

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

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Date of Decision: 04.09.2013

+ W.P.(C) 5442/2013

APOORV MEHTA

..... Petitioner

Through: Ms Ashutosh Dubey, Adv.

Versus

GURU GOBIND SINGH INDRAPRASHTHA UNIVERSITY & ANR

..... Respondent

Through: Mr Vaibhav Kalra, Adv for R-1 (GGSIU)
Ms Nidhi Raman, Adv for R-2

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

JUDGMENT

V.K.JAIN, J. (ORAL)

The petitioner before this Court appeared in National Eligibility cum Entrance Test (NEET)-UG, 2013, conducted by Central Board of Secondary Education, for admission to MBBS course of various Universities and institutions. The respondent-University vide notification dated 23.07.2013 announced the schedule for the first counseling to be held from 27.07.2013 to 30.07.2013. Later, the first counseling was extended till 07.08.2013. Vide notification dated 12.08.2013, the University notified the schedule for the second counseling which was to be held on 16.08.2013. It was also notified that the second counseling for

MBBS/BDS/PGMC would be held against the vacant seats on account of withdrawal/cancellation. Considering that 15.08.2013 was a National Holiday, the candidates were advised to obtain draft which was required to be submitted to the University, from the banks, since reporting without draft was not permitted. Vide notification dated 13.08.2013, the candidates were requested to visit the University's website on 14.08.2013 for the time schedule as well as other instructions. Vide notification dated 14.08.2013, the University announced the schedule for the second counseling. Based upon the second counseling, the waiting list of candidates was displayed on the website of the University on 19.08.2013. It was also notified that admission against withdrawal/cancellation, if any, will be made purely on the basis of the said waiting list.

2. The grievance of the petitioner is that on account of inconspicuous nature of the notification and the short period which each notice entailed, she was thrown off guard and could not appear in the counseling on 16.08.2013. According to the petitioner, when she visited the office of the University on 17.08.2013, she was shocked to learn that the waiting list, which also included the names of SC/ST/OBC candidates, had already been drawn. Being aggrieved, the petitioner is before this Court seeking the following reliefs:-

“(a) Pass a writ of mandamus or any other appropriate writ, order or direction on the respondents to accept the candidature of the petitioner for registration in Waiting list in MBBS

Programme for counselling admission into MBBS/BDS courses under 85% State quota seats for institutes under Guru Gobind Singh Indraprastha University.

(b) Pass an appropriate order or direction thereby allowing the petitioners' application to be evaluated for eligibility for registration and counselling.”

3. A perusal of the notification dated 12.08.2013, issued by the University, would show that the candidates seeking admission to the said University were informed that the second counseling would be held on 16.08.2013 and a detailed schedule of the said counseling would be displayed on the website of the University on 13.08.2013. Thus, the candidates, including the petitioner, knew or were in a position to know that on 12.08.2013 itself that the second round of counseling would be held on 16.08.2013 for the purpose of making admissions against the vacant seats. Vide notice dated 13.08.2013, it was reiterated by the University that the second counseling would be held on 16.08.2013, a detailed schedule of which would be available in the morning of 14.08.2013. In fact, the University also advised the candidates to keep the bank drafts ready with them so that they have no difficulty in submitting such drafts at the time of counseling on 16.08.2013. The schedule for counseling on 16.08.2013 was notified by the University on 14.08.2013. The candidates seeking admission to MBBS course were required to appear in the counseling at 2.00 PM and 3.00 PM, whereas the

candidates for BDS course were required to attend the course at 04.00 PM and 05.00 PM. It was clearly stated in the notice that after all the seats were filled up during second counseling, a waiting list of all the qualified candidates in each category, including reserved category of Delhi region and all India region would be prepared as per all India NEET rank. Thus, on 14.08.2013, the petitioner knew it very well that a waiting list of the qualified candidates in each category would also be prepared at 03.00 PM on 16.08.2013. In these circumstances, I find no merit in the contention of the petitioner that the University did not give sufficient time for attending the second counseling held on 16.08.2013.

4. It is also alleged in the writ petition that the notification dated 14.08.2013 contained no specific averment with regard to ST/ST or OBC candidates. I, however, find no merit in this contention. All NEET qualified candidates, which obviously would include reserved category candidates, were required to attend the counseling for admission to the MBBS course at 2.00 PM. It was also specifically stated in the notice that a waiting list of all the qualified candidates, including reserved category candidates of Delhi region and all India region, would be prepared after all the seats were filled up during second counseling. The candidates, therefore, knew it very well that there shall be a waiting list prepared by the University after the vacant seats are filled up during second counseling and such list would cover candidates in all the categories, including SC/ST/OBC

candidates. The petitioner having been negligent in not attending the counseling on 16.08.2013, despite as many as three public notices, issued by the University first on 12.08.2013, second on 13.08.2013 and the third on 14.08.2013, cannot be allowed to say that the University did not give enough time to the candidates to attend the counseling. It would be pertinent to note here that in the prospectus, the University did not specify any particular time to be given to the candidates, seeking to participate in various rounds of counseling. Considering the repeated public notices given by the University, I cannot accept the contention that the time given by the University was too short or that the notices issued by it were inconspicuous. Admittedly, all the notices were displayed on the website of the University. The candidates seeking admission to the courses were expected to regularly visit the site of the University so that no such notice escapes their attention. Having not been vigilant, the petitioner cannot blame the University for her own inaction in not attending the second counseling on 16.08.2013.

5. The learned counsel for the petitioner relying upon the following clause contained in the admission brochure submitted that since the petitioner reported to the University on 17.08.2013, she is entitled to be considered for allotment of a seat:-

“(iii) A candidate who fails to appear in person on the notified date, time and venue for counselling, shall forfeit his/her claim for a seat. However, if the candidate reports late or reports by the next day

during the process of counselling, he/she may be considered for allotment of a seat, provided, the seat is available for him/her at that point of time and counselling for a particular category is on to which he/she belongs.”

6. The above-referred clause appears under the heading first counseling for admission. No such clause, however, is contained in the notifications, issued by the University for holding the second round of counseling. In any case, even if I proceed on the assumption that the aforesaid clause applies not only to the first, but also to the second counseling, that makes no difference because two requirements need to be fulfilled before a candidate can claim benefit of the aforesaid clause, the first requirement being that he should report on the day on which the counseling takes place or on the second day, but, during the process of counseling. He is entitled to be considered for allotment of seat only if the counseling for the category to which he belongs is still on at the time he appears before the University. This is not the case of the petitioner that she had appeared on 16.08.2013. According to her, she went to the University on 17.08.2013. Since the counseling was over on 16.08.2013 itself, the benefit of the above-referred clause would not be available to the petitioner. In fact, I find merit in the contention of the learned counsel for the University that the aforesaid clause would apply only to the counseling which takes place on more than one days and as far as the second round of counseling is concerned, the same had concluded on the first day itself. It

was only the first round of counseling which was scheduled to be held on more than one days and, therefore, it would be difficult to say that the above-referred clause also applied to the second round of counseling.

7. 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

SEPTEMBER 04, 2013
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