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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 05.09.2017

+ **LPA 580/2017, C.M. APPL.32093/2017 & 32111/2017**

INDERPRASTHA INSTITUTE OF INFORMATION
TECHNOLOGY DELHI Appellant

Through : Sh. Arjun Mitra, Advocate with Sh. K.P.
Singh, Deputy Registrar.

versus

ANSHIT VERMA & ORS Respondents

Through : Sh. Ravi Prakash, Advocate, for
Respondent No.1.

Sh. Rhishabh Jetley, for Sh. Sanjoy Ghose, ASC,
for GNCTD.

Ms. Palak Rohmetra, for Ms. Avnish Ahlawat,
Advocate, on behalf of DTU.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

MR. JUSTICE S. RAVINDRA BHAT (OPEN COURT)

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1. Issue notice. Sh. Ravi Prakash; Sh. Rhishabh Jetley and Ms. Palak Rohmetra, Advocates accept notice.
2. With consent of the learned counsel for the parties, the appeal was

heard finally.

3. The appellant is aggrieved by the direction of the learned Single Judge in the impugned judgment which required it to admit the first respondent [hereafter referred to as “the candidate”] to the first year B.Tech course in Computer Science and Design (CSD) for the academic year 2017-18.

4. The admission to the University was invited from amongst the eligible candidates who had completed their 12th standard and other qualifying courses, through an online admission process. This entails submission of forms and six rounds of counselling on successive alternative dates. The counselling process meant that those deemed to be higher in the order of merit were offered the subjects in the institutions of their choice and depending on their declining the offer, those seats were in turn kept for later rounds of counselling which again entail involvement of the same process of determination of merit in the various categories, i.e. general, reserved etc. The candidate was offered admission to the B.Tech course in Computer Science and Design in the first round which he had opted for.

5. The undisputed facts here are that the candidate had paid the requisite fee in terms of the offer made and appeared in the first round of counselling on 03.07.2017. Since the candidate had applied under the OBC/reserved category quota, his inability to furnish the original certificate resulted in the cancellation of the seat offered to him. Consequently, in terms of the rules of admission notified in the brochure, the candidate’s application was to be considered in later rounds depending on the production of his certificate.

6. Till this stage, there is no divergence in the stand of the parties. Apparently, on 15.07.2017, the candidate – who by then had been issued with the OBC certificate – furnished a copy thereof to the University. This

enabled him to apply for the SC round of counselling which he did through an electronic process on 18.07.2017. The admission rules set-out elaborately the stipulations governing each round of counselling. The penultimate round, i.e. the fifth round of counselling is followed up by a residuary round known as the “SPOT Round” which is, of course, subject to the availability of seats. The rules of the entire online counselling procedure is set-out in Chapter 5 of the brochure.

7. At this stage, it would be necessary to reproduce some of the stipulations in the brochure - Chapter 4, especially para (6) which essentially dealt with fee structure, prescribes, *inter alia*, as follows –

“6) Result Declaration: Result of seat allotment in various rounds will be declared as per the Counselling Schedule. A selected candidate can take printout of the provisional seat allotment letter after logging into his account on the website <http://www.jacdelhi.nic.in>. Allotment of seat is purely provisional and is subject to verification of original certificates and payment of University/Institute admission fee, as applicable, at the time of reporting at the respective University/Institute.”

8. Chapter 6, which essentially deals with fee structure, prescribes *inter alia* at the foot of para 6.1 an *Important Note* which warns the candidates about the consequences, as follows:

“Important Note: Candidates, who get seat allotment first time in any round and who do not pay their fee, will forfeit their seat allotment automatically and will not be considered for subsequent ONLINE rounds of seat ALLOTMENT. IT IS MANDATORY FOR THE CANDIDATES TO PAY THE ADMISSION FEE TO BE CONSIDERED FOR THE SUBSEQUENT ROUNDS OF ONLINE COUNSELLING.”

