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

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Judgment delivered on: 04.01.2017

+ **W.P.(C) 12176/2016**

SIMRAN SINGHAL

..... Petitioner

versus

VICE CHANCELLOR INDRAPRASTHA
UNIVERSITY & ORS.

..... Respondents

Advocates who appeared in this case:

For the Petitioner :

Mr.Pankaj Garg and Mr Milind Garg

For the Respondents:

Mr. Vaibhav Kalra, Advocate for R-1.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

04.01.2017

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner has filed the present petition seeking a direction to the respondents to dispose of the applications/Request Letters of the petitioner dated 08.10.2015 and 21.09.2016. By letter dated 08.10.2015, the petitioner had written to the Vice Chancellor, Galgotia University, seeking for No Objection Certificate for migration from the School of Architecture under the Galgotia University at Greater Noida to MBS College of Planning and Architecture at Dwarka under the Guru Gobind Singh Indraprastha

University. By letter dated 21.09.2016, a similar request was made to the Chairman, University Grants Commission.

2. The petitioner had taken admission in the year 2015 in B.Arch. Course with Galgotia University, School of Architecture at Greater Noida.

3. The petitioner, by the said letters dated 08.10.2015 and 21.09.2016 requested for grant of No Objection certificate for migration to the MBS College of Planning and Architecture at Dwarka. The reason given by the petitioner is that the residence of the petitioner is far away from the Institute at Greater Noida and substantial time is spent in commuting between the residence and the Institute.

4. The petitioner has cleared the first and second semester examination and has already taken the examination of the 3rd Semester and is awaiting the results.

5. Reliance is placed by the learned counsel for the petitioner on the Minimum Standards of Architectural Education Regulations, 2015 of the Council of Architecture, more particularly, Regulation 5, which deals with intake and migration, to contend that the Institutions, at their discretions, are empowered to allow migration of students from one Institution to another.

6. Further reliance is placed on the judgment of this Court dated

19.08.2013 in W.P.(C) No.4467/2013 titled **Shashank Shandilya versus Guru Gobind Singh Indraprastha University & Another,** wherein reference is made to another decision in **Aman Ichhpuniani versus Vice Chancellor, Delhi University,** 1998(71) DLT 201, to contend that the discretionary power conferred on the Principal of a College from which migration is sought, to forward or not to forward a prayer for migration, is coupled with a duty to act reasonably, guided by relevant considerations and not by whims or caprice and further a student has a right to choose an educational institution of his choice while seeking admission.

7. Learned counsel for Guru Gobind Singh Indraprastha University, who appears on advance notice, submits that in terms of the Ordinance 7 of the said University relating to Migration of students, no inter university migration is allowed in normal circumstances, however, it could be allowed, under special circumstances, in beginning of the 2nd Year/3rd Semester only.

8. It is contended that the circumstances, referred to by the petitioner of distance, are not special circumstances entitling the petitioner for inter university migration.

9. The petitioner is residing at Patparganj, Delhi and the Institute where the petitioner had taken admission in the year 2015 is at Greater Noida under the Galgotia University. The petitioner seeks migration to an Institute at Dwarka which is under the Guru Gobind Singh

Indraprastha University.

10. Ordinance 7 of the Guru Gobind Indraprastha University (GGIP University) reads as under:-

“Ordinance 7

No Migration shall be allowed from other Universities/Colleges to the University School of Studies, University maintained colleges or affiliated institutions i.e. no inter-university migration shall be allowed in normal circumstances.

It can be allowed in the beginning of 2nd year/3rd Semester only under special circumstances by the Vice-Chancellor, on the recommendations of a sub-committee, comprising of three members of Academic Council, constituted by the Vice-Chancellor subject to the following conditions:

- (i) The applicant student/candidate must have cleared each paper of both the semester of 1st year/or all papers of the 1st year as it applies for a particular programme.*
- (ii) There should not be any gap between the 1st year and the 2nd year of a particular programme meaning thereby that the pursuance of the programme remains continuous.*
- (iii) A student/candidate who has compartment in any one paper of the 1st year or either of the 1st or 2nd semester of the 1st year shall not be permitted for migration.*

- (iv) *The student must also fulfil the eligibility criteria of admission of Guru Gobind Singh Indraprastha University originally applied to the batch of students to which migration is being sought.*

Under no circumstances a student, not fulfilling the above conditions would be considered for migration.

No Migration is permitted into the medical colleges of the Guru Gobind Singh Indraprastha University from any institution/college.”

