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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision :- 28.05.2018

+ W.P.(C) 10199/2017

ARADHYA SINGH AND ORS.

..... Petitioner

Through Mr.K.C.Mittal with
Mr.Yugansh Mittal, Ms.Ruchika Mittal,
Advs.

versus

FACULTY OF LAW AND ANR Respondent
Through Mr.Mohinder JS. Rupal, Adv.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The Petitioners, who are pursuing the three-year LLB degree course from Faculty of Law, University of Delhi, have preferred the present petition under Article 226 of the Constitution of India *inter alia* seeking a direction to the Respondents to allocate the preference of Law Centre as per merit on the extra seats created for admission to the LLB course after the addition of 301 supernumerary seats by the Respondents in compliance of the directions of this court in ***Joginder Kumar Sukhija v. Union of India and Ors.*** [WP(C) 5118/2017].

2. The brief facts as emerge from the record are that after the Petitioners were declared successful in the LLB entrance examination conducted by Respondents No. 1 and 2, they opted for Campus Law Centre (hereinafter referred to as "CLC") as their first choice of preference and Law Centre-I or Law Centre-II (hereinafter referred to as "LC-I" or "LC-II") as the case maybe, as their second choice of preference. However, when the first counselling took place between 18.07.2017 to 22.07.2017, they were all offered their second choice of preference on basis of the allotment list issued on 22.07.2017.

3. It is the Petitioners' case that the allotment list dated 22.07.2017 was erroneous as all candidates found eligible for first counselling were allotted a seat irrespective of whether they appeared for the counselling or not, which fact was subsequently admitted by the Respondents No. 1 and 2, who then undertook to correct the same. Accordingly, a second allotment list was issued on 23.07.2017 wherein the names of eligible candidates who had not appeared for first counselling, were excluded and the Petitioners were resultantly allotted their first choice of preference i.e. CLC. On 10.08.2017, the Petitioners attended the orientation programme at CLC and started attending their classes regularly from 11.08.2017 and subsequently also received their CLC identity and library cards.

4. After the Petitioners had started attending their classes at CLC, the Respondent No. 1 issued a notice dated 23.08.2017 thereby granting students who missed the 1st and 2nd round of

counselling for admission in the LLB course, another opportunity as a 'one-time option' for admission in the said course. The interested students were advised to report on 25.08.2017 for the same, though it was clarified that the admission of such students would be on the basis of their merit in the entrance examination and availability of seats in the law centres. Soon thereafter, the Respondents on 26.08.2017 issued another notice clarifying that all the admissions given till date, were provisional and that the final allocation would be notified on 29.08.2017 only after correct position of available seats at the three law centres would become available on 28.08.2017, when the admission of ineligible candidates would stand cancelled. Pursuant thereto, the Respondents issued a new centre allotment list on 01.09.2017 whereby the Petitioners were now reallocated to their second choice of preference i.e. LC-I/LC-II and those students who were granted admission as a 'one-time option', were allocated their first choice of preference i.e. CLC.

5. Aggrieved by the aforesaid action of the Respondents, 20 students including the Petitioners herein filed WP(C) 7956/2017 before this Court on 07.09.2017 seeking a direction to restrain the Respondents from changing their college centres as also for quashing of the allotment list dated 01.09.2017. However, during the pendency of the said petition, the Respondent No. 1 issued a notice on 09.09.2017, inviting those students who were aggrieved by the reallocation of their centres from CLC to LC-I, vide list dated 01.09.2017, to submit a representation to Respondent No. 1

for redressal of their grievances. Accordingly, all the eligible petitioners, in WP(C) 7956/17, submitted their representations to Respondent No. 1.

6. It transpires that, this Court, while the Petitioners' above writ petition was pending, vide order dated 26.09.2017 in ***Joginder Kumar Sukhija v. Union of India and Ors.*** [WP(C) 5118/2017], directed the Respondents herein to ensure that besides the 2310 candidates already admitted to the LLB course for the academic year 2017-18, 301 supernumerary candidates are admitted over and above those 2310 candidates. In compliance of the aforesaid order, the Respondent No. 1 announced additional admissions by allotting extra seats to each of the three centres and issued a notice dated 28.09.2017 for admission against the 301 supernumerary seats so created. As per the said notice, candidates having the cut-off marks in the LLB Entrance Test, as prescribed hereunder, were required to report for counselling for the additional seats on 03.10.2017 at the Faculty of Law. At this stage, it may be noted that about 150 extra seats were allocated to the CLC for admissions to the supernumerary seats. The cut-offs prescribed for admission against these supernumerary seats was much lower than the cut-off prescribed in the earlier final list dated 01.09.2017 as the admissions for CLC had closed for the General category at 264 marks, OBC category at 228 marks, SC category at 190 marks and ST category at 148 marks. The cut off marks prescribed as per notice dated 28.09.2017 reads as under:-