9. The candidate’s case – before the learned Single Judge is best

described in his words by the following extract of his pleading in that regard:

“13. That thereafter, on 03.07.2017, the petitioner visited the Respondent No.2 Institute for the purpose of document verification along with requisite documents as well as admission fee payment receipt. During such verification, all documents were found to be in order, except one document being medical fitness certificate, which the petitioner had inadvertently overlooked to bring along with him on such date. Accordingly, the Petitioner was asked to produce such medical certificate on or before 25.07.2017. It is humbly submitted that until such stipulated date being 25.07.2017, the admission remained valid, and would only be cancelled in the event the Petitioner failed to submit such medical fitness certificate by 25.07.2017.

*A copy of memo dated 03.07.2017 stating that Petitioner has been allotted a seat in the ‘Computer Science and Applied Mathematics’ course offered by the Respondent No.2 Institute with the undertaking that the Petitioner will submit his remaining document being medical fitness certificate by 25.07.2017 is annexed hereto and marked as **ANNEXURE P/5.**”*

10. He alleged that when he did contact the University after 25.07.2017, on the assumption that since all documents had been furnished, his candidature ought to have been accepted, he was surprised to learn that his candidature had been forfeited. He, therefore, addressed a letter/representation on 03.08.2017 protesting the University’s actions. Relying upon the intimation (which according to the candidate enabled him to furnish the OBC certificate on or before 25.07.2017), he approached the Court under Article 226 of the Constitution.

11. The University which was arrayed as a principle respondent, refuted the arguments of the candidate/petitioner, contending that the inability to

produce the OBC certificate within the time granted, i.e. 05.07.2017 resulted in the cancellation of the seat offered in the first round. It was alleged, more seriously, that the candidate had in fact manipulated the documents which were furnished during the course of the writ petition as Annexure P-5 in two significant details, i.e. with respect to the scoring-out of the category specifying documents and also with respect to the date. It is specifically urged that instead of the originally specified 05.07.2017, the documents produced in the Court was a manipulation which was subject to overwriting the date as 25.07.2017 instead of 05.07.2017. A copy of the documents appearing on the University's file was annexed to the counter affidavit.

12. The University's counter affidavit pertinently states as follows:

“5. This it is respectfully submitted that the petitioner has not only sought to mislead this Hon'ble Court, but has also made deliberately wrong statements on oath and has filed manipulated documents on record. It is submitted that this conduct of the Petitioner not only disentitles him from being granted any relief, but also makes him liable for appropriate action being taken against him.

6. In this behalf, it is submitted that when the Petitioner was required to report for physical verification of documents, the deficiency found was that he had not submitted his OBC certificate. This is an essential document for claiming the benefit of reservation and accordingly, a deficiency memo was issued to him on 03.07.2017, which clearly stated that his offer of admission was held up due to its non-production. Therefore, the first wrong statement made by the Petitioner was that he had failed to submit his medical certificate.

7. The second wrong statement made by the petitioner is that he was given time till 25.07.2017 to make good the deficiency in the documents. The fact is that the next round of counseling was scheduled for 05.07.2017 from 5.00 pm onwards

and therefore, in the event that the caste certificate was received before that date and time, the admission would be confirmed and an admission letter would be issued. Failure to submit the document would result in the offer being cancelled and the seat would then be offered to the next candidate in line.

8. *That there was no occasion for time to submit the document being given till 25.07.2017, in view of the scheduled rounds of counseling, the next one being on 05.07.2017.*

9. *The next act of dishonesty on the part of the petitioner is that the document enclosed at page 89 (Annexure P-5) has been manipulated. In the description of the deficiency, the word Category has been scored off and the date for submission has been manipulated to read as 25/07/17 instead of 05/07/17. It is therefore, abundantly clear that the same has been done in order to mislead this Hon'ble Court and such conduct amounts to fraud. The copy of the actual deficiency memo dated 03.07.2017 issued to the petitioner is enclosed herewith and marked as **ANNEXURE R2/1.***

13. Learned Single Judge who heard the writ petition correctly reproduced the essence of the pleadings as well as the arguments and also noted that the petitioner/candidate had not refuted the allegations made in the course of any rejoinder. Further, she allowed the writ petition, reasoning as follows:

“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."

14. The University argues, firstly, that the learned Single Judge, *after* noticing the observations with respect to the manipulation of records, did not

deal with it. It was emphasized that the manipulation went into the root of the matter and should have influenced the Court in declining to exercise jurisdiction under Article 226 of the Constitution in the circumstances of the case.

