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

+ LPA 522/2019

ABDUL LATEEF NOMANI

..... Appellant

Through Mr. Manish K. Bishnoi, Mr. Archit
Gupta, Advocates.

versus

UNIVERSITY OF DELHI & ORS

..... Respondents

Through Mr. Mohinder J.S. Rupal, Mr. Hardik
Rupal, Mr. Prang Newmai, Mr.
Koushik Ghosh, Ms. Aditi Shastri,
Advocates for R1/University of Delhi
& R3/OSD (Admission), North
Campus, University of Delhi.
Mr. Rajesh Gogna, Mr. Upendra Sai,
Advocates for R2/Hansraj College.
Ms. Zeba Khair, Mr. Afzal S. Shah,
Advocates for R4/Jamia Millia
Islamia and R5/Jamia Senior
Secondary School.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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13.08.2019

1. The present petition has been listed before this Bench on an urgent mentioning being allowed by Hon'ble the Chief Justice.
2. The appellant/petitioner is aggrieved by an interim order dated 09.08.2019, passed by the learned Single Judge in a writ petition filed by him for directing the respondent No. 2/Hansraj College and the respondent No.3/OSD (Admission), North Campus, University of Delhi to grant him admission in the respondent No. 2/Hansraj College in B.A. (Economics &

Commerce) course. While issuing notice on the petition and adjourning the matter to 29.08.2019, to await the counter affidavits of the respondents, the learned Single Judge has directed respondent No. 1/University of Delhi to reserve a seat for the appellant/petitioner in the concerned stream, till the disposal of the petition.

3. The grievance of the appellant/petitioner is that instead of issuing a direction to the respondent No.1/University of Delhi to reserve one seat for him in the concerned stream, the Court ought to have directed the respondent No. 2/Hansraj College to do so.

4. Learned counsel for the appellant/petitioner states that in May, 2019, the appellant had passed the Senior Secondary Examination from Jamia Millia Islamia Board of School Education (JMIBSE). On 11.07.2019, he secured admission in the course of B.A. Programme (Hindi + Philosophy) in Hindu College, University of Delhi. His name was included in the 3rd cut off list released by the college. The appellant/petitioner deposited the fees for the subject course in Hindu College. On 17.07.2019, the respondent No. 2/Hansraj College released the 4th cut off list wherein the appellant was eligible for admission in the B.A. Programme (Economics + Commerce). On the same day, the appellant/petitioner withdrew his admission from Hindu College and collected his original documents deposited with the said college for being presented to the respondent No. 2/Hansraj College. When the appellant/petitioner approached the respondent No. 2/Hansraj College for admission, he was informed by the Convener (Admissions) that JMIBSE is not listed in the Board list approved by the respondent No.1/University of Delhi. Resultantly, the appellant/petitioner was directed to obtain approval of the respondent No.3/OSD (Admission), North Campus, University of

Delhi, who declined his admission on the ground that JMIBSE is not affiliated to the Council of Boards of School Education in India (COBSE), a Non-Government Organization.

5. After some back and forth between the appellant and his school, the respondent No.1/University of Delhi and the respondent No. 2/Hansraj College, the appellant was compelled to approach this Court on 05.08.2019 by filing W.P.(C) No. 8526/19. Notice was issued on the said petition on 09.08.2019, returnable on 29.08.2019 and an interim order was passed, as noted hereinabove.

6. Mr. Bishnoi, learned counsel for the appellant/petitioner states that irreparable loss and injury shall be caused to the appellant if the respondent No. 2/Hansraj College is not directed to keep a seat reserved for him in the B.A. Programme (Economics + Commerce), particularly when he was found eligible in the 4th cut off list released by the college. He submits that similarly situated students as the appellant/petitioner, who have also passed out from the very same school in the May, 2019 academic year, have procured admission in colleges governed by the respondent No.1/University of Delhi and therefore, the appellant cannot be treated differently.

7. Issue notice.

8. Learned counsel for the respondent No.1/University of Delhi & the respondent No. 3/OSD (Admission), North Campus, University of Delhi, the respondent No.2/Hansraj College, the respondent No. 4/Jamia Millia Islamia and the respondent No.5/Jamia Senior Secondary School accept notice.

9. On our enquiring, Mr. Rupal, learned counsel appearing for the respondent No.1/University of Delhi states that the interim order dated 09.08.2019 cannot be given effect to by the University as it is the discretion of the concerned college to grant admission to the students.

10. We have then inquired from learned counsel for the respondent No.2/Hansraj College as to the present status of the vacancy position in the subject stream. He states that he is not aware of the exact position with regard to the existing vacancies, if any.

11. We would have thought that as the writ petition was taken up for admission on 09.08.2019, on which date, the learned counsel for the respondent No.2/Hansraj College was present, by now he would have been aware of the vacancy position in the subject stream.

12. Be that as it may, in the event, there was any vacancy in the subject stream in the respondent no.2/Hansraj College as on 17.07.2019 and it was filled up between the said date and 05.08.2019, i.e., the date on which the appellant/petitioner had filed the writ petition, then the respondent No.2/Hansraj College shall state the relevant details relating to the number of vacancies in the subject course as existing on 17.07.2019, the dates on which the said seats were filled up, thereafter alongwith the relevant details of the concerned students in the counter affidavit. If there was a vacancy in the subject stream on 05.08.2019, then status quo in respect of one seat in the stream shall be maintained till the next date of hearing in the writ petition.

13. The present appeal is disposed of on the above terms.

14. Needless to state that the observation made hereinabove are limited to the scope of the present appeal and shall not be construed as observations made on the merits of the pending petition.

Dasti to the parties under the signatures of the Court Master.

HIMA KOHLI, J

ASHA MENON, J

AUGUST 13, 2019/MK