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

Date of Decision: 8th January, 2019

+ W.P.(C) 86/2019

HUNAR GANDHI

..... Petitioner

Through: Ms. Ila Haldia, Adv.

versus

UNIVERSITY OF DELHI & ANR.

..... Respondents

Through: Mr. Mohinder J.S. Rupal and

Ms. Slomita Rai, Adv. for R-1

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

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

1. Admissions, to the Master of Business Administration (MBA) Course in Colleges under the Delhi University (Respondent No.1 herein) are subject to passing of the Common Admission Test (commonly known as the “CAT”). For the academic session starting 2019, the CAT was scheduled to be held on 25th November, 2018. The petitioner, who was desirous of pursuing his MBA, applied for the CAT, 2018 which, it may be reiterated, constitutes the basis for admission to the MBA Course conducted by the Faculty of Management Studies (FMS) under the Delhi University.

2. Applications, for registration for the MBA programme conducted by the Respondent No. 1 through the FMS were, admittedly, invited in October, 2018. The Information Bulletin, issued by the University for the said purpose, fixed 8th October, 2018 as the opening date for registration and 20th November, 2018, as the last date for registration. The petitioner submits, in the writ petition, that the fixing of the last date for registration of the MBA Course, as 20th November, 2018, prior to the date of the scheduled CAT Examination, which was 25th November, 2018, was arbitrary. It is also emphasised, in this regard, that the applicants are required to pay an application fee of ₹ 1,000/- per programme, in addition to ₹ 1,900/- required to be paid separately for registration for the qualifying examination.

3. The petitioner has also highlighted, in the writ petition, the fees which are payable for other similar courses. In the opinion of this Court, that is not an aspect which can be examined in writ jurisdiction; neither would this Court would be inclined to interfere with the quantum of fees fixed for admission to various professional courses, unless they are expropriatory in nature.

4. It is averred, in the writ petition, that, as the petitioner was unsure of his performance in the CAT Examination, he did not choose to apply for the MBA Programme conducted by the University of Delhi. As it transpired, however, the result of the CAT-2018, which was declared on 5th January, 2019 disclosed that the petitioner had scored 99.69 percentile and was among the top 750 candidates.

5. This, apparently, emboldened the petitioner to move the present writ petition, challenging, at this stage, the decision, communicated as far as back in October, 2018, fixing the last date for registration for the MBA Course conducted by the University, which took place on 20th November, 2018. The contention of the petitioner is that the University ought to have fixed the last date for registration to the MBA Course after the date of declaration of the results of the CAT Examination, i.e. after January, 2019.

6. Be it noted, that at the cost of repetition, that, in the interregnum, the date of 20th November, 2018, has gone by, and the petitioner has not applied for admission to the MBA Programme conducted by the University.

7. A similar controversy had engaged the attention of this Court in W.P.(C) 9454/2014 (*Kshitiz Diwakar v. Delhi University & Anr.*) which stands decided by a Coordinate Bench of this Court *vide* a judgment dated 15th April, 2015 reported in **2015 SCC OnLine Del 8842**. In the said judgment, this Court has, while acknowledging the merit, of the contention of the petitioner, that the *terminus a quo* for the registration of the MBA ought to be after the date of the declaration of the CAT result, and does not issue any mandamus in this regard, merely limiting its findings thereon to the following observations contained in paras 8 and 9 of the report:

“8. In view of the above, no directions can be issued to the respondent no.2 to allow the petitioner to complete all requirements and formalities for joining the programme. However, the issue pointed out by the petitioner is relevant. If the scores obtained by candidates in the CAT examination are to be considered and form a substantial basis for fixing the order of merit for granting admission to the students, it would stand to reason that the last date for applying be fixed after date for declaration of CAT results. This would enable the candidates to take an informed decision whether to apply for admission to respondent no. 2. The grievance that the candidates are compelled to apply to a large number of institutions in vain appears justified. The learned counsel for the respondents has been unable to provide any justifiable reason why the last date for registration should be fixed prior to declaration of CAT results. Surely, the exercise of distributing Admission brochures and receiving registrations cannot be made a revenue generating exercise. The parties further inform that last year, the last date for receiving applications/online applications was fixed after the declaration of CAT results.

