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

Decided on: 5th April, 2021

+ **W.P.(C) 686/2021**

SHALU MAAN

..... Petitioner

Through: **Mr. Kshitij Kumar & Ms.
Shivani, Advs.**

versus

**DEAN FACULTY OF LAW UNIVERSITY
OF DELHI & ANR.**

..... Respondents

Through: **Mr. Ankur Chhibber &
Mr. Anshuman Mehrotra,
Advs.**

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

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1. The petitioner was an applicant for admission to the LL.B. Course in Delhi University. She seeks an order directing the respondent-University ["the University"] to consider her candidature for admission in the Economically Weaker Sections ["EWS"] quota.

2. The facts are largely undisputed. The petitioner completed her B.A. degree in June, 2019 and thereafter applied for admission in the LL.B. programme. She admittedly applied in the general category, as she did not have an EWS certificate at the time of application. The petitioner thereafter appeared in the entrance examination on 09.09.2020. The results of the examination were declared on

09.11.2020 and the petitioner scored 213 marks out of 400. She was unable to obtain admission in the General category. On 01.12.2020, the petitioner applied to the office of the SDM, Baraud in the State of Uttar Pradesh for issuance of EWS certificate and thereafter addressed a communication dated 02.12.2020 to the University to consider her request for admission in the EWS quota. According to the petitioner, her request was not considered, and the final list of admissions was published on 30.12.2020.

3. Mr. Kshitij Kumar, learned counsel for the petitioner, submits that in view of the COVID-19 pandemic, the petitioner was unable to apply for an EWS certificate from the authorities of State of Uttar Pradesh in time. However, in support of the petitioner's contention that she was an EWS candidate even at the time of application, Mr. Kumar relies upon a certificate dated 25.06.2016, issued by the Government of Uttar Pradesh in favour of the petitioner's father [annexed to the writ petition as Annexure-B]. He submits that the petitioner, in fact, succeeded in obtaining an EWS certificate in her own name only on 04.12.2020 [Annexure-D to the writ petition] and therefore ought to have been considered for admission in that category.

4. Mr. Ankur Chhibber, learned counsel for the University, has produced a copy of the Prospectus 2020-21 for admission in the LL.B. programme of the University ["the Prospectus"]. The contents of the the Prospectus are undisputed and are taken on record. Mr. Chhibber also relies upon the answers to the Admissions 2020-21 – Frequently Asked Questions ["FAQs"],. The answers to Question nos. 50 and 74 of the FAQs deal with erroneous entry of the category in which the

candidate seeks admission. They are in the following terms:

“Question 50: What if I enter wrong information and submit my form? Shall I be allowed to change it later?”

Answer: The information given by an applicant in the application form, submitted for the Entrance Test regarding category - General, Economically Weaker Section (EWS), Scheduled Caste, Scheduled Tribe, O.B.C. (Non-creamy layer), Person with Disability (PwD) or Widows/Wards of armed forces personnel – shall not be changed under any circumstances.

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Question 74: I forgot to mention /erroneously mentioned, wrong category at the time of filling the admission form but I have all the documents establishing that I belong to any reserved category. Can I take admission in the reserved category later on?

Answer: No,

- 1. The change from general to reserved category is not possible at any later stage.*
- 2. If the category was mentioned wrongly and the candidate fails to produce the certificate to establish that he belonged to the said reserved category as claimed by him during filling the form, this may lead to disqualification.”*

5. In the Prospectus, a section titled “Important Instructions” includes the following stipulation:-

“The information given by an applicant in the application submitted for the Entrance Test regarding category- General, Economically Weaker Section (EWS), Scheduled Caste, Scheduled Tribe, O.B.C. (Non-creamy layer), Person with Disability (PwD) or Widows/Wards of a armed forces

personnel – shall not be changed under any circumstances."

6. It is Mr. Chhibber's submission that the petitioner, having applied in the general category, could not, after the results of the entrance examination had been declared, choose to transfer her application to the reserved category. He submits that permitting a candidate to do so would lead to chaos in the admission process, and disturb the merit position of other candidates in various categories.

