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

+ LPA 507/2017 & C.M. No.26634/2017

KEVIN CC WONG

..... Appellant

Through: Mr. Arun Monga with Mr. Srutyajyoti
S. Paul and Ms. Rudrat Sandhu, Adv.

versus

UNIVERSITY OF DELHI

..... Respondent

Through: Mr. Mohinder JS Rupal, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

28.07.2017

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Issue notice. Counsel for the respondent accepts notice.

The appellant has preferred the present appeal to assail the orders dated 17.07.2017 & 18.07.2017 passed by the learned Single Judge in W.P. (C) No. 5960/2017. The appellant is the petitioner in the said writ petition. He has applied for admission to the undergraduate course at Delhi University under the sports quota. He is proficient in the sport of badminton.

The appellant preferred the said writ petition raising a grievance that the process of granting admission under sports quota was unfair and arbitrary. The manner of awarding marks to the candidates who apply under the sports quota is that a maximum of 40 marks are reserved for the

past performance of the candidates and a maximum of 60 marks are reserved for the current performance. The current performance is judged on the basis of trials held by the university wherein the competing candidates are made to play the sport against each other and the victor is awarded higher marks compared to the loser.

The submission of counsel for the appellant is that the writ petition was preferred in grave urgency by preparing the same overnight and filing the same, since the process of admission is in progress. He submits that so far as the aspect of evaluation of past performance is concerned, the appellant was awarded 29 marks. However, another candidate, namely, Arjun Sachdeva was awarded 32 marks on the premise that he had stood first in the International Badminton School Championship.

Learned counsel submits that, in fact, the said candidate had not played the final match as he was only a part of the team. Merely because he was a part of the team, he could not be considered as having played the game at the final contest and on that basis he could not have been granted the first position, and 32 marks could not have been awarded to him. He further submits that in the trials – to judge and assess the current performance, the Appellant did much better than the said Arjun Sachdeva. Learned counsel submits that by the impugned order, the learned Judge has however closed the said aspect from challenge.

Mr. Rupal, who appears on advance notice, submits that neither this aspect was pleaded in the writ petition, nor argued before the learned Single Judge. He submits that so far as the award of marks to the candidates from out of the 60 marks (allotted for current performance) is concerned, the matter is pending examination and it is now listed before the learned Single

Judge on 03.08.2017. He does not dispute the fact that since the writ petition is pending, the grant of any admission would be subject to *lis pendens*.

Considering the aforesaid, we dispose of the present appeal by permitting the appellant to amend the writ petition to make necessary averments in relation to the assessment of past performance of, inter alia, Arjun Sachdeva - and, if he considers appropriate, to implead the affected persons as party respondents. If any such amendment is made, the same should be brought on record by 31.07.2017 with advance copy to counsel for the respondent/ university so that the university may keep its reply ready when the matter is listed before the learned Single Judge on 03.08.2017.

So far as the order dated 18.07.2017 is concerned, counsel for the appellant does not press his appeal in that respect, and he states that he shall argue C.M. No. 25079/2011 which is listed on 03.08.2017 before the learned Single Judge.

The petition stands disposed of in the aforesaid terms.

Order dasti under the signatures of the Court Master.

VIPIN SANGHI, J

REKHA PALLI, J

JULY 28, 2017

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