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

Date of Decision: 3rd February, 2021

+ **W.P.(C) 10453/2020**

AADITI SHARMA & ORS. Petitioners
Through: Mr. Abhinav Sharma, Advocate.

versus

UNIVERSITY OF DELHI THROUGH
ITS VICE CHANCELLOR & ORS. Respondents
Through: Mr. Amit Bansal, Std. Counsel
with Ms. Seema Dolo, Advocate.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

J U D G M E N T

PRATEEK JALAN, J. (Oral)

The proceedings in the matter have been conducted through video conferencing.

1. The petitioners were aspirants for admission to the undergraduate courses in University of Delhi [“the University”]. They have approached this Court with the grievance that they were not permitted to edit the category in which they sought to apply during the “Special Drive for Admission” held by the University in December, 2020 [“Special Drive”].
2. The petitioners applied for admission during the general admission process in August, 2020, in the General Category. They

claim that they were entitled to reservation under various special categories [petitioner nos. 1 & 4 in the Economically Weaker Sections category; petitioner nos. 2 & 5 in Persons with Disabilities category; and petitioner no. 3 in the Schedule Tribes category]. However, they applied in the ‘General Category’ for want of the necessary certificates to establish their entitlement to the reservations in question. The petitioners were unfortunately unable to secure admission during the general admission process.

3. The University thereafter issued a notice on 12.12.2020, for a Special Drive for merit based under-graduate admissions in various reserved categories. Participation in the said Special Drive was open only to candidates in the Schedule Caste/Schedule Tribe/Other Backward Classes/Economically Weaker Sections/Persons with Disability/Kashmiri Migrants/Sikh Minority categories. The persons who could not seek admission earlier or had cancelled their admission in any of the colleges’ departments during any of the preceding cut-offs, and were therefore not admitted, were considered under the Special Drive. The contention of the petitioners is that they were in possession of the required certificates by the time the Special Drive was conducted but were not permitted to edit the category under which they had applied, and therefore could not avail of the Special Drive at all.

4. I have heard Mr. Abhinav Sharma, learned counsel, on behalf of the petitioners, and Mr. Amit Bansal, learned Standing Counsel, on behalf of the University.

5. It has been pointed out in the counter affidavit filed by the University that all candidates were informed from the very beginning of the admission process that editing in the category of application would not be permitted. Mr. Bansal has drawn my attention to the notice dated 15.07.2020 and the press release dated 25.07.2020, which have been annexed to the petition as Annexures A-3 and A-5 respectively. In both the aforesaid notices, the University has clarified the fields in the application in which later editing would be permitted. It is clear from both these notices that no changes were to be permitted in the category of application.

6. Further, Mr. Bansal points out that in the Bulletin of Information for Admission to Under-Graduate Courses (2020-21) ["Information Bulletin"], the University had contemplated the concern of candidates who may not be in possession of the required category certificates at the time of application. To accommodate the concerns of such students, particularly in the wake of the COVID-19 pandemic when they may have found it more difficult to obtain the certificates, the University specifically provided as follows:

"If the applicant does not have their SC or ST caste/tribe certificate at the time of registration/applying they may upload the acknowledgement slip of the SC or ST caste/tribe certificate application. However, at the time of admission, the applicant will have to produce the valid original SC or ST caste/tribe certificate."

7. The Information Bulletin also contains a list of documents required at the time of registration. The following note was appended to the list:

“If the applicants do not have recent / valid EWS / OBC (Non-Creamy Layer) / SC or ST Caste / Tribe certificate at the time of Registration, the applicant may upload the acknowledgement slip of application for the certificate. However, at the time of admission, the applicant will have to produce his / her recent / valid original EWS / OBS (Non-Creamy Layer) / SC / ST certificate.”

8. The University also released a list of frequently asked questions, in which some of these issues were dealt with, which reads as follows:

“Q 1: If PwD candidates are not able to obtain the disability certificate from the government hospital. Can they upload one from the private hospital?”

Answer: Certificate issued by a private hospital is not valid. Applicants can apply for the certificate in online OPD and if they are not able to do so, they can upload an older certificate which the applicant may have used to avail benefits till class XII.

Q 2: If an applicant is not able to renew the EWS certificate nor the income certificate as of now, what should they do now?

Answer: The applicant can apply for the income certificate online and generate the acknowledgment/enrolment receipt to be uploaded. But at the time of admission the applicants have to provide the certificate.

Q 3: Can an applicant upload the caste certificate in his father's name if he/she is facing problems right now to issue one in his/her own name?

Answer: Applicants should try and apply for corrections in the certificate online and upload the acknowledgment slip of the same.

Q 4: If someone applies for an EWS certificate in offline mode, they obtain a receiving with a stamp. Can they upload that?

Answer: Yes, they can upload that provided the receiving has been done by the concerned authority. The applicants must have the certificate at the time of admission.

