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

+ **W.P.(C) 11078/2016**

SHREYA SHARMA

..... Petitioner

Through: Mr. Rajesh Mahna, Adv. with Mr.
Manoj Kr. Sharma, Adv.

versus

UNIVERSITY OF DELHI & ANR

..... Respondents

Through: Mr. Mohinder J.S. Rupal & Ms.
Simran Jeet, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **07.12.2016**

1. The present petition has been filed by the petitioner, primarily for the following relief:-

“Pass an order/direction including a suitable writ in the nature of Mandamus thereby directing the respondent to allow the petitioner to deposit fee in the law course of respondent for the academic year 2016-17 and allow to attend classes.”

2. It is the submission of Mr. Mahna, learned counsel appearing for the petitioner that on May 14, 2016, petitioner applied for admission to law course in the Delhi University. On June 22, 2016, he appeared in the entrance examination and the result thereof was declared on July 5, 2016 and the petitioner secured 159th rank under the PWD category.
3. It is his case that tentative counselling was held on July 6, 2016. On

August 23, 2016, admission for 2310 seats was announced by the respondents. On August 29, 2016, the petitioner attended the counselling and submitted all the documents with the respondents. On September 3, 2016, a revised admission procedure was issued by the respondents stating that those candidates who could not attend the counselling on August 29, 2016 can again appear in the counselling. The first list concerning PWD candidates was issued on September 11, 2016 having names of 62 candidates. Second list was prepared having the names of two candidates. Similarly, third list was issued consisting names of two more candidates. In all, the respondents have admitted 66 PWD candidates against 2310 total seats.

4. The first contention is that the total seats being 2310, the 3% quota fixed under the provision of Section 33 of the Person with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 seats should have been reserved for candidates of PWD category. It is his case that the petitioner has submitted the admission form and the admission of the petitioner was approved by the respondents. He would also contend that the petitioner has been waiting for the respondents to open the fee portal, so as to deposit the fee. It is his submission that once, the admission

has been approved, the respondents cannot deny the admission to the petitioner. He would also rely upon the instructions issued by the University of Delhi dated July 6, 2015 to contend that 3% of reservation shall be calculated on the number of seats available for admissions in a particular College/Institution/Department in a particular year.

5. On the other hand, Mr. Rupal, learned counsel appearing for the respondents has placed before me a chart showing the seat distribution of LL.B. course. The details of the chart are reproduced for convenience.

Seat Distribution of the LL.B. Course for this session

1. Original Distribution: Total 2310 seats are distributed among the following seven categories (UR+OBC+SC+ST+PWD+CW+FN), based on the reservation policy of the University of Delhi.

(a) 50.5% UR+ 27% OBC+ 15% SC+7.5% ST+ 3% PWD+ 5%CW+ 5% FN= 2310

(b) 50.5% UR+ 27% OBC+ 15% SC+7.5% ST= 2045

(c) 3% PWD+ 5%CW+ 5% FN= 265

Such that: (b)2045 + (c) 265 = (a) 2310

(d) Actual Seat distribution:

UR: 1033 (50.5% of 2045)

OBC: 552 (27% of 2045)

SC: 307 (15% of 2045)

ST: 153 (7.5% of 2045)

PwD: 61 (3% of 2045)

CW: 102 (5% of 2045)

FN: 102 (5% of 2045)

Grant Total = 2310

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2. Maximum eligible candidates in CW and FN:

CW: 30

FN: 07

i.e 30+ 7= 37 seats in total for CW + FN

Remaining seats in CW: 102-30=72

Remaining seats in FN: 102-07=95

Total leftover (vacant) seats in CW+FN= 72+95=167

These 167 leftover seats are redistributed to 5 other categories (UR+OBC+SC+ST+PwD), as per the University reservation policy:

UR: 82

OBC: 44

SC: 24

ST: 12

PwD: 05

Total= 167

3. Final seat distribution after redistribution of Vacant CW and FN seats:

Total 2310 (inclusive of UR+OBC+SC+ST+PwD+CW+FN)

UR: 1033+82= 1115

OBC: 552+ 44=596

SC: 307+ 24=331

ST: 153+12=165

PwD: 61+ 5=66

CW: 30 (maximum eligible candidates)

FN: 07 (maximum eligible candidates)

Grand Total: 2310”

6. He would also state, that the seats numbering 2310 were earmarked for this year on the basis of the intake capacity fixed by the Bar Council of India. According to him, the submission of Mr. Mahna, that the horizontal reservation of 3% for PWD candidates need to be calculated on 2310 seats, is not tenable. He states the reservation meant for PWD (3%), CW (5%) and FN (5%) need to be calculated within limit of 2310 seats. According to him, the number of seats reserved for PWD category was 61 and as certain seats were left over under the category of CW and FN, the same were also filled by giving the benefit to the PWD candidates. He states, in all, 66 seats were filled by PWD candidates.

7. Having noted the submissions made by the learned counsel for the parties, I agree with the submission made by Mr. Rupal, with regard to the quota meant for horizontal reservation, need to be calculated within the limit of 2310 seats. The 3% of 2045 seats being 61 and also the left over 5 seats having been filled by the candidates with PWD, the total being 66 seats and the last candidate given admission was of the rank No.135 from amongst the PWD candidates and the petitioner being at 159th rank, the denial of admission to the petitioner cannot be faulted.

8. Insofar as the plea of Mr. Mahna that the respondents having accepted

the admission form of the petitioner and there being a remark on the form that the admission of the petitioner has been approved, (which submission has been denied by Mr. Rupal by pointing out to page 57 of the paper-book) is concerned, I reproduce here under the relevant, stipulation in the notification dated September 03, 2016.

“It may be noted that the reporting and document verification alone does not entitle a candidate for admission. Admission shall be given to the eligible candidate (subject to the verification of the documents) who reported at the Faculty of Law during prescribed time limit, against the available seats, as per merit.”

Mr. Rupal is right in contending that, acceptance of an admission form, shall not confer any right in favour of the candidate as admission has to be on merit.

9. The issue need to be seen from another perspective, also inasmuch as concededly, the last candidate admitted to the LL.B. course was at rank No. 135. The petitioner's rank is 159. There are 24 candidates above the petitioner, who would have a prior right for being considered for admission, as they also belong to PWD category. Their right cannot be overlooked while granting the relief in favour of the petitioner.

10. Even though, Mr. Rupal states that the admissions were closed on

30th September, 2016; the submission has been disputed by Mr. Mahna by stating that admissions were also effected in the month of October, 2016. Be that as it may, in view of the discussion above, this Court is of the view that the prayer as made in the present petition cannot be granted. The petition is dismissed.

11. No costs.

V. KAMESWAR RAO, J

DECEMBER 07, 2016/ak