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

+ **W.P.(C) 7327/2015**

HEERAL YADAV

..... Petitioner

Through: Mr Sanjeet Ranjan, proxy counsel for Mr
M.K. Bhardwaj, Adv.

versus

**NATIONAL INSTITUTE OF FASHION TECHNOLOGY
& ANR**

..... Respondents

Through: Mr S. Shantanu & Ms A. Shivani, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **23.11.2015**

CM No. 27623/2015

1. This is an application moved, in effect, for advancing the date of hearing. I must only record that the petitioner's conduct is a little curious.

2. Notice in this petition was issued as far back as on 04.08.2015. The notice was made returnable on 13.08.2015. On that date, the court recorded that notice could not issue to the respondent as the process fee filed was under objection. Consequently, a short date was given and the matter was, once again made returnable on a short date i.e. 26.08.2015.

2.1 On 26.08.2015, the petitioner was given time to file a rejoinder. It was recorded in the order, on that date, that the petitioner had concealed, according to the respondents, material facts. The matter was, thereafter, posted for hearing, on 03.09.2015.

2.2 On 03.09.2015, at the request of the petitioner, further two weeks

were granted to file a rejoinder. The petition was posted for hearing on 21.09.2015. On that date, the petitioner, once again, sought time to file a rejoinder. There was no assertion as regards any urgency in the matter.

3. Admittedly, the rejoinder has been filed only on 19.11.2015. Immediately upon filing of the rejoinder, the captioned application has been moved for advancing the date of hearing from 23.02.2016, in view of the expressed urgency in the matter.

4. According to me, if one were to have regard to the manner in which the petition has been prosecuted, it is not a case for advancing the date. However, having regard to the fact that the petitioner must have a chance to press her writ petition, since it is contended that it would be rendered infructuous if, the matter is taken up on the due date i.e. 23.02.2016, the captioned application is allowed, despite the tardy manner in which pleadings were sought to be completed.

4.1 The matter is thus, taken up for hearing today as the counsel for the respondents is also present in court.

5. The application is, accordingly, disposed of.

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6. The prayers in the writ petition are as follows:

“..... (i) To issue a appropriate writ for declaring the action of the respondents in not giving admission to the Petitioner in Fashion Design Discipline in any of National Institute of Fashion Design as illegal, arbitrary and unconstitutional and direct the respondents to give admission to the petitioner in Fashion Design Course.

(ii) To declare the action of respondents in ignoring the merit in admission in Fashion Design as illegal and issue appropriate directions for admission of petitioner in Fashion Design

Discipline at 3rd semester level.....”

7. Briefly, the grievance of the petitioner is that, though her preference was for a course in “Fashion Design”, she was given admission in “Accessory Design”. To be noted, the petitioner’s admission was brought about after she had cleared a competitive examination conducted by respondent no.1. The petitioner had been ranked in the general category as 3388, while in the OBC category, she was ranked as 519.

8. It appears that there is a system in place, established by respondent no.1, which allows a student to seek transfer from one course to the other. Accordingly, the petitioner has also filed an application for “Students Permanent Transfer” (in short SPT). In the said application, she had given her preferences, in order of priority, for Fashion Design, at the following centres: (i) Mumbai, (ii) Hyderabad, (iii) Bangalore, (iv) Delhi, and (v) Shilong.

8.1 The record shows that in sync with the petitioner’s rank she, along with another candidate, was offered transfer of course to Fashion Design. This is borne out on a perusal of a communication dated 11.08.2015, exchanged between the Jt. Director of respondent no.1 and the head of the Delhi centre. A perusal of the said communication would show that the father of the petitioner was not willing to accept admittance to the Shilong centre of respondent no.1 for the Fashion Design course, though, as indicated above, this was one of the preferences of the petitioner.

9. Learned counsel for the petitioner does not deny the same, however, wishes to give explanation with regard to the availability of the seats in other centres as well, in respect of which preference was given.

10. Continuing with the narrative, the petitioner being aggrieved,

approached this court by way of the present writ petition. As indicated above, notice in the petition was issued on 04.08.2015, pursuant to which the respondents have filed a counter affidavit. As a matter of fact, communication dated 11.08.2015 came to light only when counter affidavit was filed by respondent no.1. Rejoinder to the counter affidavit, as indicated above, has also been filed.

11. What has, in addition, emerged upon hearing counsels in the matter, is that, the petitioner has admittedly been issued an admit card for the third semester in the course, in which, she is presently prosecuting her studies i.e. Accessory Design. I am also informed by the learned counsel for the respondents that the subjects offered in the third semester in Accessory Design and Fashion Design are quite different. Before me, the counsel for the respondents has placed an email sent to him by his client, which adverts to the difference in the subjects:

Sr. No.	Subjects offered in the third semester of bachelor of Design (Accessory Design)	Subjects offered in the third semester of bachelor of Design (Fashion Design)
1	Cognitive Process	Fashion Illustration and Design I
2	Drawing and Rendering	Pattern Making I
3	Form Studies	Draping I
4	History and Philosophy of Design	Garment Construction I
5	Material Manipulation	Elements of Textiles
6	Photography	Surface Design Techniques I
7	--	History of Design & Fashion I
8	--	Fashion Studies

12. Based on the above, learned counsel for the respondents says that not only was there a concealment of the material aspect of the matter by the petitioner, which is that, she had been offered a transfer of course in Shilong Centre, but also the fact that it was today too late in the day for a change to be brought as the petitioner has not been instructed in the subjects concerning the Fashion Design qua the third semester.

13. I may only note, though that a perusal of the counter affidavit, in particular paragraph 3.6, shows that there is one seat available in Delhi in the OBC category. The issue before me, therefore, is: should I dismiss the writ petition merely on the ground that there is a concealment of material facts, or should I proceed further?

14. In the interest of the petitioner, notwithstanding the fact that a crucial element regarding her being offered a seat in Fashion Design at Shilong Centre was kept back, I probed the respondents further. It is during that exercise that it got revealed that the subjects taught in the third semester of the two disciplines were diametrically different. This is evident upon perusal of the extract set out above. Therefore, notwithstanding the fact that the petitioner kept back a crucial piece of information which she ought to have revealed, especially, when this aspect of the matter is examined in the light of the prayer made in the writ petition wherein she seeks a direction from this court for her admission to Fashion Design discipline “*in any*” of respondent no.1’s centres, the difference in the subjects taught in the third semester would have had an impact on the final decision in the matter.

15. Thus, having regard to the fact that the subjects in the third semester of the two disciplines i.e. Fashion Design and Accessory Design are

different, in my view, the petition cannot be entertained. The petition and the application are, accordingly, dismissed.

RAJIV SHAKDHER, J

NOVEMBER 23, 2015

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