

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

Reserved on: 31.08.2017
Pronounced on: 05.09.2017

+ **LPA 568/2017 & CM Nos.30960-30961/2017**

ROSHNI RAMAN

..... Appellant

Through: Mr. Rachit Mehrotra and Mr. I. S. Singh, Advs.

versus

UNIVERSITY OF DELHI & ORS

..... Respondents

Through: Mr. Arun Bhardwaj, CGSC for respondent-UI.

Mr. Mohinder J. S. Rupal and Mr. Prang Newmai, Advs. for respondent-Delhi University.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE R.K. GAUBA

MR. JUSTICE S. RAVINDRA BHAT

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1. The appellant preferred a writ petition (W.P.(C) No.7183/2017) which is pending on the file of this Court. She was an applicant in the "CW Category" and sought admission on the basis of a priority, which the University of Delhi ("the University") had published to give effect to the Union, Ministry of Defence (MoD) circular of 19.05.2017. In short, the preference is by way of a reservation of wards/widows of five categories of personnel who are either killed in action or disabled and boarded out from service.

2. The petitioner had applied for the LL.B. course; she contended that consistently the respondent/University had, with respect to other courses, especially in the Medical category (MBBS, BDS/MD, etc.) and also in the Ayurveda and Unani disciplines, clearly spelt out that the reservation benefits were available to widows, wards and/or wives of such defence personnel.

3. The Single Judge by her impugned order of 21.08.2017 issued notice but refused to grant any interim order. The appellant therefore contends that the refusal of interim order would, in effect, irreparably prejudice her because no seats would be left to be filled in the eventuality of her being granted final relief.

4. The appellant's counsel reiterated the submissions made in support of the appeal as well as the writ petition and pointedly referred to all the circulars/brochures, for the years 2012-13, 2013-14, 2014-15, 2015-16 and 2016-17 which read as follows:-

“Five Percent (5%) seats are reserved on horizontal basis for the candidate belonging to Children, Widow and Wives of Armed and Para Military Personnel (CWWAPP) category.”

5. Learned counsel also relied upon extracts of the website of the Board, indicating the reservation/preference to various categories. The relevant extract of the website is as follows:-

*“3. **Admission into MBBS/BDS Colleges.** At present (approx 25 to 27 seats) in MBBS and (one seat) in BDS (subject to allotment of seats by Min of Health) as Central Govt. nominee are available through KSB for wives/widows and*

wards of categories of Defence personnel in the following order of priority:-

- (a) Killed in action.*
- (b) Disabled in action and boarded out from service with disability attributable to Military Service.*
- (c) Died while in service with death attributable to Military Service.*
- (d) Disabled in service and boarded out with disability attributable to military service.*
- (e) Gallantry Award/Distinguished Service Award winners (does not include Service Medals)."*

6. This Court had heard the counsel for the parties including the Delhi University and the Kendriya Sainik Board. The Board was directed to produce the relevant records, which it did. A consideration of the record would reveal that even though in the website the expression "wife/widow" has been used in a loose and interchangeable manner, the information brochures in every case have taken their own course. Furthermore, when the policy was first formulated in 1994, its benefits were confined to widow/wards. Likewise, the same approach has been adopted by the Delhi University, which has followed the 19.05.2000 circular in the Information Brochure for admission to the Academic Year 2017-18.

7. The use of the expression "ward" – according to various dictionaries signifies someone under the care and protection of an adult. What emerges from a reading of the Black's Dictionary, Stroud's Judicial Dictionary of Words and Phrases is that the term "ward" presupposes someone under the protection or guardianship of another. In law, the relationship acquires a fiduciary character where the ward depends on certain decisions of the guardian.

8. In these circumstances, having regard to the state of the record, the Court is of the opinion that *prima facie* the refusal to grant interim relief by way of a direction to admit the writ petitioner or in some other manner protect her interest, cannot be characterized as unreasonable or as a palpable error. The policy relied upon by the writ petitioner is confined to admission to Medical, Unani and Ayurveda courses and Dental courses. In the circumstances, it cannot be said that there has been a consistent pattern of granting the benefits to wives; equally it cannot be asserted that independently the expression “ward” *prima facie* extends to the inclusion of the spousal relationship.

9. For the above reasons, no interference with the impugned order is called for. However, nothing stated in this order will preclude the consideration of the appellant’s case on its merits. All rights and contentions of the parties are reserved.

The appeal is, therefore, dismissed.

S. RAVINDRA BHAT, J

R.K. GAUBA, J

SEPTEMBER 05, 2017

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