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

% Date of Decision: 02.12.2013

\+ **WP(C) No.5394 of 2012**

RISHABH MALHOTRA ..... Petitioner
Through: Mr. Nitish Kumar, Adv.

versus

UNIVERSITY OF DELHI & ORS. ..... Respondents
Through: Mr. Mohinder J.S. Rupal, Adv.

\+ **WP(C) No.5400 of 2012**

PUSHPENDER ..... Petitioner
Through: Counsel for the Petitioner.

versus

UNIVERSITY OF DELHI & ORS. ..... Respondents
Through: Mr. Mohinder J.S. Rupal, Adv.

\+ **WP(C) No.7608 of 2012**

SHILPA DAS & ORS. ..... Petitioners
Through: Mr. R.K. Saini & Ms. Seema Salwan, Advs.

versus

UNIVERSITY OF DELHI & ANR. ..... Respondents
Through: Mr. Mohinder J.S. Rupal, Adv.

+ WP(C) No.7633 of 2012

SUPREEM ..... Petitioner
Through: Mr. R.K. Saini & Ms. Seema Salwan, Advs.

versus

UNIVERSITY OF DELHI & ANR. ..... Respondents
Through: Mr. Mohinder J.S. Rupal, Adv.

+ WP(C) No.7904 of 2012

PRIYANKA NAGPAL ..... Petitioner
Through: Mr. R.K. Saini & Ms. Seema Salwan, Advs.

versus

UNIVERSITY OF DELHI & ANR. ..... Respondents
Through: Mr. Mohinder J.S. Rupal, Adv.

+ WP(C) No.5067 of 2013; CM Nos.11426 of 2013 & 15736 of 2013

DAMAN POPLI ..... Petitioner
Through: Mr. Ayush Gupta, Adv.

versus

UNIVERSITY OF DELHI & ORS. ..... Respondents
Through: Mr. Mohinder J.S. Rupal, Adv.

+ WP(C) No.5586 of 2013 & CM No.12381 of 2013

CHANDRA KANT ..... Petitioner
Through: Mr. M. Mukul, Adv.

versus

UNIVERSITY OF DELHI & ORS. ..... Respondents
Through: Mr. Mohinder J.S. Rupal, Adv.

+ WP(C) No.5514 of 2013; CM No.12267 of 2013

SUMIT KUMAR ..... Petitioner
Through: Mr. Nitish Kumar, Adv.

versus

UNIVERSITY OF DELHI & ORS. ..... Respondents
Through: Mr. Mohinder J.S. Rupal, Adv.

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

JUDGEMENT

V.K.JAIN, J. (Oral)

The petitioners before this Court were the students of School of Open Learning, University of Delhi in its under-graduate courses. The petitioners in WP (C) Nos.5394/2012, 5400/2012, 7608/2012, 7633/2012 & 7904/2012, appeared in the final year examination held in May-June, 2012 where as the petitioners in WP (C) Nos.5067/2013, 5586/2013 & 5514/2013, appeared in the final year examination held in May-June, 2013. Even before declaration of their result of the under-

graduate courses which they were pursuing with the School of Open Learning, the petitioners appeared in the entrance examination for admission to the LLB Course of the University of Delhi. Under the Rules of the University they were entitled to appear in the aforesaid entrance test even before the result of their qualifying examination was declared. The Admission Brochure, however, stipulated that the candidates whose results of the qualifying degrees are not declared by the time of counseling shall not be admitted to the LLB Course. They, however, were eligible for being considered by the time in case the results were declared on or before the last date notified by the University of Delhi for admission to the LLB Course.

2. The result of the petitioners before this Court was not declared before the last date notified by the University of Delhi for admission to the LLB Course for the academic years 2012-2013 and 2013-2014. However, they had qualified the entrance test and were also called for the purpose of counseling. The admission could not be granted to them in view of the above-referred stipulation contained in the admission brochure. The petitioners in WP (C) Nos.5394/2012, 5400/2012, 7608/2012, 7633/2012 & 7904/2012 on declaration of the result of the qualifying examination approached the University for grant of admission to LLB Course. The said request having been rejected, the aforesaid five (5) writ petitions were filed, seeking admission to the said Course.

3. Vide interim order dated 30.11.2012 [in WP (C) Nos.5394/2012 & 5400/2012]; and order dated 19.12.2012 [in WP (C) Nos.7608/2012, 7633/2012 & 7904/2012], this Court, observed that considering that the declaration of result lies purely in the domain of the University, and the

University calendar as well as the schedule of admission are also proposed by the University, it is the University which has to ensure that the students are not made to suffer or lose either an academic year or they are unable to secure admission in a subject of their choice on account of non-declaration of the result. It was also noted by the Court that though in other post-graduate courses the University had made a provision to grant provisional admission awaiting result in the qualifying examination, the said concession had not been granted in case of the students seeking admission to the LLB Course. It was in these circumstances that this Court by way of the interim orders directed the University to grant admission to the aforesaid five petitioners in its LLB Course. They were permitted to appear in the second semester examination. As regards attending the classes of the first semester it was directed that their attendance would be marked separately in any of the evening classes in the Campus Law Centre and only in case they attend 66.6 per cent classes they would be entitled to appear in the first semester examination along with third semester examination. For the second semester they were to attend classes regularly.

