petitioner claims to have learnt of the revised results declared by NBE on 07.07.2013. She made a representation to the University on 08.07.2013 seeking permission to appear in the second phase of the counseling scheduled to take place on 27.07.2013. She, however, has not been permitted to participate in the said counseling. Being aggrieved, she is before this Court seeking a direction to the University to allow her to participate in the second counseling for admission to PG courses.

2. The learned counsel for the Delhi University, who appears on advance notice, has opposed the writ petition. He has pointed out that the petitioner was not required to wait for NEET results to submit the application form to the University on or before 12.02.2013 which was the last date fixed by the University for this purpose. He further submits that though the said date was later extended by the University, the petitioner did not apply even by the extended date. He contends that the deadline fixed by the University for counseling being sacrosanct, the petitioner, who did not even apply to the University for admission, cannot be allowed to participate in the counseling.

3. The learned counsel for the petitioner does not dispute that the application form to the University could have been submitted without waiting for NEET

results. In fact, NEET results came up declared only after the deadline initially fixed by the University for submission of the application forms was over. Therefore, it was obligatory for the petitioner to submit application form to the University on or before 12.02.2013 and in any case on or before the extended date fixed by the University for the purpose. The personal reasons given by the petitioner for not applying to the University for admission, cannot be a good ground for permitting her to participate in the counseling, when she did not even apply to the University for admission to the PG courses. If the last date fixed by the University for submitting application forms for the purpose of admission in its colleges is not maintained, that would result in a chaotic situation since it would be open to a person who fails to apply to the University for admission within the time stipulated for this purpose, to come to the Court at any time before all the seats in a particular course are filled and seek consideration against such a seat, on the ground that due to certain facts and circumstances, he/she was unable to apply to the University for admission to the Court of his/her choice. The Court has to keep in mind that if the seats available in the University are not filled in the first counseling, the persons who have applied to the University and are awaiting participation in the counseling, have a legitimate right and expectation to be considered for admission against such unfilled seats. Similarly, if certain seats remain available even after the second counseling, it is only the wait listed applicants who have already applied to the University for admission, who have a legitimate right to seek admission against such seats. Even if some seat falls vacant after the counseling is over, that can be filled only by admitting a wait-listed candidate in the order of merit of the wait-listed applicants. Such a seat cannot be filled by admitting a person who never applied to the University for admission to the course. In any case, I find no reasonable ground for the petitioner not applying

to the university, even by the revised date fixed for the purpose. On discharge from the hospital sometime around 21-22, January, 2013, she had ample time to apply to the university even before expiry of the initial date of 12th February, 2013. The alleged sickness of her father-in-law, could not prevented her from sparing the short time required for submitting the application. The revised date for the purpose was much later.

4. The learned counsel for the petitioner has relied upon the order of this Court dated 17.06.2013 in W.P.(C) No. 3959/2013. In the aforesaid case, the case of the petitioner before this Court was that on 07.0.2013, he had gone to his native place in Kashmir and because of unrest in the Valley could not return to Delhi for about 02 months. Consequently, he could not apply to the University for admission to a Post Graduate course for medical science. According to the petitioner in that case, he came to know of his rank in NEET, 2013 only on 17.05.2013. Since University did not accept his application, he approached this Court by way of the aforesaid writ petition.

5. It would thus be seen that the above-referred order was passed in the peculiar facts and circumstances of that case and that is why the Court specifically directed that it would not be treated as a precedent for other cases. Therefore, it is not open to the petitioner to seek parity with the petitioner in the above-referred case, on the strength of the order passed by this Court in that case. In any case, the facts of this case are altogether different.

For the reasons stated hereinabove, I find no merit in the writ petition and the same is hereby dismissed.

There shall be no order as to costs.

V.K. JAIN, J

JULY 24, 2013/bg