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

Date of Decision: 27th January, 2021

+ W.P.(C) 8351/2020

UDAY SINGH

..... Petitioner

Through: Mr. D.B. Yadav & Mr. Suraj
Yadav, Advocates.

versus

ALL INDIA INSTITUTE OF MEDICAL
SCIENCE & ANR.

..... Respondents

Through: Dr. Harsh Pathak, Advocate
with Ms. Shaveta Mahajan,
Mrs. Maya Pathak, Mr. Sidharth
Shukla & Mr. Mohit Choubey,
Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

PRATEEK JALAN, J. (Oral)

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

1. The petitioner completed the B.Sc. (Hons.) Botany degree from Swami Shardhanand College, Alipur, Delhi. He thereafter sought admission in the All India Institute of Medical Science ("AIIMS") (respondent no. 1) for an M.Sc. degree in Reproductive Biology and Clinical Embryology. The petitioner's application was in the category

of Other Backward Classes – Non-Creamy Layer (“OBC-NCL”).

2. The petitioner’s grievances in this writ petition are two-fold: -

a) That his OBC certificate dated 17.10.2020 be accepted for admission in AIIMS in the aforesaid category;

b) That time be extended for him to submit his marksheet and certificate for final year of B.Sc. (Hons) Botany.

3. I have heard Mr. D. B. Yadav, learned counsel for the petitioner, and Dr. Harsh Pathak, learned counsel for AIIMS.

4. The aforementioned course was first advertised by AIIMS by way of an advertisement dated 07.12.2019 in which the qualifying criteria and the time schedule for registration of applications was laid down. Pursuant to the aforesaid advertisement, a prospectus was issued on 13.03.2020. The petitioner applied for admission in the aforesaid course and participated in the entrance examination. He was allotted a seat under the OBC category, subject to satisfying the eligibility conditions laid down in the prospectus.

5. At the time of verification of his documents, however, it was found that the petitioner did not qualify as he did not have an OBC certificate issued during the period specified in the prospectus. The relevant condition laid down in the prospectus is reproduced below:-

“(v). The candidature of the above candidates is subject to satisfying the eligibility conditions as laid down in the Prospectus and verification of the documents/information furnished in their application forms and the verification of original certificates/documents at the time of reporting time.

(ix). The validity of OBC (NCL)/EWS certificate shall be 16.04.2019 to 21.08.2020 (both date inclusive).

Certificate issued within this period shall be accepted only. Those candidates who are found not eligible for OBC (NCL)/EWS seat on the basis of verification of respective certificates, shall be treated as UR in their rank is within the cut-off rank for UR Merit List, or will NOT be considered to be in this list if rank is beyond the cutoff rank for UR Merit List.”

6. It is undisputed that the petitioner had produced a caste certificate dated 03.07.2017. A copy of the aforesaid certificate is annexed as Annexure P-6 to the writ petition. AIIMS did not accept this certificate as it was not issued by the competent authorities between 16.04.2019 and 15.04.2020.

7. Mr. Yadav submits that the aforesaid condition has itself been done away with by AIIMS while issuing the result of the entrance test. He refers me to the clause 6 (ix) of the letter dated 05.10.2020 by which the result was communicated to the petitioner. The relevant extracts from the said letter are as follows: -

“5. The candidature of the above candidates is subject to satisfying the eligibility conditions as laid down in the Prospectus and verification of the documents / information furnished in their application forms and the verification of original certificates/documents at the time of reporting time.

6. The above candidates are required to bring in original with one set of photo copy of following documents on or before date as mentioned at Point No. 1 above:-

xxxx

xxxx

xxxx

(vi) *Relevant degree of Certificate of the recognized University showing fulfilment of eligibility. Proof of passing the qualifying examination on or before 31st August, 2020 with requisite percentage of marks and subjects failing which their performance at the Entrance Examination will not be considered.*

(vii) *Candidates belonging to SC/ST/OBC/EWS category (applicable only if mentioned in the application form) are required to bring the copy of the relevant certificate issued by the competent authority in the prescribed form as appended in the Prospectus.*

(viii) *OBC (NCL)/EWS certificate should be valid for Central Government jobs/Central Govt. Institutions only, otherwise claim for OBC/EWS reservation will not be considered.*

ix) The validity of OBC (NCL)/EWS certificate shall be 16.04.2019 to 21.08.2020 (both date inclusive). Certificate issued within this period shall be accepted only. Those candidates who are found not eligible for OBC(NCL)/EWS seat on the basis of verification of respective certificates, shall be treated as UR if their rank is within the cut-off rank for UR Merit List, or will NOT be considered to be in this list if rank is beyond the cutoff rank for UR Merit List.”

8. Mr. Yadav submits that the validity of the certificate as mentioned in the prospectus was 16.04.2019 to 15.04.2020, whereas in the acceptance letter the period had been extended to 21.08.2020. He states that, after the aforesaid letter was received by the petitioner on 06.10.2020, he applied for a new caste certificate, which was issued on 17.10.2020. He now wishes to submit the certificate dated

17.10.2020 to AIIMS, in order to avail of his admission in the OBC-NCL category.

9. I am of the view that the belated caste certificate cannot be accepted in view of the conditions in the prospectus, which was admittedly available to the petitioner prior to taking the entrance test. It was stated therein that the caste certificate must be issued between 16.04.2019 and 15.04.2020. In view of the COVID-19 pandemic, the period was extended to 21.08.2020. However, this does not imply that the petitioner was entitled to submit a caste certificate obtained at any time thereafter. The petitioner's contention that the prospectus had been cancelled or given a complete go-by is not acceptable. Neither the caste certificate of 03.07.2017 nor the caste certificate of 17.10.2020 fulfil the conditions of the prospectus or the acceptance letter. Therefore, the petitioner cannot be permitted to avail of the OBC category reservation. In a recent judgment in W.P.(C) 10791/2020 [*Seema vs. The Director All India Institute of Medical Science AIIMS & Ors.*, decided on 12.01.2021], with regard to the corresponding condition for admission in AIIMS under the Economically Weaker Sections ["EWS"] category, this Court has come to a similar conclusion with regard to submission of a belated EWS certificate.

10. The second grievance of the petitioner - with regard to the qualifying examination certificate - is equally unmerited. The requirement of a B.Sc. in Biology or an allied subject is stipulated as the minimum eligibility criterion for admission to the concerned course in the advertisement dated 17.12.2019. The acceptance letter

extracted above also makes it clear that the qualifying degree would have to be passed on or before 31.08.2020. The petitioner has sought extension of time to produce the final year marksheet or certificate from his college. Although the writ petition does not contain any clear averment to this effect, Mr. Yadav states that the results of the B.Sc. examination of the petitioner were declared by his under-graduate college only on 26.10.2020. It is therefore clear that the petitioner did not meet the criterion of having completed his qualifying degree before 31.08.2020 as required by the respondent.

11. The Court cannot lose sight of the fact that several candidates would be in a situation similar to that of the petitioner, and no relaxation can be granted in these timelines in favour of a particular candidate to the exclusion of others who are similarly placed. The conditions in the prospectus and the registration documents with regard to the validity of documents, and the timelines during which they must be submitted, cannot ordinarily be departed from by the respondents. The petitioner has not made out any special ground for such a relaxation in his case.

12. In view of the aforesaid, the present writ petition is without merit and is dismissed.

PRATEEK JALAN, J.

JANUARY 27, 2021

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