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

+ W.P.(C) 6572/2014 & CM APPL. 15654/2014

MANU ABHISHEK Petitioner
Through: Ms. Sunita Bhardwaj, Advocate.

versus

GURU GOBIND SINGH
INDRAPRASTHA UNIVERSITY & ANR Respondents
Through: Mr. Vipin Singh, Advocate.

% Reserved on : 28th October, 2014
Date of Decision : 11th November, 2014

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J:

1. Present writ petition has been filed challenging the cancellation/ withdrawal of Notification dated 28th August, 2014 which provided for a special round of online counseling for ten courses offered by colleges under respondent no. 1-University. Petitioner also seeks admission against the vacant seats in BBA; B.A., LL.B; BBA, LL.B for session 2014-2015 in respondent no.2-Institute of respondent No.1-University as per his first option.

2. Respondent no. 1-University on 28th August, 2014 had issued a Notification to provide a fresh round of counseling (supplementary counseling) after the cut-off date i.e. 15th August, 2014. The same was

challenged before this Court by the Association of Self Financing Institutions (Regd.) by way of a writ petition being W.P.(C) 5696/2014 primarily on the ground that the aforesaid Notification was in violation of the time-schedule prescribed by the Supreme Court in ***Parshvanath Charitable Trust & Others Vs. AICTE & Others, (2013) 3 SCC 385.***

3. On the first date of hearing, this Court had issued notice but had not granted any interim relief. Upon an appeal, i.e., LPA No. 576/2014 being filed, the Division Bench directed that admission in courses/programmes which were governed by the judgment of the Supreme Court shall be subject to the outcome of the application/petition to be filed by respondent-University before the Supreme Court seeking extension/variation of the time schedule for admission to the Academic Year 2014-15.

4. Upon SLP (C) 24442/2014 being filed against the aforesaid Division Bench's judgment, the Supreme Court on 8th September, 2014 passed the following order:-

"Issue notice.

Ms. Asha Jain Madan, Advocate for the respondent, on caveat, has entered appearance and accepts notice.

We have been apprised, in the course of hearing of this petition for the purposes of admission, that the University has issued a notification dated 28.08.2014, which is prior to the order passed by the High Court. The said notification, as submitted by Mr. Sibal, is likely to affect the schedule fixed by this Court for AICTE and other statutory authorities like, NCTE, etc. It is also urged at the Bar by virtue of this notification being worked out, the students who have been admitted to a particular course, may be dislodged or try their option for other courses as a consequence of which the educational institutions would likely to face a hazard. Be that as it may, Mr. Maninder Singh,

learned ASG shall explain the impact and effect of the notification issued on 28.08.2014.

As an ad interim measure, it is directed there shall be stay of operation of the order dated 3.09.2014 passed by the High Court of Delhi at New Delhi in LPA No. 576/2014 and the Notification referred to hereinabove.

List on 12.09.2014.”

(emphasis supplied)

5. Consequently, as a result of the stay order, the ongoing counselling being conducted by respondent-University in pursuance to the Notification dated 28th August, 2014 came to a halt.

6. On 17th September, 2014, learned ASG appearing for respondent-University stated before the Supreme Court that the University had taken a decision to withdraw the Notification dated 28th August, 2014. The order dated 17th September, 2014 passed by the Supreme Court in SLP(C) 24442/2014 is reproduced hereinbelow:-

“Heard Mr. Maninder Singh learned Additional Solicitor General appearing for the University. It is submitted by the learned Additional Solicitor General that the University has taken a decision to withdraw the Notification dated 28th August, 2014. In view of the aforesaid, the impugned order passed by the Division Bench of the High Court is set aside and the Writ Petition (C) No.5696/2014 pending in the High Court of Delhi, is deemed to have been disposed of.”

7. In view of the aforesaid statement, the Supreme Court set aside the order passed in LPA No. 576/2014 by the Division Bench and the writ petition being W.P.(C) 5696/2014 was directed to have been disposed of.

8. Thereafter, a batch of writ petitions with W.P.(C) 853/2014 being the lead matter was filed before the Supreme Court seeking extension of time-schedule to conduct another round of counseling as had been sought to be conducted vide notification dated 28th August, 2014 to fill up over six thousand vacant seats in respondent No. 1-University.

