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

+ W.P.(C) 367/2017

TABISH ALEEM

..... Petitioner

Through Mr.Mobin Akhtar, Adv.

versus

DELHI TECHNOLOGICAL UNIVERSITY & ANR ..... Respondents

Through Mr. Avnish Ahlawat and Mr. Anuj

Dewan, Advs.

Ms. Nidhi Raman and Mr. M.C.

Chopra, Advs for R-2.

**CORAM:**

**HON'BLE MS. JUSTICE INDERMEET KAUR**

**ORDER**

% **10.07.2017**

By way of this petition, the petitioner is seeking a refund of the fee which he had deposited with respondent No.2; the processing of the refund of the fee had to be done by respondent No.1. In spite of repeated requests having been made by the petitioner to the concerned Department, his admission fee which he had deposited (in the sum of Rs.75,000/-) and which is an amount dear to him; the petitioner being a poor resident of Delhi, his application has not been considered.

The averments in the petition disclose that the petitioner had appeared in Joint Engineering Examination for the year 2016. On 29.06.2016, he had applied online for counselling to the Joint Admission Counselling conducted under the supervision of respondent No.2. As a pre-condition, an amount of Rs.75,000/- had been deposited by the petitioner. The on 09.07.2016 he had been offered a provisional seat in Engineering in the course of Electronics and Communication Engineering. The first choice of the petitioner was Computer Science. On 20.07.2016, the petitioner got an

opportunity to apply to his chosen course at the Central University i.e. Jamia Millia Islamia where he got admission. Since the course offered by respondent No.1 was not his first choice, he had asked for withdrawal of the provisional admission which he had submitted before the Department. Additional submission is that he had sent a mail at 02:00 PM in the afternoon along with all the requisite documents on 21.07.2016 to respondent No.1 informing them about his intention to withdraw his admission. His application has however not been processed.

Counter affidavit of respondent No.1 is on record. Respondent No.1 is the authority who has to process and returned the admission fee to the petitioner if need be. Learned counsel for respondent No.1 points that a refund request had been received for the first time from the petitioner on 01.08.2016 which was again de-hors any document; in fact the original documents have not been filed till date. Attention has also been drawn to a letter dated 23.08.2017 addressed by the petitioner to respondent No.1 wherein again a request for refund of the admission fee has been made but it was again de-hors the original documents.

The stand in counter affidavit of respondent No.2 is noted. Their stand is that after receipt of the mail from the petitioner, within two minutes i.e. at 02:09 PM on 21.07.2016 itself a mail had been generated and received by the petitioner informing him that for the purposes of withdrawal of his admission, the petitioner was required to submit original documents and to be physically present at the Institute from where he was seeking a withdrawal of his admission

fee which was up to 05:00 PM on 21.07.2016. Contention of respondent No.2 being that till date the petitioner has not submitted his original documents and in the absence of which his application lying with the Department could not be considered.

Contention of both the respondents is that in the absence of original documents not having been filed by the petitioner, his case could not be processed for refund of his admission fee.

At this stage, learned counsel for the petitioner submits that if need be, he could file the original documents today. On this submission, learned counsel for the respondents point out that this is a clear case where it has been admitted by the petitioner that the original documents have not been filed till date.

Arguments have been heard. Record has been perused.

Record shows that a candidate seeking withdrawal of his admission may apply for a withdrawal of his admission fee up to 05:00 PM on 21.07.2016. This is contained in the Admission Brochure of respondent No.2. Along with this application seeking a refund of his admission fee, the petitioner had to surrender the original admission slip or any other documents issued to the candidate at the time of counselling or admission. This original admission slip issued by the Department to the petitioner has not been filed before the Department. Learned counsel for the petitioner contends that on 01.08.2016 followed by another letter dated 23.08.2016, he has categorically stated that he has filed his original documents with the Department and this has not been denied by the respondents in their counter affidavit.

The stand of respondent No.1 is clear. Respondent No.1 has stated that a hand written letter of the petitioner dated 01.08.2016 for withdrawal of his admission and refund of his fee was without any original documents. The original documents have in fact not been filed till date. The counter affidavit of respondent No.2 is also clear. It categorically informed the petitioner that the petitioner had to be physically present at the Institute from where he was seeking a withdrawal before 05:00 PM on 21.07.2016. This is clear by Annexure R-3 which has been filed by respondent No.2 along with its counter affidavit. Even in the letter dated 01.08.2016, the petitioner had stated that he was out of station on account of visiting his sick uncle; he had in fact in this letter stated that he has presented himself physically; there is again no mention of his having filed any original document. This is against the instructions specified in the Admission Brochure of 2016 which clearly postulates that the admission fee can be refunded only if the original documents are presented by the petitioner to the Department.

The additional submission of both the respondents is also noted; this submission is crucial and weighs in the mind of the Court as keeping in view the fact that the admission seat of the petitioner continued to be retained by him; the valuable seat in the stream of Electronic Engineering which course had been offered to the petitioner remained vacant for the relevant academic session and thus not entitling any other person to get it; this was in view of the fact that the records of respondent No.2 continued to show that the petitioner remained an admitted student. This stand of the Department has

heavily weighed in the mind of the Court to note that a negligence/un-explanatory attitude of the petitioner in not being physically present to produce his original documents i.e. admission slip to respondent No.2 has resulted in this chaos. The candid submission of the petitioner being at this stage in making a statement that the original documents, if are lying with the petitioner, the same shall be returned today also reflects the callous attitude of the petitioner. If a procedure had been laid down, this necessarily had to be followed. This has not been followed by the petitioner. Even presuming that the petitioner was delayed by one day and he has presented himself at the Institute on 01.08.2016 yet the communication dated 01.08.2016 also does not state that the original documents are being submitted to the Department. Even in the communication dated 23.08.2016, there is again no mention by the petitioner that he had submitted the original documents to the Institute. The stand of the respondents all along has been that the original admission slip had to be submitted before the case of the petitioner could be processed. It was thus incumbent upon the petitioner to have followed this procedure. The petitioner not having followed the procedure, this Court is of the view that the petitioner has not made out any case.

Petition is without any merit. Dismissed.

**INDERMEET KAUR, J**

**JULY 10, 2017**

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