7. Having heard learned counsel for the parties, I am of the view that the petitioner cannot be granted the relief sought for the following reasons:

- a. The petitioner admittedly applied in the general category. At the time of application, and in fact even when the results of the entrance test were declared, the petitioner did not have an EWS certificate. In fact, she applied for an EWS certificate only on 01.12.2020, after the results of the entrance test had already been declared and she found that she was unable to secure admission on the basis of her marks in the unreserved category.
- b. The certificate dated 25.06.2016, upon which the petitioner relies to establish that she was a EWS candidate even at the time of application, is a certificate issued in the name of her father and, on its own terms, was valid only for a period of three years from the date of its issue. The said certificate, therefore, could not further the case of the petitioner for admission in the 2020-2021 session in any manner.

- c. The conditions of the Prospectus, which make it clear that the candidates would not be entitled to change their status from the general to reserved category, would bind the petitioner. As stated above, she applied in the general category, and waited for the result to be declared before she even made an application for issuance of a EWS certificate by the State of Uttar Pradesh.
- d. The contention of the petitioner that she was unable to apply for the EWS certificate at the appropriate time in view of the COVID-19 pandemic is not borne out by any contemporaneous correspondence with the University. She did not raise any such grievance at all with the respondent prior to 02.12.2020.

8. I am of the view that a candidate cannot be permitted to change the category after the results have been declared. The merit position and cut-offs are determined category-wise. To permit a candidate to change the category at such a belated stage would lead to potential disruption in the admissions of those who have been granted admission, and also disturb the merit position of all other candidates in both the categories. Such a consequence would ultimately make it difficult to conclude the admissions process

9. The judgment of this Court in *Naveen Kumar vs. Faculty of Medical Science & Ors.* 2011 SCC Online Del 2774 [W.P. 4379/2011, decided on 08.07.2011] also supports the case of the University. This Court held therein as follows:-

“11. Adverting to the facts of the present case, the petitioner had applied in the General Category to seek

admission in MBBS Course and later he sought change in his category. Such an alteration is clearly impermissible in terms of clause 1.13 of the Bulletin of Information. It is not the case of the petitioner that he had furnished a correct information about his category as that of belonging to OBC and he could not furnish proof of the same. The courts have been taking a liberal view so far non submission of such certificates at the time of submission of the application forms in certain situations but certainly to permit a candidate to change his/her category itself neither seems logical nor legally permissible in terms of the requirements laid down in the Bulletin. Counsel for the respondent has also taken a stand that the instructions laid down in the Bulletin of Information have a statutory force as the said instructions were introduced after the same are passed by the University under its statutory powers. Without going into this issue, this court does not find any merit in the present petition. A candidate is expected to at least know which caste or category he or she belongs to and accordingly truthfully state his/her category in the application form. A change of category thus sought by the petitioner at a later stage although may be before the declaration of results cannot be permitted to the petitioner. Reliance by the petitioner on such change being permitted by the Central Counselling Board (AIEEE-2011) can be of no help to the petitioner as no such change has been permitted by the University of Delhi and it is not the case of the petitioner that the clause contained in the Information Bulletin should be struck down as being discriminatory or being in violation of fundamental rights of the petitioner.”

10. Following the judgment in *Naveen Kumar* (supra), and the decisions in *Udit Sehgal vs. University of Delhi & Anr.* ILR 2002 II Delhi 591 (paragraph 9), and *Ujjwal Tripathi vs. Director General, National Testing Agency* 2019 SCC Online Del 8702 [W.P.(C) 5104/2019, decided on 23.05.2019] (paragraph 14-17), I have also

upheld a similar contention of the University with regard to undergraduate admissions, in *Aaditi Sharma & Ors. vs. University of Delhi Through Its Vice Chancellor & Ors.* [W.P.(C) 10453/2020, decided on 03.02.2021].

11. In view of the aforesaid, the petitioner has not made out a case for interference under Article 226 of the Constitution of India. The petition is therefore dismissed, but with no order as to costs.

PRATEEK JALAN, J

APRIL 5, 2021
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