

THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment delivered on: 13.01.2015

+ **W.P.(C) 4668/2014 & CM No.9316/2014**

VISHAL MAHARAJ

..... Petitioner

versus

HINDU COLLEGE & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Aditya Kr. Choudhay and Mr Upinder
S. Dhindsa.

For the Respondents : Mr Anurag Mathur for R-1/Hindu College.
Mr Saurabh Banerjee and Mr Sumit Nagpal
for DU.

CORAM:-

HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. The petitioner has filed the present petition impugning respondent no.1's decision not to admit any student to respondent no.1 (hereafter 'Hindu College') against the quota for Extra Curricular Activity (hereafter 'ECA').

2. Hindu College is a well known institution affiliated to the University of Delhi. The petitioner being a student desirous of studying in Hindu College, applied for admission to an undergraduate course for the academic session 2014-15. The petitioner claims to be a proficient Drummer and had applied for admission against ECA Quota on 16.06.2014. After the petitioner had applied, the Principal of Hindu College had put up a notice on 04.07.2014 (hereafter the 'impugned notice') which reads as under:-

“As per the instructions of the Hon’ble Chairman, Governing Body of the College, there will be NO ECA ADMISSIONS for the academic year 2014-2015 in the College. All applicants under this category may take note of this. Those applicants who want the refund of application fee may contact the Accounts Office by providing the acknowledgement slip.”

3. In addition to impugning the above notice, the petitioner also impugns an email dated 01.07.2014 sent by the Chairman, Governing Body of Hindu College to the Principal, Hindu College directing that no student be admitted against the ECA quota.

4. According to respondents, the decision not to admit any student in the undergraduate course against the ECA quota was taken by the Chairman, Governing Body of Hindu College in consultation with other members of the Governing Body. It is affirmed that this decision was ratified by the Governing Body of the Hindu College at its meeting held on 08.08.2014.

5. According to the petitioner, the decision of the Chairman/Principal of Hindu College was illegal as being contrary to the decision of the Staff Council of Hindu College. It was contended that the Governing Body of a College/its Principal does not have any power to take decisions with regard to the admission of students and such function is entrusted exclusively to the Staff Council. It was contended that the Staff Council had already decided that 2% of the available seats would be filled up with students who had excelled in ECA and this decision could not be countermanded by the Governing Body and/or the Principal of Hindu College. It was further

contended that under the guidelines issued by the University of Delhi, it is mandatory that certain students be admitted against the ECA Quota.

6. I have heard the learned counsel for the parties.

7. It is not disputed that the Staff Council of Hindu College at its meeting held on 09.06.2014, *inter alia*, decided as under:-

“The Chairman Staff Council placed before the house the letter received from the D.R.(Academic) in which it has been conveyed that the Governing Body of Hindu College cannot take a decision to stop admission on the basis of Sports/ECA contrary to admission guidelines of the University and there is no provision for any concession to the wards of the Governing Body members for admission to any course in the University. After discussion the house decided that the Sports/ECA admissions should be done as per the university guidelines in this regard. It was also decided to distribute 21 seats (3%) for sports quota and 16 seats (2%) for ECA quota under the overall 5% quota (subject wise).”

8. Apparently, this decision was not acceptable to the Chairman, Governing Body who directed that no student be admitted against the ECA quota. This decision of the Chairman, Governing Body is stated to have been taken in consultation with other members of the Governing Body and was, subsequently, ratified by the Governing Body of Hindu College.

9. In the circumstances, the point in issue is whether a Governing Body of a college affiliated to the University of Delhi is empowered to take decisions in respect of admissions to the College.

10. The learned counsel for Hindu College has referred to its rules, which specify for the powers and duties of the Governing Body and the same are quoted as under:-

“6. Powers and Duties of the Governing Body:

Subject to the Act, Students and Ordinances and Regulations of the University of Delhi, the Governing Body shall be the Executive authority and shall have general supervision and control of the affairs of the college and shall maintain its own record of its proceedings which shall be open to inspection by the inspection authority of the University. The Governing Body shall hold, control and administer the property and funds of the college as well as other funds placed at the disposal of the College for any specific object. The Governing Body shall appoint a Treasurer from among its own members who shall discharge such duties and exercise such powers as are hereinafter specified. It may also appoint a Finance Committee to advise it on matters relating the finance. The Governing Body shall, in addition to other duties vested in it, have the following powers:-

- (i) To enter into, vary, carry out, confirm and cancel contracts on behalf of the College.
- (ii) To consider the Annual Report, the Annual Accounts and the Financial Estimates.
- (iii) To lay before the University and/or the University Grants Commission annually a statement of the financial requirements of the College.
- (iv) To fix admission, tuition and other fees to be charged from students reading and/or residing in the College (subject to any limitations laid down by the Delhi University).
- (v) To appoint Principals and other members of teaching and non-teaching staff excluding Class IV employees of the College in accordance with

the procedure laid down under Ordinance XVIII.

Provided that every teacher shall be appointed under an agreement of service to be executed by the teacher in accordance with Ordinance XII of the University and no action shall be taken which shall be in contravention of any Statute, Ordinance or Regulation or Rule made by the University in this behalf.

