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

% **Date of Decision: 21.08.2013**

\+ W.P.(C) 5051/2013

VISHAL MAINA @ A.A. VISHAL CHAUDHARY ..... Petitioner

Through: Mr Rajeshwer Kumar Gupta, Mr Ashok Mahajan and Ms Sumati Sharma, Advs.

versus

UNIVERSITY OF DELHI & ANOTHER ..... Respondent

Through: Mr Mohinder J.S. Rupal, Adv for R-1 and Mr Naresh C. Sharma, Adv for R-2 (Rajdhani College)

\+ W.P.(C) 5071/2013

VISHAL PANNU ..... Petitioner

Through: Mr Rajeshwer Kumar Gupta, Mr Ashok Mahajan and Ms Sumati Sharma, Advs.

Versus

UNIVERSITY OF DELHI & ANOTHER ..... Respondent

Through: Mr Mohinder J.S. Rupal, Adv for R-1 and Mr Naresh C. Sharma, Adv for R-2 (Rajdhani College)

CORAM:
HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

CM No. 11387/2013 (Exemption) in WP.(C) No. 5051/2013 and CM No. 11431/2013 in W.P.(C)5071/2013

Exemption allowed, subject to just exceptions.

The applications stand disposed of.

WP.(C) Nos. 5051/2013 and CM No. 11386/2013 (directions to respondent No. 2 to expedite the admission process based on 5% seats reserved for sports quota) and W.P(C) No. 5071/2013 and CMs No. 11430 & 432/2013 (under section 151 CPC)

As per the prospectus, issued by respondent No. 2 Rajdhani College for admission to various courses in the said college, it was mandatory to provide sports facilities and encourage all the students to participate in sports and extra-curricular activities by introducing inter-class competition and mass sports. For the purpose of encouraging sports facilities and admitting students, who are strong in sports, the prospectus, issued by the college stipulated as under:-

> "The existing provision of not more than 5% sports and ECA quota (subject-wise) be continued. The College should be free to decide the actual number seats to be filled on sports basis (nor more than 5%) keeping in view the facilities available, requirement of the college and other relevant factors.)
>
> The guidelines for admission under Sports/ECA categories will be carried out as per notification No. Aca.I/Sports/2012/82 dated 18.05.2012 and Aca.I/82/ECA/2012/163 dated 5 June, 2012 respectively."

2. Vide letter No. Aca/I/082/Sports/ECA/2013/169, dated 06.06.2013, respondent No. 1, University of Delhi, issued updated guidelines for admission on the basis of sports to the under-graduate courses for the Academic Session 2013-2014. The said guidelines were sent to all the colleges, including respondent No. 2-Rajdhani College, for necessary compliance. The guidelines, issued by

University provide for composition of the Sports Admission Committee and the relevant clause reads as under:-

> "G. Composition of the Sports Admission Committee:
>
> a. Chairperson: Principal
> b. Convenor: Teacher in-charge Dept. of Physical Education
> c. Physical Education Teacher(s) as Member(s)
> d. One Expert nominated by college out of the confidential list given by Delhi University Sport Council.
> e. Only one Faculty Member nominated by the Staff Council
> f. One regular bona-fide sports-student representative (M/W for assistance)
> g. One Delhi University Sports Council Representative/Nominee
> h. One Vice Chancellor nomine (as Observer)"

3. Thus, one member of the Sports Admission Committee was to be nominated by the Staff Council of Rajdhani College. It appears that no meeting of the Staff Council was convened or could be convened for the purpose of making nomination to the Sports Admission Committee and the Principal of the college, in exercise of the emergency powers conferred upon her, under Ordinance 18 clause 6(B) (e), issued by University of Delhi, nominated Ms Suman Meena, a Faculty Member to the Sports Admission Committee. The above-referred Ordinance, to the extent it is relevant, provides that though the Principal is required to implement the decisions of the Staff Council, he, in case any emergency has arisen, which requires that

immediate action to be taken, can take such action as deemed necessary, but shall report the same in the next meeting of the Staff Council for the purpose of confirmation of his action. Thus, in exercise of the emergency powers, the Principal of the College could make a nomination to the Sports Admission Committee. Whether there was any emergency warranting such an exercise of power is a question, which would not arise in this case since the action of the Principal is not under challenge. However, in emergency meeting of the Staff Council held on 31.07.2013, the aforesaid nomination by the Principal was not approved and, therefore, the Staff Council did not make any admissions in the Sports Quota for the Academic Session 2013-2014.