(underlining supplied)

11. Reading of Ordinance 7 shows that under normal circumstances, migration is not to be permitted where it deals with inter-University migrations. Only under special circumstances, the Vice Chancellor, on the recommendations of a Sub-Committee, can allow migration. Ordinance 7 also stipulates that under no circumstances, a student, not fulfilling the conditions stipulated by the Ordinance, would be considered for migration.

12. Ordinance 7 stipulates that migration can be allowed in the beginning of 2nd Year/3rd Semester only under special circumstances. Admittedly, in the present case, the petitioner has filed the present petition after the conclusion of the 3rd Semester and that also after the semester examination is over.

13. The case of the petitioner clearly does not fall in the

circumstances mentioned in the Ordinance 7 of the respondent – GGIP University. Furthermore, the petitioner was aware of the distance between the residence and the Institute when the petitioner took admission in the year 2015.

14. Learned counsel for the petitioner concedes that there is no change in circumstances from the date the petitioner took admission till the date the petition has been filed, which can be called to be any special circumstances entitling the petitioner to seek migration.

15. The petitioner was aware of the distance between the residence and the Institute, at Greater Noida, where the petitioner took admission. Once the petitioner has taken admission knowing the said distance, the petitioner cannot be permitted to contend that there is any change in circumstance or special circumstances entitling the petitioner to seek inter university migration.

16. Regulation 5 Sub-Regulation (4) of the Minimum Standards of Architectural Education Regulations, 2015 of the Council of Architecture, relied on by the petitioner, reads as under:-

“(4) The Institutions may allow, at their discretion, migration of students from one Institution to another, within the Intake sanctioned by the Council, unless otherwise specifically instructed/permitted by the Council, with due intimation to the Council.”

17. Sub-Regulation (4) of the Regulation 5 only empowers an

institution to allow migration of students from one institution to another. The migration is permitted at the discretion of the Institutions. No doubt, discretion has to be exercised judicially and in cases where there are guidelines/principles stipulated, guiding the exercise of discretion, the discretion so exercised would not be interfered with.

18. In the case of respondent – GGIP University, the said University has framed Ordinance which lays down principles which act as guideline for exercise of discretion.

19. As noticed above, the case of the petitioner does not fall within the circumstances laid down by Ordinance 7 of GGIP University and accordingly, it cannot be said that the stand taken by the GGIP University, in denying the admission to the petitioner at this stage, can be said to be incorrect exercise of discretion or faulted.

20. Reliance placed by the learned counsel for the petitioner on the decision in the case of **Shashank Shandilya** (*supra*) and **Aman Ichhpuniani** (*supra*) is misplaced. The Court, in the case of **Aman Ichhpuniani** (*supra*) has laid down that the discretionary power conferred on the Principal of a College, from which migration is sought, to forward or not to forward a prayer for migration, is coupled with a duty to act reasonably, guided by relevant consideration and not by whims or caprice.

21. Further, it may be noticed that in the case of **Shashank**

Shandilya (*supra*), the petition was dismissed holding that mere distance cannot amount to special circumstance for seeking migration.

22. In the instant case, the Ordinance is a guide to the Vice Chancellor and in fact acts as a fetter on the discretionary power of the Vice Chancellor. The Vice Chancellor is guided by the said Ordinance and any decision taken by the Vice Chancellor, being guided by the said Ordinance, would be said to be a reasonable exercise of the power and not one actuated by whims or caprice.

23. In the present case, there is as yet no application filed by the petitioner with the GGIP University because the Galgotia University has not granted any NOC. Since there is no application with GGIP University as yet, the question of even consideration by the Vice Chancellor of the application for migration does not arise. The petitioner is seeking a direction to the Galgotia University as well as the University Grants Commission to grant a No Objection Certificate, so that the petitioner can take admission with the GGIP University.

24. As noticed above, the Ordinance of GGIP University disentitles the petitioner to seek migration because the petitioner has already concluded her 3rd Semester. Since the petitioner, at this stage, would not be entitled to take admission in the GGIP University. No purpose would be served in directing the respondents – Galgotia University and University Grants Commission to consider the prayer for the grant

of No Objection Certificate.

25. Further, reliance placed by the petitioner on the three instances of migration permitted by GGIP University in the case of Ms. P.Swarna Sahithi, Ms Khushboo Bansal and Ms Alka Sharma do not advance the case of the petitioner because in all the three cases, the migration was sought in the 3rd Semester and not after the end of the 3rd Semester, as is the case of the petitioner.

26. In view of the above, I find no merit in the petition. The same is accordingly dismissed. No costs.

27. It is clarified that this decision would not come in the way of the petitioner seeking migration to some other University or Institute, which does not have a stipulation/restriction, as contained in Ordinance 7 of the GGIP University.

28. *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J

JANUARY 04, 2017

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