15. It was argued, consequently, that the learned Single Judge overlooked the scheme involving the admission process outlined in the brochure inasmuch as the offer given to every candidate is subject to verification of documents and that in the event of any deficiency in that regard, the seat offered at that stage of the process/counselling would stand cancelled.

16. This, according to the University, means that the candidate's names would be considered as and when the deficiency is corrected at the appropriate round. Therefore, the University, upon being furnished with a copy of the OBC certificate by the candidate permitted him to participate in the online counselling on 18.07.2017. However, he did not present himself for the fifth round of counselling at the designated time and place, i.e. on 20.07.2017. In these circumstances, the University could not be faulted with for proceeding to cancel his candidature once again and offering a seat which was open to him in the fifth round, i.e. on 18.07.2017, to some other eligible candidate.

17. It was also argued, lastly, that the learned Single Judge's order cannot be complied with even otherwise, since, the SPOT Round which mopped-up the remaining /residual seats, have also been concluded.

18. Learned counsel for the petitioner/candidate explained that since in the first round, the applicant had qualified but was unable to produce the original OBC certificate he was granted time. According to his interpretation, the brochure is flexible enough to offer fresh opportunity or time to several

candidates to produce the requisite certificates. He, thus, stated that as and when the candidate furnished the certificate on 15.07.2017, nothing further was required since the other documents had been verified in the first round.

19. It was stated that so far as the allegation with respect to manipulation are concerned, even though no rejoinder affidavit was filed, the candidate's position was that on the date the deficiency slip was given, i.e. 03.07.2017, someone in the department itself had, upon being told that the certificate could not be obtained within two days, extended it by correcting the date from 05.07.2017 to 25.07.2017.

20. It was submitted, lastly, that this Court should not disturb the direction of the learned Single Judge on account of a mistake committed by the petitioner in the understanding of the brochure.

21. As discussed earlier, the brochure outlines in detail the online process of admission. Central to this is the counselling procedure, Chapter V, with its various stipulations – clauses 5.1 to 5.6 clarified that the seats offered to candidates are for a limited duration within which they have to importantly appear physically, with the relevant documents and satisfy the concerned JAC with respect to the *prima facie* genuineness and that the concerned candidate is indeed eligible to fill the seat. The procedure adopted appears to be that short duration is given to the concerned candidate to cure deficiencies, if any, noticed in the physical round of counselling. In this case, the candidate was allowed and did participate in the first round of counselling by appearing before the JAC on 03.07.2017; however, he did not produce the OBC certificate which he had to, since he claimed a OBC seat for the course he had opted.

22. The records of the University which were called for and considered by

this Court, - contained the counterfoil or duplicate copy of the deficiency memo furnished to the petitioner. It states as follows:

<i>CANDIDATE COPY</i>		
<i>JOINT ADMISSION COUNSELLING, DELHI</i>		
<i>(DEFICIENCY MEMO)</i>		
<i>Date & Time: 3/7/2017 4:14 pm</i>		
<i>Roll No.</i>	<i>:</i>	<i>11611984</i>
<i>Application No.</i>	<i>:</i>	<i>70510082</i>
<i>Name</i>	<i>:</i>	<i>ANSHIT VERMA</i>
<i>Father's Name</i>	<i>:</i>	<i>KAMAL VERMA</i>
<i>Date of Birth</i>	<i>:</i>	<i>01 May 1998</i>
<i>Region</i>	<i>:</i>	<i>DELHI</i>
<i>Rank</i>	<i>:</i>	<i>JEE (Mains)=68091.00, Allotted Rank=68091.00</i>
<i>SEAT ALLOTMENT DETAILS</i>		
<i>Course Name</i>	<i>:</i>	<i>COMPUTER SCIENCE AND APPLIED MATHEMATICS</i>
<i>Institute Name</i>	<i>:</i>	<i>INDRAPRASTHA INSTITUTE OF INFORMATION TECHNOLOGY DELHI</i>
<i>Counselling No.</i>	<i>:</i>	<i>01</i>
<i>The above offer of admission is held up due to non-production of Document/Certificate for Category Certificate, Non-essential Documents:- Registration fee slip.</i>		
<i>Candidate undertakes to furnish the above mentioned requisite documents by 05/07/17 positively, failing which the said offer shall stand cancelled.</i>		
<i>Sd/-</i> <i>(Signature of Candidate)</i>	<i>Sd/-</i> <i>(Signature of Parents/Guardian)</i>	<i>(Signature Admission Officer)</i> <i>(Indraprastha Institute of Information Technology Delhi)</i>

