

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

Judgment reserved on: 19.10.2022

% **Judgment delivered on: 28.10.2022**

+ LPA 212/2021 and C.M. Nos. 23016/2021 & 23017/2021

UNIVERSITY OF DELHI AND ANR Appellant

Through: Mr. Ankur Chhibber, Advocate.

versus

ADIL SAJEER ANSARI Respondent

Through: Mr. Tushar Giri, Mr. Sahil Bhalaik
and Mr. Mr. Sohan Patil, Advocates.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

J U D G M E N T

SATISH CHANDRA SHARMA, C.J.

1. The present Letters Patent Appeal has been filed under Clause X of the Letters Patent Appeal being aggrieved by the judgment dated 23.04.2021 passed by the learned Single Judge in W.P.(C) No. 5392/2020, tilted *Adil Sajeer Ansari v. University of Delhi & Anr.*

2. The facts of the case reveal that the Respondent Adil Sajeer Ansari submitted an application for grant of admission to MBA (International Business) Programme, Department of Commerce, Faculty of Commerce and

Business for the academic year 2020-21. He submitted an application as a candidate belonging to OBC Category and he was offered admission by issuing a notice duly displayed on the website of the Department pm 02.08.2020. The notice which was displayed on the website dated 02.08.2020 provided certain formalities to be completed by the candidates who were granted provisional admission and they were required to submit a scanned coy of their documents on an email address provided on the website i.e. mbaadmissions@commerce.du.ac.in. The documents were to be uploaded from 02.08.2020 to 04.08.2020 between 10:00AM to 04:00 PM.

3. The Appellant University in addition to the notice displayed on the website also sent an email on 02.08.2020 to all the candidates who were granted provisional admission and they were informed that they are required to upload the documents and the documents submitted after the prescribed deadline will not be entertained by the University. The relevant portion of the email dated 02.08.2020 is reproduced as under:

“You are required to send your documents during the period from:2nd August, 2020 to 4th August, 2020 between 10:00 AM to 4:00 PM (Documents sent after the stipulated time shall not be considered without any further communication.)”

4. The Respondent student on 03.08.2020 sent an email to the Appellant University raising a query regarding his graduation which was replied with quite promptitude by the University and it is noteworthy to mention that the email sent by the Respondent Student was sent on the correct email address of the university i.e. mbaadmissions@commerce.du.ac.in.

5. On 04.08.2020 at about 07:59 PM, the Respondent University sent an email to the University stating that he had sent all his documents to the Appellant University vide an email, however, no payment link has been received.

6. The Respondent University in response to the aforesaid email dated 04.08.2020 received at 07:59 PM, informed the Respondent with quite promptitude that the University has not received any document from the Respondent student, however, only received a query at 07:59 PM and the same was duly replied by the University. The relevant extract of the email sent by the University on 04.08.2020 at 08:43 PM reads as under:

“We have received only a query from your side which was duly replied but have NOT received the documents required for admission therefore you have not got any mail

Also, you are requested to send us proof that you have send the required documents on this email ID for us to take up the matter.

Warm Regards

MBA Admissions Team

Department of Commerce

Faculty of Commerce and Business

University of Delhi

Delhi”

7. The Respondent Student has, in fact, not sent the documents on the email address of the Appellant University and has committed a mistake by sending the documents to some other email address and finally the

documents were sent to the email address of the University on 04.08.2020 at 09:15 PM and 09:19 PM.

8. The Respondent Student again sent an email on 05.08.2020 at 12:21 PM again informing the University that he has mistakenly sent the documents to a wrong email address and apologised for the same. The Appellant University again replied to the email sent by the Respondent Student on 05.08.2020 at 02:19 PM stating that the documents of the Respondent Student cannot be considered now since they were submitted beyond the prescribed deadline and his case has been forwarded to the Sub-Committee of the MBA Admissions and the decision shall be communicated to him.

9. The Respondent in spite of the aforesaid email kept on repeatedly sending emails to the University. The Sub-Committee of MBA Admissions took a decision not to accept the request of the Respondent Student as he did not submit his documents within the prescribed time limit.

