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

+ LPA 14/2017

MANJU YADAV

..... Appellant

Through: Mr.Pankaj Sinha with Ms.Richa
Singh, Advs.

Versus

JOINT REGISTRAR (MEDICAL) AND ANR. Respondents

Through: Ms.Simran Jeet, Adv. for
Mr.Mohinder J.S. Rupal, Adv. for University of
Delhi.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

06.01.2017

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1. This appeal is preferred against the order of the learned Single Judge dated 15.12.2016 in W.P.(C) No.10166/2016. The petitioner No.2 in the writ petition is the appellant before us. It appears that the petitioner No.1 has already secured admission in another institution and therefore has not chosen to challenge the order of the learned Single Judge.

2. We have heard the learned counsel for both the parties.

3. The material available on record shows that pursuant to the Notification issued by the University of Delhi, Faculty of Ayurvedic and Unani Medicines inviting applications for admission into the MD/MS (Ayurved) for the Academic Session 2016-2019, the appellant herein as well

as the petitioner No.1 in W.P.(C) No.10166/2016 submitted applications under Persons with Disabilities (PWD) Category. Alleging that they were not invited for counselling for admission to the course applied for, they filed the writ petition seeking a direction to the respondents to consider their candidature for admission to the course of MD/MS (Ayurved). The contention was that the impugned action of the respondents in not making the admissions against 3% of sanctioned seats reserved for Persons with Disability is illegal.

4. The University of Delhi filed the counter affidavit stating that out of total 62 seats available, 31 seats (50%) were earmarked for Delhi University quota and that one seat was required to be earmarked for PWD category if there are 33 seats, but since there were only 31 seats available this year, the Admission Committee could not reserve any seat for PWD category. It is also stated that the procedure followed was in accordance with the Bulletin of Information wherein it was clearly stated that the reservation both vertical, horizontal and compartmental shall be done as per roster maintained.

5. After hearing both the parties, the learned Single Judge held that the stand of the respondents would frustrate the very intent of Sections 33 and 39 of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short 'the Act') and runs contrary to the judgment of the Supreme Court in *Union of India v. National Federation of the Blind and Ors.*; (2013) 2 SCC 772. In the light of the law laid down in *Rajesh Kumar Daria v. Rajasthan Public Service Commission*; (2007) 8 SCC 785, it was concluded by the learned Single Judge:

" 14. Translating the above position of law to the facts of this case, 7 candidates who are above the petitioners in merit and belonging to OBC category shall be adjusted against 7 seats and the eighth seat, if no OBC candidate belonging to PWD category has been selected within the seven seats, one of the petitioners, who is high in merit, should have been given the eighth seat. This has not been done. "

6. It was also held that the O.M. dated 29.12.2005 of DoPT for maintenance of roster cannot be invoked to frustrate the very mandate of Sections 33 and 39 of the Act and that being a creature of statute the University is obligated to give effect to the mandate of Sections 33 and 39 of the Act. The further contention of the University that the petitioners belong to OBC category for which only 8 seats are available and therefore no seat can be reserved under PWD category was also held to be untenable and it was held that the eighth seat against the 8 seats meant for OBC candidates should have been filled by a person belonging to PWD category.

7. However, having regard to the admitted fact that the cut-off date for admission into the course i.e. 30.11.2016 has already expired and the last selected candidate was not impleaded to the writ petition as party respondent, the learned Single Judge was of the view that the direction for admission for this Academic Session cannot be granted and accordingly the writ petition was disposed of with the following direction:

"16. In view of my discussion above, the only relief that can be granted at this stage is the respondents, shall, reserve one extra seat for OBC candidate belonging to PWD category over and above, to be reserved against the vacancies to be sanctioned in the next academic year and shall grant admission to one of the petitioners who is high in merit."

8. Aggrieved by the same, the petitioner No.2 in the writ petition filed this appeal.

9. It is vehemently contended by Mr. Pankaj Sinha, the learned counsel for the appellant that the learned Single Judge should have directed the respondents to reserve one extra seat for this year itself so as to save one Academic Session of the appellant. It is also contended that though it is a fact that the classes have already commenced, a further direction could have been granted to the respondents to conduct extra classes for the appellant to serve the ends of justice. The further contention of the learned counsel for the appellant is that since the writ petition was filed in the last week of October, 2016 itself much before the closure of the admissions, the learned Single Judge should not have declined to grant the relief to the petitioner merely on the ground that the cut-off date for the admissions has expired.

10. We have observed that the learned Single Judge declined to grant the relief for this Academic Session not only on the ground that the cut-off date for admissions has expired but also on the ground that the selected candidate, who would be affected in case a direction for admission for this Academic Session is granted to the petitioner, has not been made party to the writ petition. In our considered opinion, the learned Single Judge was right in holding so. Since the admissions have already been made, the same cannot be disturbed in the absence of the candidates who were given the admission.

11. It is also relevant to note that the Apex Court has time and again highlighted the importance of cut-off date for starting the professional courses and has repeatedly impressed upon that sanctity to the time-schedule

has to be attached and adherence to admission schedule is a subject which requires strict conformity by all concerned without exception. [Vide: *Priya Gupta v. State of Chhattisgarh*; (2012) 7 SCC 433 and *Parshvanath Charitable Trust v. All India Council for Technical Education*; (2013) 3 SCC 385]. Therefore, the learned Single Judge has rightly held that no relief can be granted to the petitioners after the expiry of the cut-off date fixed for admission into the course in question.

12. For the aforesaid reasons, we do not find any justifiable reason to interfere with the order under appeal. Accordingly, the appeal is dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

JANUARY 06, 2017

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