4. The petitioners before this Court had applied for admission to Rajdhani College under the Sports Quota. Both the petitioners were subjected to Sports trial, as stipulated in clause (ii) of the consolidated Guidelines/Criteria, issued by the University for admission on the basis of Sports Quota. The list of the candidates, who were granted admission on the basis of Sports Quota, was required to be displayed on the Notice Board of the College on 31.07.2013. However, on account of the decision taken by the Staff Council in its meeting held on 30.07.2013, no such list was displayed. Being aggrieved from such action of the college, the petitioners are before this Court by way of this writ petition, seeking the following reliefs:-

> a) Issue a writ, order or direction in the nature of mandamus directing the respondent No. 2 to complete the admission process by filling up the seats in the first year of the under graduate courses against 5% seats reserved for sports quota;
> b) further issue a writ, order or direction in the nature of mandamus directing the respondent No. 2 to consider the petitioner for admission to Bachelor with Honor Four year course (in WP(C) No.5051/2013)/ B-Tech (Computer Science) (in WP(C) No. 5071/2013) against a seat reserved for sports quota."

5. In its counter-affidavit, respondent No. 2 Rajdhani College has not disputed the factual position as noted in the preceding paragraph. The only reason given in the counter-affidavit for not making admissions under the Sports Quota is that the nomination made by the Principal of the college to the Sports Admission Committee was not confirmed by the Staff Council, who rather decided not to make any admission in the Sports Quota. In my view, the reason given by respondent No. 2-Rajdhani College for not making admissions under the Sports Quota is wholly arbitrary, irrational and illogical. It is the policy of the University to encourage sports activities in the colleges and the admissions under the Sports Quota are intended to achieve that objective by encouraging those candidates, who excelled in various sports activities. Having notified in the prospectus that there would be admissions under the Sports Quota as per the policy of the University, it was not open to respondent No. 2 to recall the earlier decision of the college to make such admissions, after the candidates had already been subjected to sports

trial, in accordance with the guidelines issued by the University. Moreover, this is not the case of Rajdhani College that it did not need sports persons and that is why it decided to do away with admissions under Sports Quota. The very fact that the college had declared a Sports Quota in the prospectus, issued for the year 2013-2014 clearly indicates that this college does need sports persons and that is why it had conducted sports trial for admission under the said quota. The only reason given by the college for not making admissions even after selecting candidates on the basis of parameters laid down by the University is that nomination of one member of the Sports Admission Committee was bad, the same having not been confirmed by the Staff Council. A perusal of the guidelines issued by the University would show that there are as many as eight members of the Sports Admission Committee. During the course of hearing, the learned counsel representing the college admitted that the selections made by the Sports Admission Committee were unanimous. Therefore, even if the nomination of the faculty member by the Principal is excluded from consideration that would make no difference to the recommendations of the Sports Admission Committee, though, in my view, considering that the Principal of the college had acted in exercise of the emergency powers conferred upon him under Ordinance XVIII, issued by the University, any decision by the Staff Council not to confirm that decision cannot be used as a ground not to make admissions or to reject the recommendations made by

the Sports Admission Committee, which *inter alia*, included a faculty member, nominated by the Principal of the College. Assuming that there was a nomination to the Sports Committee by the Staff Council, and such nominee would not have agreed with the recommendations of the other members, that would have been no consequence, as the recommendations of the Sports Committee were not necessarily to be unanimous. In any case, nomination being an internal matter of the college, any difference between the Principal and the Staff Council in this regard cannot prejudice the rights and interests of the candidates, subjected to sports trials.

6. For the reasons stated hereinabove, respondent No. 2 is directed to declare the list of the candidates selected under the Sports Quota within two days from today and make admissions accordingly subject to completion of necessary requirements.

The writ petitions stand disposed of.

A copy of this order be given dasti under the signature of Court Master.

V.K. JAIN, J

AUGUST 21, 2013
BG