10. The Respondent Student thereafter submitted representations to the Dean, Department of Commerce, University of Delhi and again admitted that the documents were sent on incorrect email address, however, as his request was not accepted by the Appellant University, he preferred a Writ Petition i.e. W.P.(C) No. 5392/2020 before this Court praying for the following reliefs:

“(a) issue a writ of mandamus or any other appropriate writ, order or direction directing the Respondents to allow the Petitioner to complete his admission process for the MBA (IB)

program and grant him consequent admission at the Delhi School of Economics, University of Delhi;

(b) pass such further or other orders, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case in the interest of justice”

11. The Appellant University did file a reply before the learned Single Judge stating categorically that identically placed candidates who did not submit their documents within the prescribed deadline were not granted admission by the University. It was stated that 4 candidates did not submit their documents within the prescribed time limit and 1 candidate sent the documents on a wrong email address like the Respondent student and all of them were not granted admission by the Appellant University.

12. The learned Single Judge in spite of the fact that in similar cases also, the University has taken a uniform stand has allowed the Writ Petition. Paragraphs 35 to 44 of the Order passed by the learned Single Judge reads as under:

“35. The next question is as to what relief can be granted to the petitioner. The petitioner approached this Court immediately after the rejection of his representations. The first order of this Court, which was passed on 18.08.2020, recorded that the petitioner had made out a prima facie case and directed the University to keep one seat vacant in the OBC category. The seat has been vacant since. Although the University was granted one week's time to file a short affidavit, several opportunities were taken to have the affidavit placed on record. The matter has remained pending since then, principally due to the time taken in bringing the counter affidavit on record and due to the pre-occupation of the Court, as well as on account of adjournments sought by the University. At the very least, a

perusal of the order sheets show that the petitioner is not at fault.

36. Be that as it may, Mr. Rupal is right in submitting that the petitioner has missed the first semester of the course and the examinations. In these circumstances, granting admission for the current academic year (2020-21) may not be possible. However, the Court under Article 226 of the Constitution has to consider some way of moulding the relief.

37. The judgment of the Supreme Court in S. Krishna Sradha vs. The State of Andhra Pradesh & Ors. 2019 SCC OnLine SC 1609 [Civil Appeal No. 1081/2017, decided on 13.12.2019] provides some guidance in this regard. In the said judgment, the Supreme Court considered a case of candidates for admission into MBBS courses to determine whether there is any situation in which a candidate can be granted admission after the admission deadline has passed, or whether the only relief available to a candidate in such a situation is the grant of compensation. The Supreme Court framed the question in the following terms:

“18. Heard Learned Counsel for the respective parties at length. The short but an important question of law posed for consideration of this Court is what relief a meritorious candidate is entitled to when it is found that a meritorious candidate is denied an admission arbitrary and illegally by the concerned authorities and the fault is not attributable to the candidate at all and the candidate has pursued his/her legal rights expeditiously and without delay, whether in such a situation awarding compensation only can be said to be just and an adequate relief? The issue which arises for consideration is whether having fulfilled the aforesaid prerequisites, the Court can grant relief and order admission even after the cut-off date for admission i.e. 30th September is over and whether the Court can grant admission beyond the intake either in the same year or in the next academic year?”

38. The Court observed that a candidate placed in this situation, particularly one seeking admission in a professional course, each year is very precious. Relying upon Articles 14, 19 and 21 of the Constitution, the Court held that for a deserving candidate, the primary relief is restitutionary:-

