

#80

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 4th October, 2018

W.P.(C) 10422/2018

ADITI SHARMA

..... Petitioner

versus

GOVERNMENT OF NCT OF DELHI AND ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Deepali Gupta, Advocate.

For the Respondent : Ms. Ekta Sikri and Ms. Jasbir Bidhuri, Advocates for respondent No. 2/GGSIPU.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

J U D G M E N T

SIDDHARTH MRIDUL, J (ORAL)

CM No. 40614/2018 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 10422/2018

1. The present petition under Article 226 of the Constitution of India, has been instituted on behalf of a student, praying as follows:-

“1. To declare the selection/counseling procedure held for admission to LL.M Programme for the session 2018-2019 at GGSIPU Delhi as arbitrary, discriminatory, improper, unjustified and hence illegal.

2. To Quash the selection/shortlisting of students as undertaken by the GGSIPU Delhi on 10.07.2018 and 14.08.2018 for admission to LL.M. Regular Programme for the session 2018-2019;

3. Direct the respondent GGSIPU Delhi to consider and give admission to the petitioner as per her merit position in the common admission test conducted for admission to LL.M. Programme for the session 2018-2019.

4. Pass any other and further order which the Hon’ble High Court may deem fit to pass.”

2. The facts as are necessary for the adjudication of the present proceedings are elaborated as hereunder:

(i) The petitioner having successfully passed the LL.B. Degree Course on 21st April, 2018, wrote the Entrance Examination, seeking admission in the LL.M. Regular Course (hereinafter referred to as ‘the subject course’), in the Guru Gobind Singh Indraprastha University (hereinafter referred to as ‘the GGSIPU’).

(ii) In the Common Admission Test, the results of which were declared on 19th May, 2018, the petitioner being a General Category candidate secured the rank of 251 in the Merit List. Although, the petitioner participated in the first round of counseling on 14th June, 2018, as notified by the GGSIPU on its website, she was not granted admission, on account of the circumstance that, the candidate last selected in that round of counseling, in the General Category, was ranked 137.

(iii) The second round of counseling was scheduled to be conducted on 10th July, 2018, as duly notified by the GGSIPU, on its website on 6th July, 2018.

(iv) Admittedly, the petitioner did not present herself on the notified date and time for the said counseling.

(v) Further, it is the petitioner's own case that, she did not participate in the supplementary counseling conducted on 14th August, 2018.

3. It is an admitted position that, the process of counseling has culminated with the admissions granted in pursuance to the supplementary

round of counseling held on 14th August, 2018; and not only have the classes commenced for the subject course, but the internal examination for the Ist Semester has also been conducted.

4. It is, at this belated stage that, the present proceeding have been instituted by the petitioner, seeking a declaration that, the counseling procedure held for admission to the subject course for the academic session 2018-2019, be declared as arbitrary and discriminatory.

5. It is further prayed that, the selection/shortlisting of students undertaken by the GGSIPU on 10th July, 2018 and 14th August, 2018, should be set aside and quashed.

6. Lastly, it has been prayed that, the GGSIPU be directed to consider and grant admission to the petitioner, as per her merit, in the common admission test.

7. The above relief is predicated on the petitioner's assertion that, she could not attend the second round of counseling, conducted by the GGSIPU on 10th July, 2018, on account of the mis-information given to her verbally, at the time of first round of counseling, in that behalf by the official respondent.

8. It is further argued that, the petitioner was unable to appear in person on the notified date and time of counseling, for the supplementary counseling held on 14th August, 2018, in view of her indisposition.

8. *Per contra*, Ms. Ekta Sikri, learned counsel appearing on behalf of the GGSIPU would assert that, the submissions made on behalf of the petitioner are untenable, by reason of the fact that, the notification issued on 6th July, 2018, on their website categorically provided that, the second round of counseling would be held on 10th July, 2018. In this behalf, it is further asserted that, the petitioner had participated in the first round of counseling on 14th June, 2018, evidently on the basis of the notification issued by GGSIPU on their website. In other words, it is urged that, it is not open to the petitioner to state that, she could not appear in the second round of counseling, on account of some mis-information verbally furnished to her, at the time of first counseling, when the actual date of the second round of counseling i.e. 10th July, 2018, was duly notified on their website.

9. It is lastly argued that, in terms of the extant notification and in particular Clause 8(a) (d) thereof, that a candidate, who fails to appear in person, on the notified date and time for counseling, forfeits her claim for the

seat which may have been offered to her, had she remained present on her turn.

10. Ms. Ekta Sikri, learned counsel appearing on behalf of the GGSIPU would, therefore, state that, in view of the admitted circumstance that, the petitioner did not present herself in person, on the dates and times notified for the second and the supplementary round of counseling, the latter has, as a result thereof, forfeited her right to claim a seat; and her belated attempt to secure admission is consequently impermissible.

11. Ms. Deepali Gupta, learned counsel appearing on behalf of the petitioner would then urge that, the latter was entitled to admission *ex debito justitiae*, as per her merit alone, in the common admission test conducted for admission to the subject course for the academic session 2018-2019.

12. There can be no quarrel with the proposition that, the admission to an educational institution must be granted on merit alone. To disentitle a meritorious student based on a formalistic and actualistic approach is unjust and subversive for the purpose of the exercise. Having said that, however, it is equally well settled that, the procedure scheduled for regulating the grant of admissions to educational institutions cannot be emasculated or interfered

with, by the issuance of a writ of mandamus, unless the same has prejudiced a student for no fault on his/her part.

13. In the present case, it is observed that, not only is the counseling for the subject course long since over, but admissions have also been finally granted and closed pursuant thereto, in the month of August, 2018. Furthermore, the internal examinations for the said course have already been conducted. In that view of the matter, the present proceeding has been rendered infructuous at the time of its institution, by events that have transpired, strictly in consonance with the academic calendar published by the official respondent. It must also be observed that, although, it is the petitioner's case that, she was prevented by circumstances beyond her control, from participating in the second round of counseling on 10th July, 2018 and the supplementary counseling held on 14th August, 2018, the same is untenable, on account of the circumstance that, she has no one else to blame but herself for her non-appearance, at the time and date, when the said rounds of counseling were held, as duly notified on GGSIPU's website.

14. It is further relevant to observe that, a candidate, who has failed to participate in person for counseling cannot subsequently stake a claim for a seat in the subject course, after the same has been allotted to another

meritorious candidate, in accordance with the procedure established by the official respondent.

15. Resultantly, in my considered view, in the facts and circumstances of the present case, and without undermining the academic credentials of the petitioner, this Court is not persuaded to issue a mandamus to the official respondent to grant admission to the petitioner. Further, granting the prayers in relation to a writ or direction in the nature of certiorari to quash the selection/shortlisting of students, would be a travesty of justice to the students, who have already been granted admission to the subject course. The petitioner, as a result, of her failure to comply with the essential pre-conditions of grant of admission, is precluded from seeking such a relief.

16. In view of the facts and circumstances as aforesaid, the present petition is dismissed. No order as to costs.

SIDDHARTH MRIDUL
(JUDGE)

OCTOBER 04, 2018
RS