Q 5: Can a candidate change his category from UR to EWS after paying the registration fees or they need to fill another form?

Answer: The category of the applicant CANNOT be changed. Filing another form WILL BE THE candidate's choice."

9. Mr. Bansal submits that as the cut-offs for admission are determined on the basis of the categories in which the applicants have applied, the University decided to freeze the category at the stage of application while making the aforementioned accommodations for those reserved category candidates who did not have valid category certificates at the time of registration. This was made clear to all candidates prior to the stage of applications itself.

10. Mr. Sharma assails this as a hyper-technical approach. He submits that the petitioners, having obtained their category certificates prior to the Special Drive, ought to have been permitted to edit their category of application so that they could be eligible for admission. He cites the recent Division Bench decision of this Court in *Lekhraj Meena vs. Union of India & Ors.* [W.P.(C) 11004/2020, decided on

23.12.2020], in which this Court has cautioned against a technical approach while dealing with implementation of reservations. In paragraph 7 of the aforesaid judgment, relied upon by Mr. Sharma, the Division Bench has held as follows:

“7. We are of the view that the very fact that members of the STs have been granted certain reservations/relaxations, not only legislatively but also constitutionally, shows the need therefor. The said need has to be fulfilled, not only by providing reservations/relaxations but also by providing relaxations in implementing the said reservations and benefits conferred on the STs. The reasons and objective of providing such reservations/relaxations should not be lost sight of while implementing the reservations and relaxations. The said reservations/relaxations are in admission of the disadvantages which the STs have suffered for generations and which disadvantages place them in a unequal position vis-a-vis other citizens. Such disadvantages extend to all parameters of day to day life, making it more difficult than for others. The said reservations/relaxations cannot be given by one hand and taken away by another, invoking technicalities, forgetting the hardship and difficulties faced by such members in accomplishing smallest of the things, including of literacy and awareness. The default by the petitioner in submitting the certificate for height relaxation as per Annexure-IX to the SSC Notification dated 17th September, 2019, though submitted a caste certificate of belonging to the ST, cannot, in our view, be enforced pedantically, forgetting the very purpose of granting the reservations/relaxations and depriving the STs of benefits thereof. Moreover, the ongoing Farmers’ Protest around

the National Capital Region, cannot also be ignored and judicial notice has to be taken thereof in ensuring that none is deprived of due owing thereto. The petitioner is found to have been forthcoming in his disclosure, also of the reason for which the Tehsildar declined the certificate for height relaxation to the petitioner. Had the Tehsildar not so declined, the petitioner would have possibly reported back with the said certificate within the time granted to him.”

11. Having heard learned counsel for the parties, I am of the view that the actions of the University in the present case cannot be characterised as arbitrary or unreasonable, calling for the interference of the writ court. The method of application was duly publicised by the University at the stage prior to admission itself. Due provision was made for candidates who may not be in possession of category certificates and various alternatives were provided to enable them to apply in the proper category. The petitioners, perhaps on a *bona fide* misunderstanding, did not avail of those accommodations and instead applied in the general category. It is for this reason that they are today unable to avail of the reservation despite having the valid certificates.

12. I do not regard the prohibition on editing of the category to be arbitrary or unreasonable. As submitted by Mr. Bansal, the cut-offs for admission in each course are category-specific. The petitioners have approached the Court only after the conclusion of the normal admission process. During the normal admission process, seven cut-off lists were declared during October and November, 2020 in each category. The category certificates which the petitioners have

ultimately obtained were issued between 22.09.2020 and 11.10.2020. During the entire process of normal admission, no grievance was raised by the petitioners. Only on the eve of the Special Drive for reserved candidates did the petitioners seek to edit the category of their applications. To permit them to do so would potentially upset the earlier cut-offs. In the meanwhile, the entire admission process for normal admissions had been closed, and in fact the University has closed all under-graduate and post-graduate admissions on 31.12.2020.

13. The decisions of this Court also do not support the petitioner's argument that changes should have been permitted in the category of admission. In *Naveen Kumar vs. Faculty of Medical Science & Ors.* 2011 SCC Online Del 2774 [W.P.(C)4379/2011, decided on 08.07.2011], it was held 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.”

Reference may also be made in this connection to the judgments 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] (paragraphs 14-17).

14. The decision in *Lekhraj Meena (supra)*, relied upon by Mr. Sharma, is not applicable to the facts of the present case, as the petitioner therein had applied under the reserved Scheduled Tribe category. Had the petitioners herein applied in their reserved categories, they could have taken the aid of the said judgment if the University unreasonably denied them the consequential benefit. Having applied in the general category, however, the petitioners cannot claim the relief granted by the Division Bench in that case.

15. In the aforesaid circumstances, it is not possible to grant any relief to the petitioners at this stage. The petition is therefore dismissed.

PRATEEK JALAN, J

FEBRUARY 3, 2021

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