

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **LPA 602/2015**

Pronounced on: 8th September, 2015

KHALID IMAM

..... Appellant

Through: Mr.A.P.S.Ahluwalia, Sr. Advocate
with Mr.Rajeev Saxena, Mr.S.S.Ahluwalia,
Mr.Matloob Alam and Md.Sohail, Advocates.

Versus

UNION OF INDIA & ORS

..... Respondents

Through Ms.Ripu Daman Bhardwaj, CGSC
with Mr.Rajkumar, Advocate for R-1 to 3.
Mr.Amit Bansal and Ms.Seema Dolo, Advocates
for R-4/CBSE.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

J U D G M E N T

: **MS. G. ROHINI, CHIEF JUSTICE**

1. The unsuccessful petitioner in W.P.(C) No.8347/2015 is the appellant before us.
2. The appellant/writ petitioner, who secured rank of 4198 in the All India Pre-medical Test (AIPMT) conducted by the Respondent No.4/Central Board for Secondary Education (CBSE) for admission to MBBS Course was not granted admission since he failed to fill up/log in the choices of Medical College in terms of the provisions of the User Manual issued by CBSE prescribing the Guidelines for Online Registration and Choice Filling.

3. Aggrieved by the same, the appellant filed W.P.(C) No.8347/2015 contending *inter alia* that the mere failure on his part to fill in his choice of college cannot be a valid ground for denying admission since by registering for the online counselling on the website of the respondent No.4, he had clearly shown his intention to participate in counselling process. The further contention was that the CBSE failed to notify that the failure to fill in the choice of colleges for allotment of seat would be fatal to the admission process. It was also contended that since the candidates with All India rank as low as 77000 have been given admission in the MBBS Course, the petitioner with a rank of 4198 should not have been denied admission in view of the well established principle that ‘merit ought to prevail’.

4. Having regard to the admitted fact that the petitioner had failed to lock his choice of Medical Colleges during the ‘Registration and Choice Filling Period’, the learned Single Judge declined to grant the relief prayed for and accordingly dismissed the writ petition holding that:

“13. The petitioner, who is an aspirant for admission to prestigious, arduous course of MBBS, requiring him to exercise care to the utmost, ought to have gone through the User Manual carefully and followed the same. It is not the case of the petitioner that he was prevented from filling up the choices for any reasons beyond his control or for any circumstance which may be described as act of God.

14. Moreover, this Court cannot in exercise of powers under Article 226 of the Constitution of India give a direction in contravention of the rules of admission and cannot be generous or liberal in issuing directions to authorities to violate their own rules and regulations. Reference in this regard may be made to the host of case

law referred to in the judgment of the Division Bench of this Court in *Amit Kumar Vs. University of Delhi* MANU/DE/3046/2014.”

5. Assailing the said order, it is contended before us by Sh.A.P.S.Ahluwalia, the learned Senior Counsel appearing for the appellant that the learned Single Judge ought to have appreciated the fact that a meritorious candidate cannot be deprived of his right to education on mere technical ground. It is also contended that in the absence of a specific stipulation that failure to fill in the choice of colleges for allotment of seat would be fatal to the process of online registration, particularly, in the absence of any mechanism in the online system to warn/intimate the candidate in case of incomplete process of registration, the CBSE is not justified in denying admission to the petitioner. Pointing out that even the e-registration slip downloaded by the appellant/writ petitioner did not in any way reflect the default on the part of the petitioner in filling in the choice of colleges, the learned Senior Counsel further contended that the petitioner cannot be penalized for the inadvertence.

6. It may be true that the appellant is a meritorious student having regard to the rank secured by him in AIPMT. However, the fact remains that he failed to fill up/log in the choice of medical college as stipulated in the User Manual. As rightly observed by the learned Single Judge, there does not appear to be any ambiguity regarding the requirement of filling up/locking the choices of medical college during the registration period. It has been made clear in Clause 9 of the User Manual that in case the candidate fails to lock the choice, choices filled in will automatically be locked at 5 p.m. of the last date of locking. Thus, locking the choices of Medical Colleges

being an essential requirement for the purpose of online counselling, failure to comply with the same cannot be considered to be a default that can be cured or rectified subsequently. It may also be added that consideration of such application which was incomplete in material particulars would result in granting benefit to the appellant alone while similarly situated others are denied of the same.

7. For the aforesaid reasons, we are unable to hold that the order under appeal suffered from any illegality warranting interference in an intra Court appeal.

8. Accordingly, the appeal is dismissed.

No costs.

CHIEF JUSTICE

JAYANT NATH, J

SEPTEMBER 08, 2015

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