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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Judgment: 18.8.2017

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W.P.(C) 6733/2017 and CM No.28033/2017

ANSHIT VERMA

..... Petitioner

Through: Mr.Ravi Prakash, Mr.Yukti Anand
and Mr. Farman Ali, Advocates.

versus

GOVT. OF NCT OF DELHI AND ORS.

..... Respondents

Through: Mr.Arjun Mitra and Ms.Jaskaran
Kaur, Advocates for R-2.

Ms.Avnish Ahlawat and Ms.Palak
Rohmetra, Advocate for R-3.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

INDERMEET KAUR, J.

1 Petitioner is aggrieved by the inaction on the part of the respondent. Submission is that he had been selected in the final list of admitted candidates qua the course of "Computer Science and Design" (B.Tech programme) offered by respondent no.2 but in the final list his name did not appear.

2 Record shows that the petitioner has submitted online registration and Choice Filling Form along with Fee on the Joint Admission Counselling

2017 process website in June 2017. He was registered to participate in the aforementioned JAC 2017. On 29.6.2017 the petitioner appeared in the first round of counseling for the purpose of seat allotment. He obtained allotment in the course of “Computer Science and Applied Mathematics”. Petitioner deposited admission fees of Rs.75,000/- on 20.6.2017 and thereupon payment receipt was issued to him. On 03.7.2017 when the petitioner visited the respondent University for the purpose of documents verification, all documents were found to be in order except one document which was the medical fitness certificate; petitioner was asked to produce the medical certificate on or before 25.7.2017. This document was submitted by the petitioner on 17.7.2017.

3 Petitioner’s admission in the course of “Computer Science and Applied Mathematics” was secured yet he was permitted to sit in the subsequent round of counseling for a chance to upgrade to a course of higher preference. The petitioner at the time of his admission in the “Computer Science and Applied Mathematics” course had an option to submit a form for Freezing of Branch (in terms of brochure) meaning thereby that the seat of the petitioner would have been frozen or locked in the aforementioned course. Petitioner however did not opt for filling this Form as he wanted to go for a

higher preference branch and had he filled up the Form he would not been entitled to upgrade to any of his higher preference. He thus did not submit the Form and became entitled to a higher preference branch. On 18.7.2017 in the Fifth round of counseling, the petitioner obtained a higher preference course of his choice i.e. “Computer Science and Design” offered by respondent no.1. He was issued a certificate of allotment for the said “Computer Science and Design” course. Accordingly, the petitioner sat for the Sixth round of counseling which was the last round of counseling but did not obtain any of his other higher preference courses. As a matter of precaution he asked the concerned authorities/representatives of the respondent no.2 institute to ensure whether any further formalities are required to be complied with. He was informed in the negative. On 31.7.2017 the petitioner visited the respondent institute for commencement of his classes and was shocked and traumatized to learn that his name does not figure in the final list of admitted students. Since the petitioner has been running from pillar to post to find out as to why his name was deleted from the final list of candidates of “Computer Science and Design” for which he had been allotted a seat being successful in the Fifth round of counseling qua that course. Additional submission is that the choice of

filling the 'Form for Freezing of Branch' was not filled by him for the higher preference course of "Computer Science and Design" which was allotted to him in the Fifth round of counselling. However, all particulars were supplied to the institute inspite of which his name was missing from the list of final candidates for the course of "Computer Science and Design". He was constrained to file the present petition.

4 Counter affidavit has been filed by respondent no.2 (the contesting respondent). The stand of respondent no.2 is that the petitioner although had been granted admission in Computer Science and Applied Mathematics, had paid the fee and had also reported for verification of his documents; yet since he had sought an upgraded seat in the higher preference course of "Computer Science and Design" he was required to present himself for a physical verification of the documents which he failed to do so. In the earlier round of counseling for the course of "Computer Science and Applied Mathematics" he had appeared in person for verification of his documents but deficiency was noted in his documents; the deficiency was that OBC certificate was not submitted by him. He was issued a deficiency memo on 03.7.2017. It was informed to him that his admission had been held up because of non-production of the document. It is a wrong statement made by

petitioner that he had been granted time up to 25.7.2017 to make good the deficiency in his documents. That date is incorrect. Submission is that the Annexure P5 (the document relied upon by the petitioner) has in fact been manipulated and the date has been made to read as 25.7.2017 instead of 05.7.2017. This has been done to mislead the Court. On merits, it is reiterated that the petitioner had applied for the first course i.e. the “Computer Science and Applied Mathematics” which had been allotted to him. He had participated in the counseling. An allotment letter had been issued to him but the said allotment letter was only provisional; this was subject to the condition as mentioned in the admission information brochure. Fees of Rs.75000/- had been paid by the petitioner on 30.6.2017. On 29.6.2017 the petitioner had appeared in the first round of counseling. On 03.7.2017 he had submitted details of his online registration; he was under the Other Backward Classes (OBC) category; document to the said effect had to be furnished. The required OBC certificate was not furnished. He was informed of the same. He was to submit the same by 05.7.2017 failing which his admission was to cancel. The fee deposited by him was for “Computer Science and Applied Mathematic” for admission under the category of OBC. Since he did not file his OBC certificate in time his

admission under the OBC category was cancelled and he was shifted to the general category for future round of counseling.

