

Ct. 05
Item No.16
22.03.2022
(suvendu)

WPA 2514 of 2022

Ditipriya Mukherjee
Vs.
The State of West Bengal & Ors.

Ms. Pampa Dey (Dhabal)
.....for the petitioner

Mr. Nilotpal Chatterjee
Mr. Satyaki Banerjee
.....for the University

Mr. Swapan Kumar Datta
Mr. Tapas Kumar Mandal
.....for the State

Mr. S.Chatterjee
Mr. Shouveek Ray
Mr. Pratik Majumdar
.....for the respondent no.5

The petitioner claims a writ of mandamus commanding the respondents College and the University to re-admit the petitioner in M.Sc. 1st Year with Botany in the Scottish Church College.

The submissions made on behalf of the parties, i.e. the petitioner, Scottish Church College and Calcutta University indicate following admitted facts.

The petitioner was admitted to the M.Sc. Course in Botany in the year 2021 and attended the

classes for about a month after which the petitioner was informed by an email dated 31st January, 2022 that the admission of the petitioner was the result of a mistake on the part of the College, more precisely a “technical glitch” and the petitioner was asked to withdraw her candidature and admission upon refund of all fees and charges. This letter is from the Principal of the College. The petitioner was thereafter taken out of the Course as a result of aforesaid facts.

Learned counsel appearing for the College submits that the petitioner was ranked 205 and the last candidate admitted was in the rank of 116. Hence, there were 88 other candidates above the petitioner who could have been taken by admission but were not. Counsel submits that readmitting the petitioner would result in perpetuation of an illegality and that other candidates who were ranked above the petitioner would also have a legitimate grievance against the College.

Learned counsel appearing for the Calcutta University takes a fair stand, as always, and submits that the petitioner cannot be made to suffer as a result of a mistake committed on the part of the College. Counsel submits that the College should take adequate measures to ensure that such a mistake should not be committed in future.

After hearing learned counsel, this Court is of the view that opposed to the decision cited on behalf of the College, namely *Miss Renna Jain Vs. Mohal Lal Sukhadia University, Udaipur & Anr.* [(2001) 3 Rajasthan LR 229], of a learned Single Judge of the Rajasthan High Court (Jaipur Bench), the facts of this case indicate a clear and admitted mistake on the part of the College. In *Miss Renna Jain*, the Rajasthan High Court proceeded on the basis that the admission given to the two petitioners before the Court was “illegal” admission caused by the manipulation on the part of the petitioners to secure such admission. Paragraph 25 of the said decision indicates that the Court did not accept the explanation of a “computer mistake” committed on the part of the University. The University was in fact unable to offer a plausible explanation for the admission given to the petitioners which would be evident from the observations of the Court in the said decision.

On the other hand, in *Javed Akhtar & Anr. Vs. Jamia Hamdard & Anr.* [WP (C) No. 15257-58/2006], a learned Single Judge of the Delhi High Court was of the view that a candidate cannot suffer for the mistake committed by the concerned College/University and cancellation of the admission is therefore unacceptable. This view is also found in

Rajendra Prasad Mathur Vs. Karnataka University & Anr. [1986 Supp Supreme Court Cases 740] where the Supreme Court opined that the blame for any wrongful admission must lie more upon the engineering Colleges which granted admission to the appellants before the Court.

The facts in the present case indicate that the petitioner was admitted to the College as a result of a “technical glitch” which is admitted by the Principal of the College. The student was allowed to attend the classes for the M.Sc. Course before the College discovered the mistake and asked the student to withdraw her candidature. The student, by no means, can be made a victim or made to suffer the consequences of a mistake on the part of the College. The College must take responsibility for its actions and make appropriate reparation for such mistake. The petitioner cannot now be asked to give up the Course which would cause severe uncertainty in her future. It is inconceivable that other candidates who were placed above the petitioner would approach the College for similar demand since it is not the case of the College that similar technical mistakes were committed in respect of any other candidate save and except the petitioner.

The practical aspect of the petitioner having missed her classes is entirely the responsibility of the

College and the College has to ensure that the petitioner gets the benefit of those classes.

The respondent College is directed to readmit the petitioner in the 1st Year of M.Sc. Course in Botany within a period of two weeks from the date of communication of this order. The College is also directed to ensure that the petitioner is given the benefit of the classes which the petitioner has missed as a result of the College asking the petitioner to withdraw from the Course.

WPA 2514 of 2022 is allowed and disposed of in terms of the above.

It is made clear that this decision should not be seen as a precedent for other such technical errors made on the part of the College and the University unless the facts call for intervention of the Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)