

#57

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 11.07.2018

W.P.(C) 7024/2018

AKSHITA SINGH

.... Petitioner

versus

LADY SHRI RAM COLLEGE FOR WOMEN & ORS ... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Ashok Bhasin, Mr. Anil Sapra, Mr. Sandeep Aggarwal, Senior Advocates with Dr. Saif Mahmood, Mr. Jaideep Singh and Mr. Vivek Agarwal, Advocates

For the Respondents : Mr. Ankur Chhibber and Mr. Bhanu Gupta, Advocates for R-1
Mr. Mohinder JS Rupal and Mr. Prang Newmai, Advocates for DU
Mr. Amit Bansal and Ms. Seema Dolo, Advocates for R-3/CBSE

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

C.M. No.26630/2018 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 7024/2018

1. The present petition under Article 226 of the Constitution of India seeks a direction in the nature of mandamus to Lady Shri Ram College for Women (for short 'LSR'), as well as, the University of Delhi, respondent Nos. 1 & 2 herein respectively, to forthwith admit the petitioner to the BA (Honours) History course (hereinafter referred to as the 'subject course') for the academic session 2018-21.

2. Issue notice.

3. Counsel, as above, accept notice on behalf of the respondents.

4. With the consent of learned counsel appearing on behalf of the parties, the present writ petition has been heard finally and is disposed of with the following order.

5. The facts as are necessary for the adjudication of the present proceedings are briefly encapsulated as under:

- a. The petitioner passed the Class XIIth examination conducted by CBSE (respondent No.3 herein), having secured 95.25% marks initially.
- b. The petitioner thereafter applied for admission, *inter alia*, to the subject course in LSR, in the general category.
- c. Prior to that, the petitioner had, being dissatisfied with the marks awarded to her by the CBSE in history, where she had initially secured 91 out of 100 marks, applied to them for rechecking/revaluation of her marks in that subject. The CBSE informed the petitioner that upon checking, no

mistake was detected in her marks and therefore, there would be no change in them.

- d. On 15.06.2018, being dissatisfied with the result of rechecking/verification, the petitioner applied for a copy of her answer-sheets and subsequently, on 22.06.2018, applied for revaluation of her answer-sheets, in accordance with the procedure prescribed by the CBSE in relation thereto.
- e. On 05.07.2018, the petitioner received the revaluated result from the CBSE on e-mail. Upon revaluation, the petitioner's marks in history had been increased by the CBSE from 91 to 96, thereby increasing her percentage in the 'best of four' subjects from 95.25% to 96.5%.
- f. In the meantime, LSR had on 19.06.2018, declared its first cut-off list for the subject course, with 96.50% in the 'best of four' subjects, as the cut-off, in the general category.
- g. Admittedly, subsequent upon the escalation of her marks as afore-stated, having secured 96.50% in the 'best of four' subjects, the petitioner became entitled for admission to the subject course, in terms of the first cut-off list published by LSR.
- h. However, LSR refused to grant her admission in view of their assertion that, admission in the subject course, in the general category, was closed on 21.06.2018.

6. Learned counsel appearing on behalf of the petitioner would urge that, in view of the circumstance that the cut-off date for

admissions notified by the University of Delhi is 14.07.2018; and the petitioner having secured the benchmark in the 'best of four' subjects, as required after the revaluation of marks done by CBSE; and having applied for admission to the subject course at the LSR, is therefore entitled to admission in that course *ex debito justitiae*.

7. The above contention is buttressed on behalf of the petitioner, *inter alia*, by decisions of two Division Benches of this Court in LPA No.574/2017, titled as '*Shri Ram College of Commerce vs. Sunny Goel & Ors.*' decided on 09.11.2014 and in W.P. (C) No. 4410/2010, titled as '*Jainidh Kaur (Through her next friend & Natural Guardian Sh. Sarabjeet Singh) vs. ST. Stephens College and Ors.*' decided on 28.04.2011.

