

\$~14

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

+ **W.P. (C) 3334/2018**

Date of decision: 13.02.2020

NISHANT KHATRI

..... Petitioner

Through: Petitioner in person.

versus

JAWAHARLAL NEHRU UNIVERSITY

..... Respondent

Through: Mr. Harsh Ahuja with Mr. Kushal Kumar, Advocates for Ms. Monika Arora, Standing counsel with Mr. Arun, Senior Assistant.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J. (ORAL):

1. In the order dated 15.10.2019, after hearing the petitioner in person and counsel for the respondent/ Jawaharlal Nehru University (in short "JNU"), three specific points of contestation had emerged qua which JNU was asked to file an additional counter affidavit.
2. The first issue was as to what were the eligibility marks that the candidates had to secure to be invited for the viva voce.
3. According to the petitioner, as per clause 3.2 of the admission policy, he was required to secure 35% of 70 marks fixed for the entrance exam.
 - 3.1 It is not in dispute that the 35% marks according to the petitioner in absolute terms would be 24.50 marks.
 - 3.2 Since the petitioner, concededly, has obtained 35 marks out of 70

marks.

3.3 There is no dispute that the petitioner had applied for M.Sc P.hd integrated programme.

3.4 The additional affidavit filed by JNU in fact says that the eligibility marks that a candidate had to obtain was 25% of the 70 i.e. 17.50 marks. JNU has equated the programme for which the petitioner had applied to M.A. B.A. Hons. (second year) and part time programmes.

4. Ordinarily, I would have thought that, given this position the petitioner had crossed the threshold and should have been invited for the viva voce.

5. However, the argument advanced on behalf of JNU is that as per Clause 3.3 of the Admission policy, they could call for viva voce, “around” three times the available vacancies.

6. On being queried, counsel for JNU says that since there were only 8 vacancies, therefore, only 25 candidates were called.

7. I may point out that the Clause 3.3 is framed rather ineptly. On the one hand, it uses the expression “the maximum number of candidates to be called for viva voce for admission to each programme” and then goes on to say that “around three times of the intake in each field of study”.

7.1 For the sake of convenience, the said clause is extracted hereafter:-

“7. That as per Admission Policy 2016-17 (Clauses.3), maximum number of candidates to be called for viva-voce for admission to each programme of study is around three times of the Intake of each field of study approved by the Academic Council. It is clear that candidates who could have been called for viva-voce were around 3 times and it was not mandatory to call maximum candidates as per the policy,”

8. It is not in dispute that JNU in fact has filled up 9 vacancies in the unreserved category whereas as indicated above, according to them, there were only 8 vacancies available.

9. The answer that I got from the counsel for JNU, is that, 1 vacancy available against the physically handicapped category was filled up by a candidate who fell in the unreserved category.

10. I have not been able to get any answer as to how this modality could have been followed by JNU to admit 9 candidates in the unreserved category as against 8 vacancies by sequestering 1 vacancy from physically handicapped category.

11. The counsel for JNU has not been able to answer the second issue which had been raised by the petitioner which was that even out of the 25 candidates which were called for the viva voce, 9 were OBC candidates and therefore, effectively, the general category candidates who were invited were only 16.

12. The petitioner also says that out of the 16 candidates, four candidates did not make it to the top 150 candidates in the merit list.

13. Counsel for JNU has in defence has referred to Clause 6.4 of the admission policy which reads as follows:-

“Candidates belonging to SC/ST/OBC/PH category who are selected on their own merit with General Category candidates are not counted under reserved quota.”

14. Having perused the same, to my mind, there is merit in the submission of the petitioner that Clause 6.4 could have been taken recourse to by JNU only after candidates were selected after the viva voce was completed and not before.

15. Insofar as the third aspect is concerned which pertained to misalignment between the information contained in the merit list and the information obtained by the petitioner via the RTI route, no satisfactory answer has been given by the counsel for JNU.

16. Having said all this, the prayers made in the writ petition need to be seen:-

“1- To cancel the admission process and order the respondent no 1&2 to re-conduct the counselling/interview in a lawful manner.

2- To grant the monetary compensation of INR 1 Crore to offset the loss caused to petitioner.

3- To suspend or terminate the services of all the employees and officers involved in this illegal admission process.

4- To put a permanent injunction on the wasting of seats every year by not conducting proper counselling and admission procedure.

5- To pass such other orders and further orders as may be deemed necessary on the fact and in the circumstances of the case.”

17. The prayer made in prayer clause (1) even according to the petitioner has been rendered inefficacious as he has moved on in life.

17.1 Insofar as the relief sought in prayer clause (2) is concerned (i.e. to award compensation of Rs.1 crore), the same cannot be granted in writ proceedings. Loss suffered will have to be established by the petitioner, in an appropriate proceeding, by placing on record relevant material.

17.2 The relief sought in prayer clause (3) is not supported by material particulars.

17.3 Likewise, relief sought in prayer clause (4) is based on a hypothesis that improper admission procedure will be followed by JNU even *qua*

admission process followed hereafter.

18. The writ petition is, thus, closed.

19. However, in view of the complete lack of assistance by JNU and the fact that the petitioner had to approach this Court for relief, JNU is directed to pay the petitioner towards costs Rs.75,000/-.

20. Cost will be paid within the next two weeks from the date of receipt of a copy of the order.

21. Furthermore, the petitioner will have liberty to take recourse to any other remedy that may be available to him in law to pursue his claim for compensation.

22. The JNU administration will take into account the concerns raised by the petitioner and ensure that the same are factored in the ensuing academic sessions.

FEBRUARY 13, 2020

c

RAJIV SHAKDHER, J