5 The petitioner had submitted his OBC certificate on 15.7.2017 which entitled him to participate in the future round of counseling under the OBC category. It is admitted that the petitioner was eligible to sit in the Fifth round of counseling held on 18.7.2017 under the OBC category. He was allotted a seat in the course of “Computer Science and Design” in the IIITD. Earlier offer of admission to the course of “Computer Science and Applied Mathematics” stood cancelled. Petitioner was bound to appear for physical verification of his documents (as per the requirement of the schedule in Admission Brochure) on 20.7.2017. The petitioner however failed to appear physically for verification of documents which disentitled him for admission.

6 Counsel for respondent no.2 has refuted these submissions. He has placed reliance upon a judgment of the Division Bench reported as 221(2015) DLT 738 *Pallavi Sharma Vs. College of Vocational Studies and Anr.* to support his submission that the procedure which is prescribed in the prospectus is binding and no mandamus can be issued directing the education institutions to act contrary to their own procedure.

7 No rejoinder has been filed. Contents of the petition have been reiterated. It is pointed out that the petitioner did not appear physically on 20.7.2017 as he was under the bona fide and general impression that since he had already been granted admission in the “Computer Science and Applied Mathematics” course and physical verification of his documents already having stood completed he would not be required to appear again for verification of the documents qua the higher preference course of “Computer Science and Design”; otherwise he would have appeared. Admittedly, he had paid the fee of Rs.75,000/- and had also submitted his OBC certificate on 15.7.2017. This was probably a confusion in the mind of the petitioner. Submission being reiterated that such a huge penalty should not be imposed upon him for his bonafide error which is on his part only for the reason that he has mis-understood the aforementioned directions.

8 Record shows that the petitioner had admittedly secured his admission in the “Computer Science and Applied Mathematics” course pursuant to his successful ranking in JAC 2017. He had also appeared in the first round of counseling and submitted his documents for verification; what according to the Department was missing was the OBC certificate which was furnished by the petitioner on 15.7.2017. The fact that the petitioner had been permitted

to participate in the Fifth and Sixth round of counselling (under the OBC category) and was successful in Fifth counseling which entitled him to a seat in the course of “Computer Science and Design” is also admitted by respondent no.2. The mis-match, however, appears to be for the reason that respondent no.2 had again required the petitioner to be present for a physical verification of the documents as his first admission qua the course of “Computer Science and Applied Mathematics” stood cancelled. This was a bona fide error on part of the petitioner. It has been explained by him that since he had chosen a higher preference course in the same institute, a physical verification of his documents already having been conducted earlier and the only lacking document i.e. OBC certificate also having been furnished by him on 15.7.2017 (found to be in order); the explanation of the petitioner why he did not appear for the physical verification of documents on 20.7.2017 for the reason of this misunderstanding that he was not required to be again present for a second physical verification of his documents appears to be justifiable. There could not be another reason why the petitioner would have chosen to abstain from appearing on 20.7.2017 when all along he had been pursuing his desire of getting a seat allotted in the course of his choice being the “Computer Science and Design”. This is

the only objection of respondent no.2. Admittedly, all documents of the petitioner including his OBC certificate were found to be in order; they had been verified. The OBC certificate was verified by respondent no.2 subsequently at the time when the petitioner had been granted the course of his choice “Computer Science and Applied Mathematics” and the same was found to be in order when submitted by the petitioner on 15.7.2017. In these circumstances, this Court is at total loss to understand why the petitioner would have abstained from appearing on 20.7.2017 but the reason (as explained by him) that it was a misunderstanding on his part that he did not require to be again physically present for a subsequent verification of his documents. This error on the part of the petitioner should not penalize him for getting a rejection for an admission to the course which he had otherwise qualified on merits.

9 The judgment relied upon by the respondent would not apply to the peculiar facts of the instant case as this is a case of a genuine error on the part of the petitioner which has been adequately explained by him.

10 Petition is allowed.

INDERMEET KAUR, J

AUGUST 18, 2017
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