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

+ W.P.(C) 8671/2015

DEVIK A K. R.

..... Petitioner

Through: Mr. G. Prakash, Advocate

versus

EMPLOYEES STATE INSURANCE
CORPORATION

..... Respondent

Through: Mr. K.P. Mavi and Mr. Ravi Kumar Jha,
Advocates with Mr. Nar Singh, Joint Director

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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10.09.2015

CM No.19003/2015 (Exemption)

Allowed subject to just exceptions.

W.P.(C) 8671/2015 and CM No.19004/2015 (stay)

1. Mr. K.P. Mavi has come back with instructions. He does not wish to file a counter affidavit. As per his instructions, the petitioner's contention that the application form was received by the respondent on 27.08.2015 at 3.12 p.m. is incorrect. Mr. K.P. Mavi has brought to court the download from the India Post website, which according to him, is indicative of the fact that the petitioner's application was received by the respondent on 03.09.2015, at 7.00 p.m., that is, on a date after the cut-off date.

1.1 Mr. K.P. Mavi says that the cut-off date for receipt of application was 31.08.2015.

2. Dehors this aspect of the controversy, Mr. K.P. Mavi says that against 152 seats available with the respondent, a final decision has been taken only qua 48 seats.

2.1 It is also Mr. K.P. Mavi's submission that after the cut-off date, the respondent has received 15 applications, and therefore, the petitioner's application for admission can be considered alongwith those 15 applicants.

2.2 To be noted, the petitioner has demonstrated, before this court, that the marks received by her in the entrance exam were much higher than those received by some of those candidates whose names find mention in the list of 47 candidates, who have been offered the seats pursuant to notification dated 04.09.2015, issued by the respondent. The petitioner has, admittedly, been awarded 438 marks in the entrance exam and is a candidate who falls in the OBC category. To cite examples, out of the 47 candidates who have been offered seats, as per the 04.09.2015 notification issued by the respondent, the following candidates, who otherwise fall in the OBC category, have been allotted marks which are less than those awarded to the petitioner. These candidates being those, whose names appear against serial no.15, 17, 19, 21, 30, 31, 34, 41, 42, 43, 44, 45, 46 and 47.

2.3 As a matter of fact, amongst the candidates referred to above, some candidates have concededly received marks which are way below the marks awarded to the petitioner.

3. In view of the submission of Mr. K.P. Mavi made before me, the writ petition is disposed of with a direction to the respondent to consider the application of the petitioner for allocating a seat in the subject course.

3.1 It is made clear that the candidates, who have received less marks than the petitioner, including those who are referred to hereinabove by way of example, the seats offered to the said candidates and to all others whose names find mention in the notification dated 04.09.2015, will not be disturbed.

3.2 The petitioner's candidature will be considered alongwith those 15 applicants who though had despatched their applications prior to 31.08.2015, but were received by the respondent after 31.08.2015.

4. At this stage, I am informed by the counsel for the respondent, on instructions, that the permission for counselling with respect to candidates, who are similarly circumstanced, as the petitioners are likely to be granted by the MCI within the next 2-3 days. I am told that no counselling is to be held today.

4.1 Accordingly, the respondent will act according to the permission received by the MCI and consider the case of the petitioner.

5. Undoubtedly, the respondent will communicate the date of the counselling to the petitioner, in writing. The respondent will ensure that enough leeway in terms of time is given to the petitioner for reaching the counselling centre which, I am told is located in Delhi.

6. With the aforesaid directions in place, the captioned petition and the pending application are disposed of.

7. Dasti.

RAJIV SHAKDHER, J

SEPTEMBER 10, 2015

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