

\$~31

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

%

Judgment delivered on: 14.07.2016

+ W.P.(C) 5852/2016 & CM No.24049/2016

MASTER RAZWAN ALI TARIQ THROUGH HIS FATHER M.S. TARIQ

..... Petitioner

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Saqib, Advocate.

For the Respondents : Ms. Meenakshi Midha, Advocate for respondent Nos.1 to 4.
Mr. Peeyoosh Kalra with Ms. Mahua Kalra, Advocates for respondent No.5.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner has filed the present petition seeking quashing of the letter dated 29.06.2016, issued by the respondent No.4 whereby the provisionally allotted seat to the petitioner in the Diploma course of Civil Engineering in Gobind Ballabh Pant Institute of Technology has not been confirmed due to non-clearance/deficiency in category, sub-category.

2. It is contended by the learned counsel for the petitioner that the petitioner belongs to a Scheduled Tribe and has a caste certificate that has been issued by the Tehsildar, District Poonch (Jammu & Kashmir). Based on

the said certificate, the petitioner applied for admission in the said diploma course. The petitioner contends that the respondent Nos.1 to 4 have denied confirmation of the said seat on the ground that the certificate issued by the Tehsildar, Poonch was neither endorsed by the concerned SDM at Delhi nor a fresh certificate has been issued by the SDM in Delhi.

3. Learned counsel for the respondent Nos.1 to 4 contends that as per Note 1 of Clause 6.2.1 of the Information Bulletin for Admission to Full - Time Diploma Programmes in Various Institutes Affiliated to Board of Technical Education issued by the Government of NCT of Delhi for the year 2016, a candidate seeking admission has to submit a certificate in original from the approved district authority, indicating the Schedule Caste/Tribe/OBC to which the candidate belongs. It is contended that the certificate of the candidate claiming reservation under Delhi category seats is to be from the competent authority of Delhi jurisdiction and certificate of the candidates claiming reservation against seats allocated for outside Delhi candidates, are to be from the competent authority.

4. Learned counsel appearing for the respondent No.5/SDM (Defence Colony) submits that vide Office Order No.10217/3/91 – SCD (R.Cell), Ministry of Welfare dated 16.12.1991, the SC/ST certificate cannot be issued to a person, if he is already in possession of such a certificate issued by the competent authority. Learned counsel appearing for the SDM (Defence Colony), under instructions from Mr Inder Singh, Tehsildar (Defence Colony) submits that the procedure that is adopted in terms of the above office order is that if a certificate has been issued by the said office to

the parents of an applicant, then a certificate is issued to the applicant based on the said certificate, He submits that there is no procedure for verification or endorsement of a certificate issued by the competent authorities outside Delhi. He submits that verification/authentication has to be got done by the University/Institute from the concerned competent authority.

5. In the present case, the petitioner has applied for admission to the Diploma in Civil Engineering Course under the ST category. The petitioner has furnished to the respondent Nos.1 to 4 the original of the ST certificate, issued by the concerned district authorities in the State of Jammu & Kashmir.

6. Reference may be had to Note I of the information bulletin, which reads as under:-

“Note 1:

a) For admission to a seat reserved for Scheduled Castes/Scheduled Tribes/OBCs, the candidate should submit a certificate in original at the time of admission from the approved district authority, indicating the Scheduled Caste/Tribe/OBC, to which the candidate belongs.

b) All reservations relating to SC/ST/OBC/DP/PWD etc. shall be applicable for Delhi and Outside Delhi students separately in respect of each discipline in each institute.

C) Concerned certificate of candidate claiming reservation under Delhi category seats will be from the competent authority of Delhi jurisdiction. Certificate of candidates claiming reservation against seats allocated for outside Delhi candidates, will have to furnish the certificate from the

competent authority, to establish their eligibility for reservation under the concerned reservation category.

A list of approved authorities is given below:

(i) District Magistrate/Additional District Magistrate/Deputy Commissioner/Collector/Additional Deputy Commissioner/Deputy Collector/1st Class Stipendiary Magistrate/City Magistrate (now below the rank of 1st Class Stipendiary Magistrate), Sub-Divisional Magistrate/Taluka Magistrate/Executive Magistrate/Extra Assistant Commissioner.

(ii) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency Magistrate.

(iii) Revenue Officer not below the rank of Tehsildar.

(iv) Administrator / Secretary to Administrator/Development Officer(Lakshadweep & Minicoy Island)”

7. Note 1 of the information bulletin requires a candidate to submit a certificate in original at the time of admission from the approved district authority indicating the schedule tribe to which the candidate belongs. Revenue Officer not below the rank of Tehsildar is one of the approved authorities as per note 1.

8. The petitioner has furnished in original the certificate issued by the Tehsildar in Poonch District (Jammu & Kashmir) who as per note 1 is the approved authority. The contention of the respondent Nos.1 to 4 that the certificate should be endorsed or verified by the Office of the SDM (Defence Colony) cannot be accepted in view of the submission of the counsel for the

respondent No.5 who appears for the SDM that there is no such procedure for endorsing or verification. Since, there is no such procedure of endorsement or verification by the SDM of certificates issued by the approved authorities outside the territories of Delhi, the University has to conduct its own verification and enquiry. The university cannot ask a candidate to do the impossible.

9. The petitioner has complied with the requirement of submission of the original certificate of the approved district authority. To require the petitioner to carry out the verification process at his level is not a requirement laid down by the information bulletin. Even if we assume that the petitioner were to obtain such a verification at his level, then also the respondent would also have to ascertain the genuineness of such verification.

10. Since the petitioner has complied with the requirement of submitting the certificate from the approved authority, the petitioner could not have been denied confirmation of the seat that was provisionally allotted.

11. By order dated 08.07.2016, this Court had directed the respondent No.4 to reserve one seat for the petitioner in Diploma course of Civil Engineering in Gobind Ballabh Pant Institute of Technology, Delhi. Learned counsel appearing for the respondent Nos.1 to 4 submits that as per her instructions all the seats in the said Institute had already been filled up on 05.07.2016. She submits that in view of the seats in Gobind Ballabh Pant Institute of Technology, Delhi having already been filled up on the date when the order was passed, the petitioner is being offered a seat in Pusa

Institute of Technology (Morning Shift).

12. Learned counsel for the petitioner submits that since the petitioner had given the Pusa Institute of Technology (Morning Shift) as the second option, the petitioner is agreeable to accept the said seat.

13. In view of the above, the writ petition is allowed. Respondent Nos.1 to 4 are directed to grant admission to the petitioner in Diploma course of Civil Engineering in Pusa Institute of Technology (Morning Shift), subject to the petitioner complying with the other requirements. The respondents would be at liberty to verify the authenticity of the ST certificate submitted by the petitioner. In case, the said certificate is found to be false, incorrect or otherwise invalid, the respondents would be at liberty to take appropriate action in accordance with law. The petitioner shall not be entitled to claim any special equity based on the present order.

Dasti under the signatures of the Court Master.

SANJEEV SACHDEVA, J

JULY 14, 2016
st