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

+ W.P.(C) No. 8150/2015

VAISHALI

..... Petitioner

Through: Mr. Amit Rao, Adv.

versus

COLLEGE OF ART & ANR

..... Respondents

Through: Ms. Niti Jain for Mr. Anuj Aggarwal,
ASC for GNCTD for R-1.

Mr. Mohinder J.S.Rupal, Adv. for
R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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03.09.2015

1. The petitioner, a student of second year of the four year programme in Bachelor of Fine Art (BFA) with Specialisation in Applied Art of the respondent no.1 College of Art (Lalit Kala Mahavidyalaya) affiliated to the respondent no.2 University of Delhi, seeks a direction to allow her to change her specialisation from Applied Art to Painting. It was stated in the petition that another batchmate of the petitioner namely Mr. Ankit Saroha, admitted with specialisation in Painting, is willing to swap to Applied Art.
2. The petition came up before this Court first on 25th August, 2015 when the petitioner was directed to implead the said Mr. Ankit Saroha as a party to the petition and notice of the petition was issued.
3. The counsel for the petitioner states that an amended memo of parties has been filed. The same is not on record. The counsel for the petitioner however states that Mr. Ankit Saroha is present in Court today and he has instructions from the said Mr. Ankit Saroha also.

4. The counsel for the respondent no.1 College of Art also states that counter affidavit has been filed. The same is not on record. A copy has been handed over in Court which is taken on record.

5. The counsel for the petitioner and the said Mr. Ankit Saroha on enquiry as to the Rule / provision which entitled them to migrate from one specialisation to another of the BFA programme states that the respondents in the past have been allowing such migration, though no Rule permitting the same exists.

6. The counsel for the respondent no.1 College of Art has drawn attention to the letter dated 16th June, 2010 of the respondent no.1 College of Art to the respondent no.2 University of Delhi on the matter of such internal migration in second year and material portion of which letter is as under:-

“Sub: Internal Migration of IInd Year Students from their opted Specialization to another – reg.

Sir,

With reference to the above mentioned subject, your kind attention is drawn to the following:

- 1. It has been a precedence internally that the First year students promoted to IInd year of the three Specializations were allowed to change their Specializations on their request, subject to vacancy. Presently, since the intake has increased in the Specializations (where three new Specializations were introduced from the previous academic session) it is felt that this practice is facilitating unnecessary and illogical advantage of a back-door entrance from one Specialization to another.*
- 2. Aptitude Test (Entrance) for BFA Course in the Specializations i.e. Applied Art, Sculpture, Art History, Visual Communication are different, except Painting and*

Printmaking (in which the Test is common).

3. ***Hence, in the favour of the College it is required that the above practice may be stopped. The students may be allowed to interchange their Specialization only in the following conditions.***

“A student can request change of Specialization from Painting to Printmaking or vice versa only, as they have qualified the common entrance test if there is vacancy in the same category (i.e. SC/ST/Gen etc.)”

This year also, 16 students who have passed the Foundation (1st Year) from different Specialization have submitted applications for change of Specialization. The list is enclosed for your reference. Remarks there have been made as per the point No.3 above.

In view of the above, it is requested that the above proposal may be approved.”

7. Attention is next drawn to the letter dated 21st / 26th July, 2010 of the respondent no.2 University of Delhi to the respondent no.1 College of Art as under:-

“Sub:- Transfer from B.A.(H)/B.Com.(H)/B.Sc.(H) to B.A./B.Com./B.Sc. programmes.

Dear Sir/Madam,

I am directed to invite your kind attention to the Notifications No.Aca.1/2009-2010/627 dated 18th August, 2009, and Aca.1/2009-2010/639 dated 31st August, 2009, issued by the University notifying that the provisions relating to transfer from B.A.(H), B.Com.(H) and B.Sc.(H) to B.A.(P), B.Com.(P) and B.Sc.(Gen.) Courses respectively, and vice-versa as contained in Ordinance-III of the University, are not applicable to the new re-structured B.A.,B.Com., and B.Sc. Programmes due to

change of nomenclatures, course contents and schemes of examinations and that such transfers would not be permitted w.e.f. the academic year 2010-2011 and onwards.

You are, therefore, requested to kindly take necessary action accordingly.

Thanking you,”

8. It is stated that after the receipt of the aforesaid letter dated 21st / 26th July, 2010, no such migration has been permitted.

9. The counsel for the respondent no.2 University of Delhi has contended that the petitioner though in the know of the said letter dated 21st / 26th July, 2010 has concealed the same from the petition and has not challenged the same and the petition is not maintainable on this ground alone. It is further the contention of the counsel for the respondent no.2 University of Delhi that the Entrance Examination for admission to the BFA programme with specialisation in Applied Art and with specialization in Painting is different and for this reason also such migration in second year cannot be permitted by way of a back door entry.

10. Faced therewith, the counsel for the petitioner under instructions from the petitioner states that the Entrance Examination for admission to the two specialisations is “almost the same”. A copy of the Prospectus for admission to the year 2015-2016 carried by the petitioner to the Court has been perused. It is informed that the Prospectus was the same for the year in which the petitioner and the said Mr. Ankit Saroha had got admission. A perusal thereof shows that while in the Specialisation of Applied Art, 80 seats are available, in the Specialisation in Painting only 40 seats are

available. The Prospectus prescribes the method of selection by conducting an Aptitude Test and while the Aptitude Test for admission to BFA programme with Specialisation in Applied Art is to comprise of:

“Illustration from memory on a given subject in water colour, tempera, ink or oil pastels on ¼ imperial size paper.”

for admission to BFA programme with Specialisation in Painting, the Aptitude test comprises of:

“Painting from memory on a given subject in water colour tempera, ink or oil pastels on ¼ imperial size paper.”

11. At this stage the petitioner states that she is carrying the question papers of the two Entrance Examinations to show that they are “almost the same”. It is further stated that the first year of BFA programme comprising of two semesters is the foundation period and is common to both the courses.

12. The respondents, though in the past having allowed such migration, for the reasons stated in the letters dated 16th June, 2010 and 21st / 26th July, 2010 have taken a conscious decision for not allowing such migration in future. It is not for this Court to sit in judgment over the decision of the Academic Bodies in this regard. This Court is not in a position to appreciate whether the Entrance Examination for the admission to the two specialisations is “almost the same” as contended by the petitioner or not. The fact remains that the Prospectus for admission has prescribed separate Entrance Examination and composition for the Aptitude Test for admission in the two specialisations. No error can be found with the reasoning for

which the said migration has not been permitted after 21st / 26th July, 2010. It is well settled that in such academic / educational matters, the Courts cannot sit over the view of the experts on the subject.

14. The counsel for the respondent no.1 College of Art at this stage states that the students seeking migration after 26th July, 2010 have been advised to seek fresh admission in the specialisation of their choice and some of them have got themselves admitted after taking the Entrance Examination and fresh admission in the specialisation of their choice.

15. Dismissed.

No costs.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 03, 2015

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