Sl. No.	Category	Marks in the LLB entrance Test
1.	Unreserved	234-230
2.	OBC	194-187
3.	SC	164-153
4.	ST	85-50

7. It has been averred in the petition that the Respondents, instead of ensuring that admissions of students to the CLC is done purely on the basis of the last cut-off prescribed in the list dated 01.09.2017, erroneously allotted CLC to students who had now become eligible for admission as a result of the extra seats created for supernumerary candidates vide their notice dated 28.09.2017. Aggrieved by the action of the Respondents in not following the merit while making admissions against the 301 seats, due to which they were not allocated CLC, the Petitioners, all of whom had higher marks than the cut-offs prescribed in the notice dated 28.09.2017, filed an Application before the Division Bench of this Court complaining that the Respondents were not following merit in making allocation against the supernumerary seats. The Division Bench was, however, of the view that the Petitioners, who were Applicants in CM 39100/2017, had an independent remedy to challenge the Respondent's action. The Application before the Division Bench was accordingly withdrawn on 31.10.2017 and in these circumstances, the present petition has been filed.

8. At this stage, it is pertinent to note that since some of the Petitioners in WP(C) 7956/2017, have already been reallocated to CLC, the remaining Petitioners have filed the present petition seeking different reliefs and in these circumstances, WP(C) 7956/2017 has not been pressed.

9. Having set out the facts hereinabove, I may now refer to the rival contentions raised by learned counsels for the parties. Mr. K.C Mittal, learned counsel for the Petitioners submits that the Respondents, by erroneously allotting CLC only to those students who became eligible for admission in the LLB course by virtue of creation of extra seats, have caused grave prejudice to the Petitioners for the second time as first they had erroneously dislocated the Petitioners by granting admission, by way of special counselling, to those students who had not appeared both in the 1st and 2nd round of counselling. In support of his aforesaid submission, Mr. Mittal contends that the Respondents ought to have first relocated the Petitioners to CLC as they were erroneously relocated from CLC to the other law centres by the Respondents vide their notice dated 01.09.2017. Mr. Mittal submits that even though the Petitioners, based on their performance in the entrance examination, had secured higher marks than the cut-off prescribed for admission to CLC after the creation of extra 301 seats, they were still not offered admission to CLC, which was their first choice of preference.

10. Mr. Mittal further submits that since eleven Petitioners out of 20, in WP(C) 7956/2017, had been relocated to CLC by the

Respondents after the creation of the supernumerary seats, the Petitioners herein are, also entitled to same relief for relocation to CLC on the basis of principles of equality.

11. On the other hand, Mr. Mohinder J.S. Rupal, learned counsel for the Respondent, while praying for dismissal of the present petition, submits that the Petitioners cannot be relocated to CLC at this belated stage as the reallocation of the Law Centres has already attained finality after the completion of admission process on 31.08.2017 and the second semester has commenced as also the applications for the second semester exams have already been called for.

12. Mr. Rupal submits that in order to implement the order passed by a Division Bench of this Court in ***Joginder Kumar Sukhija (supra)***, directing the Respondents to ensure admission of 2310 candidates as also of 301 supernumerary candidates over and above 2310 candidates, the Respondents had to make appropriate adjustments for the same by excluding 140 candidates, who had already been admitted against supernumerary seats, due to which only 152 seats fell vacant. Subsequently, a special counselling for filling the aforesaid vacant seats was held from 05.10.2017. He, thus, contends that since the special counselling was held only for 152 vacant seats, there was no question of reallocation of Law Centres of those students like the Petitioners, who had already been admitted before 31.08.2017 as the admission process had become final on 31.08.2017 itself. In support of his aforesaid contention, Mr. Rupal submits that the reallocation of all students pursuant to

those additional admissions in October, would have disturbed hundreds of students in all the three Law Centres, which was not found to be prudent as the students themselves had got settled in the two months period and there was no further demand from the students for re-allocation of centres except the Petitioners herein. He further submits that even otherwise, the Respondents had earlier, vide their notice dated 23.08.2017 upon the request of several students, invited applications from all students seeking reallocation of centres as a 'one-time' option, in response where to, only Petitioner No.1-Aradhya Singh had applied for the reallocation. He, thus, contends that since the Petitioners failed to avail the aforesaid opportunity, they cannot now claim relocation to CLC at this stage when there are no longer any vacancies/seats available in the CLC.

13. Mr. Rupal submits that even WP(C) 7956/2017 preferred by 20 students including the Petitioners herein, has become infructuous by efflux of time and in light of the order passed by this Court in ***Farhan Jahan v. University of Delhi*** [WP(C) 6695/17] wherein another opportunity for counselling was given to the candidates who had missed their earlier counselling. He further submits that the Petitioner No.1-Aradhya Singh was pursuing LLB only as a stop gap arrangement and was not all serious to carve out a profession in law and thus, contends that there is no reason as to why his prayer for reallocation should be accepted.