- (vi) To grant on the recommendation of the Principal, Study Leave and Leave without pay to the teaching staff of the College subject to the Rules and Regulations of the University and the directions of the University Grants Commission from time to time.
- (vii) To institute, suspend or abolish such teaching and non-teaching posts, as may be considered necessary.
- (viii) To open an account or accounts in the name of the College with such scheduled bank or banks as the Governing Body may think fit and to keep the funds of the College deposited with such banks.
- (ix) To take such insurance in respect of property or employees of the College, as the Governing Body may think fit.
- (x) To make rules and to alter, amend or repeal the same, provided, all such alterations and amendments and repeals receive the approval of the University of Delhi.
- (xi) To delegate, at its discretion, any of its powers as may be necessary from time to time to the Chairman and/or the Principal.
- (xii) To exercise such other powers and to do such other acts or things as may be necessary or

expedient for the proper performance of its duties.”

11. Under Ordinance XVIII of Calendar of the Delhi University, the general supervision and control of the affairs of a College is entrusted to the Governing Body. The Governing Body is also entrusted to make all decisions with regard to the policy for admissions. The relevant provision of Ordinance XVIII is quoted below:-

“2. The Governing Body will meet at least once in a term, and, subject as hereinafter provided, shall have general supervision and control of the affairs of the College and maintain its own records of its proceedings which shall be open to inspection by the inspection authority.”

12. In the aforesaid circumstances, the contention of the petitioner that the Governing Body of the College could not take decisions with regard to admissions of students is, clearly, erroneous.

13. Clause 6-A(5) of Ordinance XVIII also provides for the functions of the Staff Council and sub-clause (b) of Clause 6-A(5) of Ordinance XVIII is relevant and is quoted as under:-

“(b) Subject to the provisions of the Act, the Statutes and the Ordinances of the University, the Staff Council shall make recommendations in respect of the following matters:

- (i) Formulation of recommendations on introduction of new teaching posts in the departments and expansion of the existing departments;
- (ii) Formulation of admission policy within the framework of the policy laid down by the University;

- (iii) Formulation of guidelines regarding arrangements for the residence and welfare of students in consultation with appropriate students' organisations;
- (iv) Formulation of guide-lines regarding discipline of the students;
- (v) Formulation of policies for recommending names of teachers for participation in seminars and conferences and financial assistance to teachers."

14. It is apparent from the above that the role of the Staff Council of a college is mainly recommendatory and the Staff Council's functions include making recommendations with regard to formulation of admission policy. Plainly, the contention that decision of the Staff Council would be binding on the Governing Body is contrary to the express language of the applicable ordinance of the Delhi University. Thus, the contention that the decision not to admit any student under ECA quota is illegal must be rejected.

15. The learned counsel for the petitioner had also relied upon the guidelines dated 22.05.2014 issued by the University of Delhi for admission to various undergraduate and postgraduate courses and contended that Hindu College was obliged to follow the said guidelines. The relevant extract of the said guidelines reads as under:-

“(iv) Sports/Extra Curricular Activities (ECA)

a) For undergraduate courses:

Sports/ECA Persons=upto 5% of total intake in each undergraduate course may be offered to the candidates

on the basis of Sports and ECA in accordance with the guidelines issued by the University from time to time.

b) For postgraduate courses:

Sports= upto 5% of total intake in each postgraduate course may be offered to the candidates on the basis of Sports in accordance with the guidelines issued by the University from time to time.”

16. A bare reading of the above indicates that University of Delhi had directed that the quota for Sports and ECA should not be more than 5% of the available seats. The plain language of the guidelines indicates that the purpose was to cap the intake of students against sports and ECA quota; this cannot be read to mean that a college was obliged to provide for a sports or an ECA quota. The guidelines do not affect the discretion of a college to reduce the said quota below 5% or to do away with the admissions against Sports/ECA quota entirely.

17. Thus, the contention that the decision of the Governing Body is contrary to the guidelines issued by the University of Delhi is without merit.

18. The learned counsel for the petitioner has relied upon the decision of this Court in **Aridaman Singh v. University of Delhi and Ors.**: **2011 SCC Online Del. 5379** in support of his contention that there must be transparency in the process of admission. In my view, the said decision does not further the case of the petitioner. In that case the sports trials were held for admitting students against the sports quota. Apparently, complaints were made with regard to the admission process and an enquiry was initiated. However, since the Enquiry Committee could not be constituted

the concerned college did not admit any student under the sports/ECA category. The petition was preferred by one Aridaman Singh who claimed that he was successful in the trials and was entitled to be admitted. The petition was dismissed as being barred by delay and laches. However, the Court observed that it would be very disappointing for students who were successful in the trials held for sports category to be left in lurch on account of delayed action on the part of the University/College. In the circumstances, the Court directed the University of Delhi to frame guidelines to ensure that the process of admissions against sports/ECA quota are completely transparent and not tainted by any irregularity. The said decision cannot be read as an authority for the proposition that it is mandatory for college to admit students against sports/ECA category.

19. The admission brochure issued by the college also did not hold out any representation that certain seats would necessarily be filled up against the ECA quota. It is possible that after trials the college finds that none of the applicants were upto the required standards and in that case it would be open for the college to decline admitting any student against the ECA quota. In the circumstances, no right for being admitted accrued in favour of any student applying against the said quota.

20. In my view, no relief can be granted to the petitioner also for the reason that no trials for admission against the ECA quota were undertaken. Thus, there is no certainty that the petitioner would have been successful and admitted against ECA quota even if Hindu College had decided to admit students against that quota.

21. Accordingly, the petition and pending application are dismissed. No order as to costs.

VIBHU BAKHRU, J

JANUARY 13, 2015
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