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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 11640/2016, CM Nos. 45864-45865/2016**
GAURAV SHARMA

..... Petitioner

Through: Mr.Anshumaan Sahni, Mr.Sukant
Vikram, Mr.Abhinav Ankit, Adv.

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY

..... Respondent

Through: Ms.Anita Sahani, Adv.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **09.12.2016**

CM No. 45865/2016

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 11640/2016

1. The present petition has been filed by the petitioner with the following prayers:-

“(a) Call for the records of the case.

(b) Issue a writ of mandamus or any other like writ, order or direction in the nature thereof setting aside the order bearing No.IPU-7/Incharge (Acad.)/M.Tech/2016-2017/16548 dated 15.11.2016 issued by the Respondent University whereby the

admission of the Petitioner has been cancelled.

(c) Issue a writ of mandamus or any other like writ, order or direction in the nature thereof directing the respondent university to allow the petitioner to continue his studies and allow him to appear in the exams;

(d) Award costs to the Petitioner;”

2. As is seen from the above, the challenge in this petition is to the communication dated November 15, 2016, which is communication from the In-charge (Admissions) of the respondent University to the Director/Principal, Delhi Institute of Tool Engineering communicating the decision of the Competent Authority to cancel the admission of the petitioner in M.Tech on the ground that the petitioner had not submitted the eligibility proof/non-fulfilment of the eligibility criteria upto October 15, 2016.

3. Learned counsel for the petitioner would state that the petitioner, who had done B.Tech from Greater Noida Institute of Technology affiliated to Dr. A.P.J. Abdul Kalam Technical University, Uttar Pradesh had submitted his provisional degree certificate to the respondent University. That apart, the petitioner, who was in possession of first year mark sheet and the internet mark sheets for the second, third and fourth year had submitted the same to the respondent University in the month of November, 2016. He

states that the said certificates are sufficient to depict the eligibility of the petitioner for admission in M.Tech course. He would also submit that the petitioner has been allowed to pursue his studies for almost six months. He also states that the petitioner is eligible as in terms of the provisional degree awarded by Dr. A.P.J. Abdul Kalam Technical University, it is clear that the petitioner has secured first division and first division, if translated in percentage, is 60%. The cancellation of the admission for non-submission of eligibility proof/non-fulfilment of eligibility is illegal and liable to be set aside.

4. On the other hand, Ms. Anita Sahani, learned counsel appearing for the respondent University would state that the present petition is an abuse of the process of law, inasmuch as the petitioner has concealed a material document, which is in the nature of an undertaking given by the petitioner that he would submit eligibility proof by October 15, 2016. The petitioner has failed to produce the same. That apart, she would urge that the petitioner is also not eligible for admission in the M.Tech course as the eligibility condition for admission in M.Tech course stipulate, a candidate must have minimum 60% or equivalent in the qualifying examination. The petitioner has obtained 2999 marks out of maximum marks of 5000 in his

B.Tech course, which if translated in percentage shall be 59.98%, which is less than 60%. She also points out that the Rules of the University inter-alia stipulate there will be no rounding off of the percentage of marks of qualifying examination while deciding the eligibility of any candidate for admission. For example, if a candidate obtains 49.9% marks in his/her qualifying examination then it will not be rounded off to 50%. Therefore, the candidate is not eligible for that programme where minimum requirement of marks is 50%. In case, a candidate for any reason fills the minimum percentage wrongly in the verification form, he/she shall be solely responsible.

5. According to her, assuming the University from where the petitioner has acquired its qualification, has rounded off the percentage of 59.98 secured by the petitioner in the qualifying examination to 60%, the same shall not be considered for the purpose of admission in the respondent University, which is governed by its own Rules.

6. Learned counsel for the respondent relies upon the judgment of this Court in the case of *Shubham Aggarwal v. Guru Gobind Singh Indraprastha University and Anr Writ Petition (Civil) No. 2126/2016*, which was dismissed by the learned Single Judge vide order dated April 5,

2016 and in the appeal being *LPA No. 268/2016 decided on May 17, 2016*, the Division Bench has upheld the order of the learned Single Judge, to contend that the affidavit given by a candidate to the extent that he would furnish his certificate by November 02, 2015 and on failure to submit the same before that date, the action of the respondent to cancel admission of the petitioner is justified.

7. Having heard the learned counsel for the parties, there is no dispute that the petitioner had submitted an undertaking that he would submit the eligibility proof on or before October 15, 2016. The petitioner had only given provisional certificate having acquired the B.Tech qualification. The mark sheets of second, third and fourth were not original but were downloaded from the internet.

8. That apart, the submission made by the learned counsel for the respondent that petitioner does not meet the eligibility condition of having minimum 60% marks in the qualifying examination is appealing, inasmuch as the Rule of the University placed before me, which has been referred to above, clearly stipulates that the candidate should have 60% marks in actual and not on the basis of rounding off principle. If that be so, there is no dispute that the petitioner had only 59.98%, which is less than 60%, which

shows the petitioner was not eligible for admission to the M.Tech course.

9. I also note, that the judgment referred to by the learned counsel for the respondent disentitle the petitioner, the relief as sought for in the present petition. I do not see any illegality in the communication, which is under challenge in this petition. The writ petition is dismissed.

CM No. 45864/2016

Dismissed as infructuous.

V. KAMESWAR RAO, J

DECEMBER 09, 2016/ak