4. In WP (C) Nos.5067/2013, 5586/2013 & 5514/2013, the petitioners who had appeared in the entrance examination for admission in the academic year 2013-2014 were not granted any interim order on the lines of the order passed in WP (C) Nos.5394/2012, 5400/2012, 7608/2012, 7633/2012 & 7904/2012 and consequently they are not the students of the University, as on today.

5. According to Mr. R.K. Saini, Advocate for the petitioners, the petitioners in WP (C) Nos.5394/2012, 5400/2012, 7608/2012, 7633/2012 & 7904/2012 have attended classes of the first semester

along with first semester students of the academic year 2013-2014, and they had already been promoted to the III Term.

6. A similar issue came up for consideration before this Court in WP (C) No.7269/2012 titled Akansha Gupta & Ors. Vs. University of Delhi & Ors. & WP (C) No.7270/2012 titled Deepak Dabas & Ors. Vs. University of Delhi & Ors. decided on 30.10.2013. The petitioners in the aforesaid writ petitions were also the students of the School of Open Learning and had appeared in the final year examination held in May-June, 2012. Even before declaration of their result of the under-graduate courses they appeared in the entrance examination for admission to various post-graduate courses of the University of Delhi, which permitted them to appear in the said entrance test while awaiting result of their qualifying examination. The petitioners in the aforesaid petitions were granted admission in the post-graduate course and started studying in the said course. The admission granted to them in the post-graduate course was, however, cancelled by the University on 19.11.2012 on the ground that they had failed to submit the result of the graduate examination in terms of the undertaking given by them at the time of taking admission to the post-graduate course. Being aggrieved they approached this Court by way of the aforesaid two writ petitions. Allowing the writ petitions, this Court *inter alia* held as under:

> "4. This is not in dispute that the rules of the University permitted the students appearing in the final year of the qualifying examination to appear in the entrance test for admission to the post graduate courses and it was under the aforesaid rule that the petitioners appeared in the entrance test and were declared successful. The University does not insist upon submission of the result of the qualifying graduate examination before granting admission in the post graduate course and the students who have appeared in the qualifying

examination and whose results have not been declared are granted provisional admissions, on furnishing an undertaking to submit the result of the qualifying graduate examination on or before the date stipulated in such undertaking. The qualifying graduate examination, in which the petitioners appeared in May-June, 2012, was conducted by none other than Delhi University. Having allowed the petitioners to appear in the entrance test and granted them provisional admission to the post graduate course, even before declaration of the result of the qualifying graduate examination, the University cannot now be allowed to take advantage of its own delay in declaring the result of the qualifying graduate examination. When the University requires such candidates to furnish an undertaking to submit the result of the qualifying examination by a particular date and grants provisional admission on such an undertaking, it is expected that the University will declare the results of the qualifying examination conducted by, it before the last date stipulated in the undertaking for submission of such result expires. The petitioners before this Court appeared in the entrance examination for the post graduate course and took admission in the post graduate course pursuant to the rules of the University. They also furnished undertaking as required by the University. If they are unable to comply with the undertaking on account of the delay in declaration of result attributable solely to the University, the petitioners cannot be penalized for the default in furnishing such an undertaking, since it is the University alone which is responsible for their not being able to comply with the said undertaking. I fail to appreciate how the University without declaring the result of the qualifying examination can expect the petitioners to comply with the undertaking, by furnishing the said result. Unless and until results of the qualifying graduate examination are declared by the University, it is impossible for the petitioners to comply with the undertaking given to the University and no law can expects a person to do impossible things.

5. The University, in my view, irrespective of whether the examinees are regular students or the students of School of Open Learning, should declare the result of the qualifying graduation examination well in time so that a situation wherein

the students are unable to submit the result of the qualifying graduate examination does not arise at all. It is for the University to create the infrastructure required for declaration of the results of the students of the School of Open Learning well in time and it would be wholly unfair if the University does not allow the candidates who may have passed out their qualifying graduate examination to pursue their post graduate course, when the University itself allows such candidates not only to appear in the entrance test for admission to the post graduate course, but also grants them provisional admission to the said course.

....