9. Ms Sunita Bhardwaj, learned counsel for petitioner in the instant writ petition stated that the Petitioner, as per his Common Entrance Test (CET) rank, was entitled to secure admission in his preferred course option viz. BBA, LL.B (Hons) and if he was not allowed to change the course in which he was admitted pursuant to earlier rounds of counseling, i.e from B.A., LLB to BBA, LL.B in respondent no.2-Institute, the seats in the said course would go vacant. She submitted that seats in such courses cannot be allowed to remain vacant as the same is contrary to public interest as well as respondent No.1-University's Admission Brochure 2014-15. In this regard she relied upon Paragraph 6(xii) of Chapter 1 of Part C of the Admission Brochure 2014-15 which reads as under:-

“6. PROCEDURE FOR ADMISSION THROUGH SECOND COUNSELLING (for offline counselling) :-

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(xii) If any vacancy(ies) arises after second counselling due to any reason, the same shall be filled up as per the directives/instructions of the Hon'ble Court(s)/decision of the University.”

10. Ms. Bhardwaj also referred to Note 3 to Chapter 3 of Part C of the Admission Brochure 2014-15 to state that seats in petitioner's preferred

option, i.e., BBA, LL.B. shall go vacant as there is no management quota in respondent No. 2-College. The said Note 3 reads as under:-

“Note :

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3. In case of Self Financing Colleges/Institutes, Sanctioned Intake includes 10% Management Quota seats (as per the CET Code). However, in case of University Schools of Study and Govt. Institutes there will be no Management Quota.”

11. In support of her submissions, Ms. Bhardwaj relied upon Supreme Court’s judgment in **“State of H.P. Vs. Himachal Institute of Engineering & Technology, (1998) 8 SCC 504** wherein it has been held as under:-

“.....We had extracted the relevant paragraph from the decision of Unni Krishnan case which clearly stated that any vacancies still remaining after the cut-off date can be filled by the management. In the instant case also, there have been vacancies which have remained unfilled after the cut-off date and it would, therefore, be open to the management to fill them up in the manner they consider appropriate. The SLP will stand disposed of in the light of and as per directions in Unni Krishnan case.”

12. In the opinion of this Court, the issue of filling up of vacant seats in courses including BBA, LL.B offered by colleges under respondent no.1-University for Academic Session 2014-15 as sought by the petitioner is no longer *res integra*. The Supreme Court on 16th October, 2014 in W.P.(C) 853/2014 decided to extend the cut-off date to fill up vacant seats in respondent No. 1-University for the Academic Session 2014-15 by directing the respondent No. 1-University to conduct counseling in a specific manner. The relevant portion of the said judgment is reproduced herein below:-

“19. Thereafter the present batch of writ petitions have been filed fundamentally for extension of time schedule which would

logically give rise to conducting of another round of counselling. It is contended in the writ petition that more than six thousand seats are vacant and there are thousand of students who are qualified in CET and there is no justification not to fill up the said seats. It is asseverated that due to no fault of the educational institutions which are self-financed are likely to suffer enormous financial loss and the students who have cleared the entrance test and are meritorious would lose one year. Be it stated, the notification issued by the university covered the following courses:-

- “(a) **B.Tech/M. Tech. (Dual Degree)/B.Tech. CET Code 31;**
- (b) **BBA, CET Code 125**
- (c) **BCA CET Code 114**
- (d) **B. Com., CET Code 146**
- (e) **B.Ed. CET Code 122**
- (f) **BJMC, CET Code 126**
- (g) **BA, LLB/BBA, LL.B. CET Code 121**
- (h) **MBA, CET Code 191**
- (i) **MCA, CET Code 105**
- (j) **LE to B.Tech. CET Code 128 and 129”**

20. It is not disputed that courses covered under (a), (h), (i) and (j) are covered by AICTE Regulations. B.Ed. CET Code 122 is covered under the NCTE Act and Regulations framed thereunder. Courses covered under, (b), (c), (d), (f) and (g) are directly governed by the university statutes and regulations. In the present case we are not dealing with the controversy pertaining to the cases under the NCTE Act, 1993.

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29. To sum up:

(a) Time is extended for carrying out the on-line counselling till 21st of October, 2014.

(b) The students who have already taken admission in colleges shall not be permitted to participate in the supplementary counseling, and the students who are attending classes in any institution without the counselling shall be deemed not to have been admitted and, therefore, they will be eligible to participate in the on line counseling.....”

(emphasis supplied)

13. In view of the aforesaid categorical directions issued by the Supreme Court in W.P.(C) 853/2014, the petitioner who has already been granted admission in B.A., LL.B. of respondent no. 2-Institute pursuant to earlier rounds of counseling, is not entitled to participate in the Supplementary Counseling for admission to BBA, LL.B and the impugned action of the respondent-University is in conformity with the directions of the Supreme Court.

14. Consequently, present writ petition and application are dismissed.

MANMOHAN, J

NOVEMBER 11, 2014

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