9. In the given circumstances, the petition and the application are disposed of by directing the respondents to consider the aforesaid aspect and take the appropriate decision with respect to the time schedule for future admissions.”

8. Even while entering the following observations, this Court acknowledged its inability to grant any relief to the petitioner in ***Kshitiz Diwakar (supra)*** for two reasons, i.e. firstly, that he had not applied for admission and, therefore, his request for being considered and admitted to the MBA Programme could not be granted at that stage, as grant of such relief would amount to relaxing the schedule for registration which already stood closed and, secondly, that

interference with the admission process, after it stood concluded, would unfairly prejudice the candidates who had applied in time as well as who had not done so and were not before this Court. Paras 6 and 7 of the report, may for this purpose be usefully reproduced as under :

*“6. It is not disputed that the petitioner had not applied for admission and, therefore, the petitioner’s request for being admitted to the programme cannot be acceded to. Granting the petitioner’s request for admission would amount to relaxing the schedule for registration, which has already closed. In my view, no such direction is warranted. The time schedule provided in the admission brochure needs to be strictly adhered to and an admission on the belated application i.e. after the expiry of last date must not be granted. The Himachal Pradesh High Court in **Gunjan Kapoor v. State of Himachal Pradesh and Ors.**: Civil Writ Petition No. 515 of 1998, decided on 10.11.1998, quashed the admission of a candidate whose application was entertained and accepted by the college after the expiry of last date and even without the Gradation Certificate for sportsmen as prescribed under paragraph 3.1(g) of Admission Brochure of the said College. The Court held as under:-*

“24. ... We are, therefore, of the opinion that when the date, time and stipulation of enclosing the documents with the application form have been specified in the Advertisement and also in the Information Brochure, it must be strictly adhered to as otherwise it leads to uncertainty, unending process, anomaly and deprivation of equality clause and further it widens the competition amongst the candidates seeking admission into professional courses who had not complied with the stipulated essential conditions. It is also difficult to determine upto what period the time-

limit can be extended and if such power is to be exercised, by the Committee or the College Authority, it will lead to arbitrariness. We hope and expect that in future the concerned authorities shall withdraw their hands from encouraging the practice of entertaining the applications whether complete or incomplete after the expiry of the date stipulated in the Admission Notice and Admission Brochure or extending the dates to the candidates for submitting their documents after the receipt of incomplete application within time.”

7. I am also inclined to accept the respondent's contention that interfering with the admission process at this stage would unfairly prejudice the candidates who had applied in time as well as those who had missed applying within time and are not before this court.”

(Emphasis Supplied)

9. The same fate, in my view would have to visit the petitioner. While the grievance of the petitioner, regarding the fixing of the last date for registration of the MBA Programme subsequent to the declaration of the CAT result may be justified as observed by the Coordinate Bench in ***Kshitiz Diwakar (supra)***, it is not possible to grant any relief to the petitioner, in view of the fact that the petitioner did not choose to register for the MBA Course, the last date for which has gone by, and at this stage, when the admission process stands closed, it is not possible to direct the respondents to consider the case of the petitioner for registration to the MBA Course. Grant of any such direction, as the judgment in ***Kshitiz Diwakar (supra)*** has correctly observed, would amount to a relaxation of the admission schedule and would also work to the prejudice of the other candidates

who, owing to the last date for registration having passed by, have lost on the opportunity to register for the Course.

10. For the aforesaid reasons, it is not possible to grant any relief to the petitioner.

11. At the same time, I would reiterate the observations entered by the Coordinate Bench in paras 8 and 9 of the judgment in *Kshitiz Diwakar (supra)*. The University of Delhi is directed to take a decision, if not already taken, on the aspects underscored in paras 8 and 9 of the judgment in *Kshitiz Diwakar (supra)* within a period of four weeks from today.

12. Subject to the above observations, the writ petition stands dismissed with no orders as to costs.

C.HARI SHANKAR, J

JANUARY 08, 2019/kr