

\$~16 & 17

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

+ W.P.(C) 10345/2019 & CM No.42739/2019

SAHARSH SAXENA

..... Petitioner

Through: Mr. Vaibhav M. Sirvastava, Adv.

versus

UNIVERSITY OF DELHI AND ANR.

..... Respondent

Through: Mr. Mohinder J.S. Rupal with Mr.
Kousik Ghosh, Advs. for University
of Delhi.

+ W.P.(C) 10451/2019

ANKIT LEGHA AND ANR.

..... Petitioner

Through: Mr. Gaurav Gupta with Mr. Robin
Singh Rathore, Advs.

versus

UNIVERSITY OF DELHI

..... Respondent

Through: Mr. Mohinder J.S. Rupal with Mr.
Kousik Ghosh, Advs. for University
of Delhi.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

30.01.2020

%

1. The case of the petitioners was captured broadly in the order dated 10.12.2019. The order dated 10.12.2019 is extracted hereafter.

“CM No.53140/2019 in W.P.(C) 10345/2019

CM No.53137/2019 in W.P.(C) 10451/2019

1. On 7th and 8th November 2019, certain observations were made with regard to the captioned matters. The case of the petitioners was captured broadly in the order dated 07.11.2019 passed in W.P.(C)No.10345/2019. For the sake of convenience, the order dated 07.11.2019 is extracted hereafter:

“1. Briefly the case of the petitioner is that he sat for the LLB entrance exam 2019.

2. It is stated by the petitioner that he obtained 216 marks out of a total of 388 marks. The petitioner claims that he was ranked 88 in the merit list.

3. The petitioner is aggrieved by the fact that he has not been granted admission in the LLB course by the University of Delhi (“in short “UOD”).

4. According to Mr. Srivastava, the reason as to why the petitioner has failed to obtain admission is that though 11 students who were called for the counselling in the 1st and 2nd admission list published by the UOD did not report, contrary to the provisions of the prospectus, they were, once again, called for counselling via the 4th and 5th admission list.

5. The details of such candidates is provided in a tabular form in paragraph 3(a) of the writ petition.

6. The relevant provisions on which reliance is placed by the petitioner to drive home this submission are extracted hereafter for the sake of convenience :-

“M. Only those candidates of a given admission list who report at the designated Reporting Centre within prescribed deadline will be considered for admission.

O. The applicants who do not report, for whatever reasons, to the designated Reporting Centre within prescribed deadline for a given Admission List shall not be considered for Admission in any subsequent lists”.

7. The record shows that notice in this petition was issued on 23.09.2019, when Mr. Mohinder J.S. Rupal, Advocate, was present on behalf of the UOD. On that date, the UOD was granted time to file a counter-affidavit in the matter.

7.1 On the next date of hearing, i.e. 26.09.2019, Mr. Rupal on behalf of the UOD sought further time to file a counter-affidavit. Accordingly, a week’s time was given to file a counter-affidavit. Furthermore, Mr. Rupal had contended, on 26.09.2019, that since the connected matter was coming up for hearing on 22.10.2019, the captioned matter should be listed for hearing on the same date.

7.2 However, on 22.10.2019, Mr. Rupal, once again, sought an opportunity to file a counter-affidavit.

7.3 It is in these circumstances, the UOD was directed to file a counter-affidavit on or before 31.10.2019. The matter was directed to be posted for hearing today i.e. 07.11.2019.

8. To my dismay, despite several opportunities given to the UOD, no counter-affidavit has been filed.

9. Matters which relate to education have very short timelines as more often or not one of the main objection that the concerned universities and/or colleges take is that the cut-off date has been crossed.

10. The delay in obtaining relief, therefore, results in a situation that even where the Court is persuaded by the merits of the case, it is constrained not to grant relief on account of lapse of time as the classes have already commenced.

11. *This situation is created when, repeatedly, despite opportunities being given, the concerned university/college does not file counter-affidavits in the stipulated time. This matter is one such case.*

12. *Thus, given the fact that the counter-affidavit has still not been filed on behalf of the UOD, each and every assertion made by the petitioner, will have to be accepted as they remain uncontested.*

13. *In this context, it is required to be noticed that the petitioner seeks relief in terms of the judgement dated 18.12.2018, passed in a batch of writ petitions, the lead petition being W.P. (C) 12929/2019, titled **Soumya Chopra Vs. University of Delhi**.*

14. *The petitioner claims that the said judgment rendered by a Coordinate Bench covers the issue.*

15. *Therefore, if what the petitioner states is correct, the UOD in the very first instance, ought to have conceded to the request of the petitioner unless its opposition is supported by order of an appellate court either staying the operation of the said judgment or reversing the decision.*

15.1 *Besides this, I also wanted to know whether the 11 students referred to in paragraph 3(a) of the petition, who were called for counselling via the 4th and 5th admission list were granted admission by the UOD.*

16. *Mr. Kousik Ghosh, who, appears on behalf of the UOD is unable to furnish answers to any of the queries raised by me during the course of the hearing.*

17. *Accordingly, to ascertain the correct position, renotify the matter on 08.11.2019 for further hearing in the matter.”*

2. It is not in dispute that the 11 students who did not report for counselling when first and second admission lists were published, were called for counselling once again when the 4th and 5th admission lists were published.

3. Mr. Mohinder J.S. Rupal, who appears on behalf of the University of Delhi, says that out of the 11 students, some have been admitted after they were called for counselling upon the issuance of the 4th and 5th admission lists.

4. To my mind, the matter requires further examination. Therefore, in order not to render the petitions infructuous, for the moment, the petitioners will be allowed to sit for the remaining four papers pertaining to the first semester exam.

5. Accordingly, the admit cards will be issued to the petitioners. The result of the petitioners will be kept in a sealed cover.

6. The petitioners will not claim any equity merely because they have been allowed to sit in the exams.

7. The applications are, accordingly, disposed of.

W.P.(C) 10345/2019

W.P.(C) 10451/2019

8. Renotify the matters on 30.01.2020, the date already fixed.”

1.1 The petitioners in the captioned petitions have taken examinations in four out of five papers stipulated *qua* the first semester in the three-year LL.B. programme.

2. Mr. Rupal, who appears for the University of Delhi, does not dispute the fact that the seats are available in the unreserved category. There is no dispute that the petitioners belong to the unreserved category.

3. Given this backdrop, the case set up by the petitioners has substantial merit as is evident from the proceedings dated 10.12.2019. In view of the submission advanced by Mr. Rupal that if the court directs, the petitioners would be granted admission, I need not examine the matter any further. The

petitioners will be granted admission. The petitioners will fulfil requisite formalities. Furthermore, the results of the petitioners *qua* the first semester exam will be declared.

4. It is made clear, though, that this order will not be cited as a precedent. The relief will be confined to the petitioners.

5. Accordingly, the captioned writ petitions are disposed of in the aforementioned terms.

6. Resultantly, CM No.42739/2019 shall stand closed.

7. Dasti under signatures of the Court Master.

RAJIV SHAKDHER, J

JANUARY 30, 2020/pmc