8. In addition to the above, the decision of a learned Single Judge of this Court in W.P.(C) 7455/2017, titled as '*Suhani Jain vs. Lady Shree Ram College for Women & Anr.*' decided on 25.08.2017 is also canvassed before me.

9. The legal position that emerges from a conspectus of the afore-mentioned decisions is as follows:

- a. Revaluation cannot be an exercise in futility.
- b. The relevant cut-off date for admission of a student, is the date stipulated therefor, by the University of Delhi.
- c. The assertion of the University of Delhi that if admissions is continued indefinitely, due to delayed revaluation of marks by CBSE, the same would result

in a delay in the commencement of the academic session, is completely misplaced, in view of the preceding sub-para.

- d. Despite the circumstance that all the seats in the subject course have been filled by a particular college, the court can direct the University of Delhi for creation of a supernumerary seat.
- e. The assertion that a meritorious student has already obtained admission to another college cannot disentitle them from securing admission to a college or subject of their own choice.
- f. That the college in question, when directed to create a supernumerary seat, is empowered to approach the University Grants Commission for release of additional funds.

10. Learned counsel appearing on behalf of the University of Delhi submits that there can be no quarrel with the legal position as elaborated hereinabove.

11. Counsel for the University of Delhi would, however, state that there is an issue that arises from the current academic session, which requires consideration by this Court, in the present proceeding. It is urged on behalf of the University of Delhi that, in terms of the Bulletin of information issued by them for the current academic session, colleges may consider admission of candidates whose marks get increased in the process of rechecking/revaluation within the

prescribed period of admission, subject to fulfillment of other eligibility conditions, **only if**, seats in the desired course, in a particular college of choice are available, at the relevant time.

12. In this behalf, it is pointed out that the seats in the subject course are no longer available at the LSR and therefore, by operation of the above guideline issued by the University of Delhi, the petitioner is not entitled to admission to the subject course at LSR.

13. The submission made on behalf of the University of Delhi cannot be countenanced by this Court. It is trite to state that the Courts have repeatedly enunciated the principle that, construction of a rule or procedure which promotes justice and prevents miscarriage, has to be preferred. The rules or procedures are the handmaid of justice and not its mistress. [**Ref: Salem Advocate Bar Association vs. Union of India**, reported as (2005) 6 SCC 344].

14. In the facts and circumstances of the present case, it would be a travesty of justice, if the narrow interpretation sought to be placed on the guideline issued by the University of Delhi were permitted to defeat the ends of justice.

15. It is axiomatic that when it comes to admission of students, the University of Delhi, in terms of the decisions of this Court, is required to be responsive to the needs of meritorious candidates, *lest* the latter are denied freedom of choice, on account of delay occasioned by CBSE, for no fault of the candidate. The interpretation of the guideline issued by the University of Delhi must

be liberal enough to prevent any miscarriage of justice. Even otherwise, the subject guideline is merely that, and cannot have the force of law.

16. In view of the foregoing discussion, the present petition is allowed and LSR is directed to grant admission to the petitioner in BA (Honours) History course for the academic session 2018-21 forthwith, and for this purpose, if required, the University of Delhi is directed to create a supernumerary seat.

17. Before parting with the order, it is incumbent to reiterate the direction issued by this Court in *Sunny Goel (supra)* to the effect that the University of Delhi, as well as, the CBSE will ensure that for the commencing academic year, the revaluated marks of the students are taken into account, whilst determining the cut-off date for admission to colleges of the University of Delhi. The Chairman, CBSE and Vice-Chancellor of the University of Delhi are, consequently, directed to hold a meeting within four weeks from today and arrive at a method whereby, the completion of the revaluation process by the former precedes the cut-off date prescribed by the University of Delhi for admission.

18. The decision taken in the said meeting should be placed on record by the Registrar of the University of Delhi within a period of eight weeks from today.

19. The present petition is disposed of accordingly.

20. A copy of this order be given *dasti* to the learned counsel appearing on behalf of the parties under signature of the Court Master.

**SIDDHARTH MRIDUL
(JUDGE)**

JULY 11, 2018/as