14. Having heard the learned counsels for the parties and perused the record, I find that the sole issue arising in the present case is as to whether upon availability of 152 supernumerary seats pursuant to the directions of the Division Bench of this court vide order dated 28.09.2017, it was incumbent upon the Respondents to fill the same by considering the merit of all the eligible students or on the basis of *inter se* merit of only those who had become eligible upon lowering of the cut-offs pursuant to the availability of 150 additional seats. While the Petitioners would contend that 'merit' would mean the '*inter se* merit' of all eligible students, and not merely of those who had become eligible due to lowering of the cut-offs, the Respondents while justifying their impugned action, would contend that the *inter se* merit of only those who became eligible after 28.09.2017, was to be considered.

15. Having given my thoughtful consideration, I find that there is no denial to the fact that the marks obtained by all the Petitioners were more than the cut-off prescribed for admission to CLC vide notice dated 28.09.2017 and for which 152 seats, a counselling was held on 03.10.2017. There is also no denial to the fact that on 28.09.2017 and even on 03.10.2017, the Petitioners' claim for seeking reallocation to CLC from where they had been already moved upon entry of students inducted pursuant to the Special Counselling, was also pending adjudication before this court by way of WP(C) 7956/2017.

16. In these circumstances, when Petitioners' claim for their reallocation was pending consideration before this Court, I am

unable to fathom the reasoning expounded by the Respondents for depriving the Petitioners of their right to be allocated to CLC on basis of their merit in the Common Entrance Test. There is absolutely no merit in the plea of the Respondents that the direction of the Division Bench to grant admission to eligible candidates on basis of merit, would mean the *inter se* merit of candidates who became eligible for admission pursuant to lowering of cut-off marks as announced vide notice dated 28.09.2017. This approach of the Respondents would be clearly violative of the 'Rule of Merit', which has to be scrupulously followed while allocating Law Centres to students. This arbitrary action of the Respondents has resulted in a wholly unacceptable situation where the Petitioners, despite having marks higher than the cut-offs prescribed vide notice dated 28.09.2017, have been deprived of admission to CLC, which centre was admittedly always their first preference.

17. The only reason given by the Respondents not to follow the 'Rule of Merit' being that this reallocation on the basis of the merit of students, who had been studying in different centres, would have created chaos, needs to be noted only to be rejected. In my considered opinion, however cumbersome the administrative process would be, it cannot entail upon itself a higher pedestal than that of merit. Once additional vacancies were created, they ought to have been filled on merit and merit alone, rather than by confining the same to students, who were much lower in merit and could not even get admission in the process which had initially concluded on 31.08.2017.

18. I am fortified in my aforesaid view by the observations of the Hon'ble Supreme Court in *Asha v. Pt. B. D Sharma University of Health Sciences & ors.* [(2012) 7 SCC 389], wherein the Court had, while dealing with admission to medical colleges after framing of a specific question "*Is there any exception to the principle of strict adherence to the Rule of Merit for preference of courses and colleges regarding any admission to such courses?*", held that the Rule of Merit has to be strictly followed by holding that "*The rule of merit for preference of courses and colleges admits to exception. It is an absolute rule and all stakeholders and concerned authorities are required to follow this rule strictly and without demur.*"

19. I also find no merit in the submission of the learned counsel for the Respondents that all the three law centres, located in the North Campus within a distance of 500 metres from one another, are at par since they have same course curriculum, same exam and same case materials. In my considered view, even if all the three centres are having the same curriculum and exams, it does not mean that their rankings are similar or that the Petitioners who possess the merit for being granted admission in CLC, should be deemed the same only because of some perceived administrative chaos on the part of the Respondents.

20. Before I conclude, I may note that after arguments had been heard at some length, learned counsel for Respondents had initially taken time to obtain instructions as to whether all the seven Petitioners could be reallocated to CLC atleast in the next semester.

However subsequently, this Court was informed that the Respondents were unwilling to reallocate the Petitioners to CLC and therefore, the Petition was heard on merits.

21. For all the aforesaid reasons, I have no hesitation in coming to the conclusion that the present Writ Petition is liable to succeed. However, keeping in view that except seven Petitioners, no other students have sought reallocation to CLC, at this stage no direction to reallocate all eligible candidates to CLC, is warranted. The relief for reallocation of students to CLC, as per their merit, is, in the peculiar facts, being confined to the seven Petitioners alone and Respondents are directed to reallocate all the seven Petitioners to CLC in the next semester i.e. in the IIIrd semester beginning in July, 2018.

22. It is, however, clarified that this order is being passed in the peculiar facts of the present case and the same will not be treated as a precedent.

23. The Petition is allowed in the aforesaid terms with no order as to costs.

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REKHA PALLI, J

MAY 28, 2018/sr