23. A copy of the deficiency memo annexed to the writ petition interestingly reads as follows:

<i>INSTITUTE COPY</i>		
<i>JOINT ADMISSION COUNSELLING, DELHI</i>		
<i>(DEFICIENCY MEMO)</i>		
<i>Date & Time: 3/7/2017 4:14 pm</i>		
<i>Roll No.</i>	:	<i>11611984</i>
<i>Application No.</i>	:	<i>70510082</i>
<i>Name</i>	:	<i>ANSHIT VERMA</i>
<i>Father's Name</i>	:	<i>KAMAL VERMA</i>
<i>Date of Birth</i>	:	<i>01 May 1998</i>
<i>Region</i>	:	<i>DELHI</i>
<i>Rank</i>	:	<i>JEE (Mains)=68091.00, Allotted Rank=68091.00</i>
<u>SEAT ALLOTMENT DETAILS</u>		
<i>Course Name</i>	:	<i>COMPUTER SCIENCE AND APPLIED MATHEMATICS</i>
<i>Institute Name</i>	:	<i>INDRAPRASTHA INSTITUTE OF INFORMATION TECHNOLOGY DELHI</i>
<i>Counselling No.</i>	:	<i>01</i>
<i>The above offer of admission is held up due to non-production of Document/Certificate for Category Certificate, Non-essential Documents:- Registration fee slip.</i>		
<i>Candidate undertakes to furnish the above mentioned requisite documents by 25/07/17 positively, failing which the said offer shall stand cancelled.</i>		
<i>Sd/-</i> <i>(Signature of Candidate)</i>	<i>Sd/-</i> <i>(Signature of Parents/Guardian)</i>	<i>Sd/-</i> <i>(Signature Admission Officer)</i> <i>(Indraprastha Institute of Information Technology Delhi)</i>

24. The receipt was signed by the candidate. The explanation given by the candidate's counsel today, which is not in fact reflected in the impugned judgment as to the overwriting in the document produced before the Court in support of the writ petition is that the corrections or striking-off of certain particulars in the receipt were made by someone in the staff, wears thin and

is unconvincing; if that were indeed so, nothing prevented the petitioner from so saying in the rejoinder. Furthermore, if in fact the category certificates were not to be produced, the entire rationale for the candidate's proceeding before this Court, i.e. he was an OBC candidate, falls to the ground.

25. In other words, that he was an OBC candidate and that he produced the OBC certificate was the essence of the writ petition. If indeed there was any truth in the receipt produced by him (which had struck-out the category certificate part), there was no reason for him to furnish it on 15.07.2017 and then participate in the online counselling part on 18.07.2017.

26. Clearly, the candidate/petitioner approached the writ court with false particulars and in fact managed to secure relief which might otherwise have been granted.

27. Furthermore, the submission made by the candidate, i.e. that in the later round, he was under a mistaken belief that since in the first round, all his documents were verified, there was no necessity to participate in the physical part of the counselling, more so in the face of the copy of the OBC certificate furnished on 15.07.2017, this Court notes that this is contrary to the procedure prescribed in the brochure.

28. Previously, this judgment has extracted the relevant part of the brochure which delineated the procedure which had to be applied equally to all candidates who had presented themselves with the concerned documents at each round of counselling. To permit the petitioner/candidate to carve-out the exemption in his case uniquely would be to direct the University to follow a procedure that is not prescribed by it and that it is bound to fail in respect of all cases.

29. For the above reasons, this Court is of the opinion that the impugned judgment cannot be sustained. The appeal is allowed in the above terms.

**S. RAVINDRA BHAT
(JUDGE)**

**SUNIL GAUR
(JUDGE)**

SEPTEMBER 05, 2017

