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

+ LPA 501/2019 & CM No.34979/2019 (for stay)

MUSKAAN AGGARWAL

..... Appellant

Through: Mr. Naveen Kumar Jain and Mr.
Tanuja Singh, Advs.

Versus

UNIVERSITY OF DELHI

..... Respondent

Through: Mr. Mohinder J.S. Rupal, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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23.12.2020

[VIA VIDEO CONFERENCING]

1. The appeal impugns the order dated 9th July, 2019 of dismissal of W.P.(C) No.6896/2019 preferred by the petitioner.
2. The petitioner was a candidate for admission to the undergraduate course of the respondent Delhi University (DU) for the academic session 2019-2020 and was desirous of securing admission in Bachelor of Arts (BA) (Honours) Political Science stream. The respondent DU, in the Bulletin of Information earlier published for admission to undergraduate courses for the academic session 2019-2020 had *inter alia* provided that for admission to BA (Honours) Political Science stream, out of the marks of the best three subjects in the result of the Central Board of Secondary Examination (CBSE), one must be the concerned with the subject in which admission is sought, failing which a deduction of 1% will be imposed on the aggregate of marks in the best four subjects. However subsequently, vide a corrigendum dated 17th June, 2019 tiled "Corrigendum: eligibility criteria for UG Admissions 2019-20" issued by the respondent DU, the aforesaid deduction

of 1% was increased to 2.5%.

3. The writ petition from which this appeal arises was filed, contending that such change effected by the respondent DU was bad and illegal and that, had the change not been effected, the appellant would have secured admission to a College in North Campus but with the change in the rule, appellant was compelled to secure admission in a College in South Campus of respondent DU.

4. The respondent DU opposed the petition filed by the appellant, pleading that the change was effected, not by the respondent DU on its own but for the reason of being directed by this Court in ***Charanpal Singh Bagri Vs. University of Delhi & Ors.*** (2019) 261 DLT (CN 30) 30. It was informed that though in the admission procedure for the previous academic session 2018-2019, the deduction provided was of 2.5% but for admission for the academic session 2019-2020, the same was reduced to 1% and some other changes were also made in the admission procedure. The said changes made in the admission procedure in the year 2019-20 were impugned before this Court in ***Charanpal Singh Bagri (supra)*** and in other connected petitions, all of which were decided by a Division Bench of this Court vide judgment dated 14th June, 2019, where it was held that the changes so effected were without following the proper procedure i.e. without consulting the Academic Council of the respondent DU and thus were illegal and the respondent DU was directed to immediately issue a corrigendum declaring that the admissions for the undergraduate course in the academic session 2019-2020 would be on the same parameters as in the previous academic session 2018-2019.

5. The Single Judge, in the impugned judgment who incidentally was

also the Presiding Judge in the Division Bench which had pronounced judgment in ***Charanpal Singh Bagri*** (supra), held that since the change in criteria for admission which was impugned in the writ petition filed by the appellant was in pursuance to a judgment of the Division Bench of this Court, there was no illegality in the change effected and axiomatically dismissed the writ petition. Aggrieved therefrom, this appeal has been preferred and though is stated to have been preferred immediately after the pronouncement of the impugned judgment, has been pending before the Division Bench for some time.

6. We have at the outset, enquired from the counsel for the appellant, how the appellant, even if found entitled to the relief, can be granted the relief now inasmuch as the academic session 2019-2020 must have already begun and substantially over.

7. The counsel for the respondent DU, on enquiry states that the Third Semester Examination of the academic session 2019-2020 are going on and the appellant cannot be granted admission at this stage.

8. The counsel for the appellant however contends that since the appellant had filed the writ petition against order wherein this appeal arises, immediately, without any delay and has also been pursuing this appeal diligently, the appellant cannot be denied the relief for the reason of delays in adjudication. Alternatively, it is contended that the appellant, in the next academic session 2020-21, be ordered to be admitted in BA (Honours) Political Science stream in a College in North Campus, on the basis of the eligibility of the appellant in the previous year. Reliance is placed on a judgment of another Single Judge of this Court in ***Sanchi Dilavari vs. University of Delhi*** 2019 SCC OnLine Del 10879 (against which LPA

750/2019 is pending) and on some other judgments, to contend that the provision for deduction of 2.5% marks for the reason of not having the subject at the CBSE stage, in which admission is sought in the undergraduate course, has been held to be bad.

9. We have however enquired from the counsel for the appellant, whether not, in the present case, grant of any relief to the appellant, which though is not possible without holding the corrigendum issued by the respondent DU to be bad, would necessarily require quashing/setting aside of the said corrigendum and which corrigendum in turn has been issued by the respondent DU in compliance of the direction of a Division Bench of this Court in ***Charanpal Singh Bagri*** (supra).

10. The counsel for the respondent DU, on enquiry, states that the judgment in ***Charanpal Singh Bagri*** (supra) has not been appealed and has attained finality.

11. We have drawn the attention of the counsel for the appellant to our recent judgment in ***Chaman Giri vs. Union of India*** 2020 SCC OnLine Del 1592, where we have held that if the Courts start granting reliefs diametrically opposite or contrary to the reliefs granted in other petitions before the Court, the same would result in a judicial chaos. The remedy of the appellant in the present case, if not earlier knowing of the dicta in ***Charanpal Singh Bagri*** (supra), was, to immediately on the respondent DU citing ***Charanpal Singh Bagri*** (supra) before the Single Judge, prefer remedy, if any available against ***Charanpal Singh Bagri*** (supra). The appellant/writ petitioner however not realising the correct status in law, has continued to pursue a wrong remedy and thus has herself to blame and is not entitled to any relief in equity as well.

12. The counsel for the appellant states that his instructing counsel has not briefed him about the dicta in *Chaman Giri* (supra).

13. The instructing counsels ordinarily are required to brief only on facts and it is the counsel being briefed who is supposed to contribute qua the legal position.

14. The counsel for the appellant then seeks passover/adjournment to study *Chaman Giri* (supra).

15. However considering that the appeal in any case, for the reason earlier stated, has to be necessarily dismissed inasmuch as the relief claimed, owing to passage of time, cannot be granted, we are of the view that no purpose will be served in keeping this petition pending any further.

16. As far as the contention of the counsel for the appellant of granting the relief to the appellant of admission in the academic session 2020-2021, when it is stated that the admission criteria has again been reverted to deduction of 1% of the marks only, is concerned, it is settled that for securing admission in the academic session 2020-2021, the appellant has to compete with others securing admission in the said year and cannot block one seat of the academic session 2020-2021, depriving the admission seekers of that year therefrom.

17. There is no merit in the appeal.

18. Dismissed.

RAJIV SAHAI ENDLAW, J.

ASHA MENON, J.

DECEMBER 23, 2020/'bs'..