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

Date of Decision: 15th February, 2021

+ W.P.(C) 860/2021

VANSH SAROA

..... Petitioner

Through: Mr. Vijay Kumar, Advocate

versus

VICE CHANCELLOR, UNIVERSITY OF
DELHI & ORS.

..... Respondents

Through: Mr. Ankur Chibber, Advocate
with Mr. Nikunj Arora,
Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

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The proceedings in the matter have been conducted through hybrid mode (physical and virtual hearing).

1. Mr. Ankur Chibber, learned counsel for the University of Delhi, has entered appearance pursuant to the order of this Court dated 21.01.2021.

2. Although the counter-affidavit of the Union of India has not been filed, Mr. Chibber has produced in Court a copy of an affidavit dated 15.02.2021, affirmed by Dr. Vikas Gupta, Registrar of University. The said affidavit is taken on record, and Mr. Chibber is directed to file it in the course of the day. The affidavit has already been served upon learned counsel for the petitioner. In view of the fact that the petition involves a prayer for admission to the University, it

has been taken up for hearing with the consent of learned counsel for the parties, without waiting for the affidavit to be filed in the Registry.

3. Mr. Vijay Kumar, learned counsel for the petitioner, submits that the petitioner applied to the University for admission in various under-graduate courses for academic session 2020-21 in the Scheduled Castes [SC] reserved category. His grievance is that he is not being admitted to the University, despite the fact that several seats remain vacant in the SC category, which the University has not filled up at all.

4. Mr. Chibber relies upon the contents of the affidavit to submit that the petitioner did not even meet the minimum eligibility criteria for the courses in which he sought admission. He further submits that, during the admission process, the University released seven cut off lists in addition to a special drive that was held in December, 2020 for admission to the remaining seats in various reserved categories. According to Mr. Chibber, the petitioner did not meet the cut off in any of these rounds. He further submits that the vacancies to which the petitioner has referred in the writ petition have arisen after the close of admissions by the University on 31.12.2020. It is his specific case that all the seats in the respective categories were filled as a result of the aforesaid rounds of the admission, but vacancies have arisen subsequent to the admission process having been concluded.

5. The aforesaid contentions of the University are detailed in paragraph 4 to 8 of the counter-affidavit.

6. It appears therefrom that the petitioner had cleared the Class XII examination with the following marks [after excluding the internal assessment marks, as provided in the Bulletin of Information]:-

“English	32.5
Chemistry	49.66666667
Biology	51
Physics	43.33333333
Mathematics	36.25”

7. The eligibility criteria of the various courses in which the petitioner had applied are mentioned in the counter-affidavit, both in the general category and after giving 5% relaxation for the SC category, were as follows:-

“a. BA (Hons) Political Science - An aggregate of 45% (45% - 5% of 45% = 42.75% for SC category) marks in the qualifying examination.

b. BSc (Hons) Botany - 55% (55%- 5% of 55% = 52.25% for SC category) or more marks in the aggregate of Physics, Chemistry, Biology/Biotechnology/Biochemistry (Practical & Theory together) and 50% (50%- 5% of 50% = 47.5% for SC category) or more marks in one compulsory language i.e. English

c. B.Sc (Hons) Zoology - 55% (55%- 5% of 55% = 52.25% for SC category) or more marks in the aggregate of Physics, Chemistry, Biology/Biotechnology/Biochemistry (Practical & Theory together) and 50% (50%- 5% of 50% = 47.5% for SC category) or more marks in one compulsory language i.e. English

d. B.Sc (Prog.) Physical Science with Electronics - 45% (45% - 5% of 45% = 42.75% for SC category) or more marks in the aggregate of Physics, Chemistry/ Computer Science, Mathematics (Practical & Theory together) and passing in one compulsory language (i.e. English)” (Emphasis supplied.)

8. Calculating the petitioner's Class XII marks with regard to the aforesaid eligibility criteria, the petitioner's marks were computed as follows for each of the four courses:-

BA (Hons) Political Science	41.625%
B.Sc (Hons) Botany	48%
B.Sc (Hons) Zoology	48%
B.Sc (Programme) Physical Science with Electronics	43.083%

9. In the aforesaid undisputed factual position, the petitioner cannot be granted the relief sought for the following reasons:

(a) The petitioner does not appear to have met the minimum eligibility criteria for any of the courses in which he has applied. Further, the requirements of B.Sc. (Hons) Botany and B.Sc. (Hons) Zoology required a minimum of 50% [47.5% after granting 5% relaxation for the SC category] in English, which also the petitioner had failed to obtain.

(b) The University's affidavit specifically states that the cut offs for each of these courses in the colleges in which the petitioner had applied, were significantly higher than the result obtained by the petitioner. This has been tabulated in paragraph 4 of the affidavit. As far as BA (Hons) Political Science is concerned, the University has pointed out that all the seats in the SC categories in the colleges to which the petitioner had applied, have in fact been filled, and there are no vacancies as claimed by the petitioner. In B.Sc (Hons) Botany, B.Sc (Hons) Zoology, and B.Sc (Programme) Physical Science with

Electronics, the lowest cut off on which the candidates were admitted in any of the petitioner's preferred colleges were 65%, 70%, and 45% respectively [as against the petitioner's score of 48%, 48%, and 43.083% respectively]. The petitioner cannot, in these circumstances, claim any right to be admitted to the University.

(c) It is additionally submitted by Mr. Chibber that the vacancies have in fact arisen after the close of admissions on 31.12.2020. He relies upon an order passed by this Court dated 02.02.2021 in W.P.(C)1330/2021 [*Shefali Shukla vs. University of Delhi & Anr.*] wherein, relying upon the judgments of the Division Bench in *Dr. Rajiv Kumar vs. Union of India and Ors.* [W.P.(C) 2275/2010, decided on 01.08.2014] and of a Coordinate Bench in *Saubhagya Dua vs. Union of India & Anr.* [W.P.(C) 8303/2019, decided on 13.08.2019], this Court held that the University cannot be directed to fill up seats which have become vacant due to candidates not taking up the seats after admission, as it would render the counselling and admission process entirely incapable of conclusion. The said reasoning applies to the present case as well.

10. For the aforesaid reasons, I am of the view that the petitioner's claim in the present petition is unmerited. The petition is therefore dismissed.

PRATEEK JALAN, J

FEBRUARY 15, 2021

j'