

\$~58

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

Date of decision: 3rd December, 2018

+ W.P.(C) 12906/2018 & CM Nos.50116/2018, 50180/2018

SABA PARVEEN Petitioner

Through: Mr. Sheikh Imran, Adv.

versus

JAMIA MILLIA ISLAMIA UNIVERSITY AND ORS.

..... Respondents

Through: Ms. Zeba Khair and Mr. Afzal
S. Shah, Adv.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

J U D G M E N T (O R A L)

%

1. The petitioner passed her 12th standard examination from the Bihar School Examination Board, Patna in 2014, securing 53.2% marks. Following thereon, she applied, online, on 15th February, 2018, to the Jamia Millia Islamia University (Respondent No.1 herein, and referred to, hereinafter, as “the University”), and applied for admission to the course of Diploma in Elementary Education (D.El. Ed), to be pursued in the Department of Teacher Training and Non-Elementary Education in the University.

2. It is not in dispute that the eligibility criterion, for admission to the said diploma course, as mentioned in Annexure-1 to the Prospectus issued by the University, for the academic session 2018-19, read thus:

“Eligibility: (Senior Secondary School Certificate Examination (Except Vocational Courses) with not less than 50% marks in the best 5-papers. Candidate can only apply against the seats in the subject studied at +2 level”.

3. Admit card was issued to the petitioner, on the basis whereof the petitioner participated in the written test which was held on 24th April, 2018. In the merit list, which came to be published on 30th May, 2018 as a consequence thereof, the petitioner was placed in the waiting list.

4. Thereafter, on 11th July, 2018, the petitioner was called for counselling and was given the pay-in slip requiring her to deposit the admission fee, which, it is averred, was deposited by her on the very same day.

5. Following thereupon, the petitioner joined the D.El.Ed Classes on 17th July, 2018, and admittedly attended the classes till 24th October, 2018.

6. On 25th October, 2018, it appears that the petitioner was informed, orally, that her admission to the D.EL.Ed course was cancelled. She was not served with any cancellation letter or issued any notice prior to the taking of the said decision.

7. Representations, by the petitioner to the university, protesting against the cancellation of her admission, having elicited no favourable response, the petitioner is before this Court in the present proceedings.

8. Ms. Zeba Khair, learned counsel appearing for the University has handed over, across the bar, a communication from the University to her, dated 3rd December, 2018, which seems to have taken a stand that the candidature of the petitioner was cancelled as she had not secured 50% marks *in the subject concerned* (which would, in the present case, be mathematics, being the discipline in which the petitioner desired to pursue her D.El.Ed Course). While Ms. Khair acknowledges that, quite frankly, that the stipulation, in the Admission Prospectus of the University, only required the candidate to secure not less than 50% marks *in the best five papers given by her* in her Senior Secondary Examination, she submits that it was the practice of the University to insist on 50% or more marks *in the discipline to which the candidate sought admission*. She submits that, though in the present case, the petitioner did secure more than 50% marks in her best five papers in the Senior Secondary Certificate Examination, she had failed to secure 50% marks in the mathematics paper and that it was for this reason that her admission was cancelled.

9. A bare reading of the eligibility criterion, as contained in the Admission Prospectus and as extracted hereinabove, indicate that the submission is totally bereft of substance. All that is required is that the candidate aspiring for admission to the D.El.Ed Course was required to secure not less than 50% marks in the best five papers given by her in the Senior Secondary School Examination. That the petitioner did fulfil this requirement, is not in dispute. There is no requirement, in the said Prospectus, of the candidate having to secure

50% marks in the paper relating to the discipline in which she, or he, desired to pursue the Course in the University.

10. Needless to say, it is not open to the University to add, on its own volition, a further condition, which is not only in excess of the condition stipulated in the Admission Prospectus but is actually in derogation thereof.

11. For the above reasons, the petitioner, having admittedly secured not less than 50% marks in the best five papers given by her in her Senior Secondary School Examination, was entitled to be admitted to the D.EL.Ed Course in the University. The decision of the University to cancel the admission given to the petitioner has, therefore, necessarily to be set aside.

12. The writ petition is, accordingly, allowed in the above terms.

13. There shall be no order as to costs.

A copy of this judgment be given *dasti* under the signatures of the Court Master.

C.HARI SHANKAR, J

DECEMBER 03, 2018

kr