8. The learned counsel for the University drew my attention to clause 7.15 of the Prospectus, issued by the University for the year 2013-14 for admission to the undergraduate courses through School of Open Learning. It is stated in the aforesaid clause that as per directions received from the University vide its letter dated 10.05.2013, the students are informed that the examination and the result schedule of the School of Open Learning are different from that of regular streams of University of Delhi. The aforesaid clause, in my view, is of no help to the respondent-University for two reasons; firstly the petitioners before this Court appeared in the final year examination of the undergraduate course and thereafter took admission in the post graduate course of Delhi University in the year 2012-13 and therefore, the communication issued by the University on 10.05.2013 can have no application to them, and secondly, the aforesaid information given to the candidates seeking to take admission through School of Open Learning would have no implication when the University allows such candidates to appear in the entrance test for the post graduate courses and then grants them provisional admission even prior to declaration of their result of undergraduate examination. As noted earlier, the University cannot be allowed to take advantage its own action by first requiring the candidates to give an undertaking to furnish the result of the qualifying examination by a particular date and then not declaring the result of the said examination or before the deadline stipulated in the undertaking."

7. In the present writ petitions, though the University did not grant provisional admission to the petitioners, that in my view would make no difference in the matter. The qualifying examinations in which the petitioners appeared during the School of Open Learning as well as the entrance examination for admission to the LLB Course were conducted by the same University, i.e., University of Delhi. When the University allows the students whose result for the qualifying examination is still awaited at the time entrance test is held, it is for the University to declare the result of their qualifying examination well in time, wherever such examinations are conducted by the same university, so that the provision permitting such students to appear in the entrance test does not become meaningless for them. The University which fails to declare the result of the qualifying examination conducted by it, in time, cannot, in my view, deny admission to its own professional courses such as LLB course or to the post-graduate courses, on the ground that the result of the qualifying examination has not been declared. The students whose result of the qualifying examination is still awaited and who are allowed to appear in the entrance test have a reasonable expectation that the University would declare the result of the qualifying examination well in time so as to enable them to take admission in the professional course/post-graduate course as the case may be in case they are successful in the entrance test. If the University, for one reason or the other is not able to declare the result of the qualifying examination, well in time so as to enable these students to take admission in the professional course/post-graduate course as the case may be, it cannot penalise the students for its own delay in declaring their result.

8. Had the University declared the result of the qualifying examination on or before the last date stipulated by it for admission to the LLB course, the petitioners on the basis of their result in the entrance test, would have been able to get admission and would not have been compelled to approach this Court. Though the number of students pursuing under-graduate courses through the School of Open Learning may be quite large, as submitted by Mr. Rupal, Advocate for the University of Delhi, it is for the University to ensure that considering the provision which allows such students to appear in the entrance test for admission to the professional courses/post-graduate courses, their results are declared, well in time. For this purpose, the University may either hold their examination before the examination for the regular students are held or it may arrange sufficient examiners to ensure that the results are declared on or before the last date stipulated by the University for admission to the professional course/post-graduate course as the case may be. Of course, this view will not be applicable in the cases, where the qualifying examination in the undergraduate course was conducted by a university other than Delhi University. This is so because, Delhi University cannot be held responsible for the delay in declaration of the results by the university.

9. For the reasons stated hereinabove, all the writ petitions are disposed of without any orders as to costs with the following directions:

i. The petitioners in WP (C) Nos.5394/2012, 5400/2012, 7608/2012, 7633/2012 & 7904/2012, in case they have already been promoted to the third semester and in case they have already appeared in the first semester examination along with the students to the academic year 2013-2014, will be allowed to continue their studies in the LLB course

of the University, subject to their complying with all the relevant Rules including the promotion and attendance Rules of the University. As regards their attendance in the first term, it has already been directed by this Court by way of interim orders that they had to attend classes along with the first term students in the academic year 2013-2014 and only in case they were to attend 66.6 per cent classes they were permitted to appear in the first semester paper along with the students of the academic year 2013-2014.

ii. As regards petitioners in WP (C) Nos.5067/2013, 5586/2013 & 5514/2013 though there was no interim order passed by this Court for their admission, they are situated similarly to the petitioners in the WP (C) Nos.5394/2012, 5400/2012, 7608/2012, 7633/2012 & 7904/2012 the only difference being that they appeared in the entrance test in the academic year 2013-2014, instead of academic year 2012-2013. Seats in the LLB course in the academic year 2013-2014 have already been reserved for them. They will now be granted admission in the LLB course, in the year 2013-2014 against those seats subject to their complying with the requisite formalities in this regard. They, however, will be allowed to attend classes only of the second semester in the academic year 2013-2014. They will also be allowed to appear in the second semester examination of the year 2013-2014 subject to their completing all other requirements including the requirement with respect to attending classes in the second term. In case these students pass all the five papers of the second semester, they will be promoted to the third term as per the Rules of the University. They will attend the first term classes along with the students of the academic year 2014-2015, in Campus Law Centre (Evening)if they are granted admission in

the Campus Law Centre (Morning) and in the Campus Law Centre (Morning). If they are granted admission in one of the Evening Law Centres If they attend, at least, 66.6 per cent of the first term classes along with the students who are admitted in the academic year 2014-2015, they will be permitted to appear in the papers of the first term along with the students who appeared in the academic year 2014-2015.

The writ petitions stand disposed of.

No orders as to costs.

DECEMBER 02, 2013 V.K. JAIN, J.

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