“32. The right to equal and fair treatment is a component of Article 14 of the Constitution. As held by this Court Asha (Supra) that a transparent and fair procedure is the duty of every legal authority connected with admissions. In such cases, denial of fair treatment to the candidate would not only violate his/her right under Article 14 but would seriously jeopardize his/her right under Articles 19 and 21 of the Constitution of India. A natural corollary of declaring that an administrative act more particularly the denial of admission illegally and for no fault of a candidate/student violates principles of Article 14 is that the citizen injured must be put back to his/her original position. In that sense, the primary relief is restitutionary. As observed hereinabove, for a meritorious student seeking admission in medical course is very important in the life of student/candidate and denial of admission to a meritorious candidate though no fault of his/her violates his/her fundamental rights. Compensation could be an additional remedy but not a substitute for restitutionary remedies. In case of medical admissions, even the restitutionary remedy of providing a seat in the subsequent year would lead to loss of one full academic year to a meritorious candidate, which cannot be compensated in real terms. Thus compensation for loss of year could be provided, but denial of admissions to a meritorious candidate cannot be compensated in monetary terms. Thus denial of admission in medical course to a meritorious candidate for no fault of his/her and though he/she has approached the Court in time and despite the same not granting any just and equitable relief would be denial of justice. Therefore, the question is what relief the Court can grant by which right to equal and fair treatment to a candidate are protected and at the

same time neither there is injustice to other candidate/student and even compromising with the quality education. Therefore, a balance is required to be struck. However, at the same time it can safely be said that the view taken by this Court in Jasmine Kaur (Supra) that the only relief which can be granted to such a candidate would be the compensation only is not good law and cannot be accepted. Even granting a relief to such a candidate/student in the next academic year and to accommodate him/her in the next year and in the sanctioned intake may even affect the right of some other candidate/student seeking admission in the next academic year and that too for no fault of his/her. Therefore we are of the view that in the exceptional and in the rarest of rare cases and in case where all the conditions stipulated in paragraph 33.3 in the case of Jasmine Kaur (Supra) are satisfied, the Court can grant exceptional relief to the candidate of granting admission even after the cut off date is over.”

39. The Court thereafter concluded that, in exceptional cases, admission may be granted to a meritorious candidate even one month after the cut-off date for medical admissions (30th September) has passed. Relevant for the purposes of the present case are the conclusions recorded in paragraph 33 (iii) and (iv) which are as follows:

“33. xxxx xxxx xxxx (iii) In case the Court is of the opinion that no relief of admission can be granted to such a candidate in the very academic year and wherever it finds that the action of the authorities has been arbitrary and in breach of the rules and regulations or the prospectus affecting the rights of the students and that a candidate is found to be meritorious and such candidate/student has approached the court at the earliest and without any delay, the court can mould the relief and direct the admission to be granted to such a candidate in the next academic year by issuing appropriate directions by directing to increase in the

number of seats as may be considered appropriate in the case and in case of such an eventuality and if it is found that the management was at fault and wrongly denied the admission to the meritorious candidate, in that case, the Court may direct to reduce the number of seats in the management quota of that year, meaning thereby the student/students who was/were denied admission illegally to be accommodated in the next academic year out of the seats allotted in the management quota.

(iv) Grant of the compensation could be an additional remedy but not a substitute for restitutional remedies. Therefore, in an appropriate case the Court may award the compensation to such a meritorious candidate who for no fault of his/her has to lose one full academic year and who could not be granted any relief of admission in the same academic year.”

40. In so holding, the Court affirmed the decision of a smaller bench in Asha vs. Pt. B.D. Sharma University of Health Sciences & Ors. (2012) 7 SCC 389 and overruled a contrary decision in Chandigarh Administration & Anr. vs. Jasmine Kaur & Ors. (2014) 10 SCC 521. Although the judgment in S. Krishna Sradha (supra) is expressly confined to MBBS courses, the principles laid down by the Court provide valuable guidance.

41. The additional affidavit filed by the University dated 23.02.2021 in the present case clearly indicates that grant of admission to the petitioner at this stage would not be consonant with the requirement of a professional course like the MBA. Mr. Bhalaik during the course of arguments has conceded that the petitioner would be agreeable to admission for the course in question in the next academic year i.e. 2021-22. Mr. Rupal has also stated upon instructions that the admissions process for the year 2021-22 is in progress but students have not yet been granted admission. This is one of the alternatives contemplated by the Court in S. Krishna Sradha also.

42. Two other authorities also follow the same course:

(a) Following the judgment in S. Krishna Sradha, the Supreme Court in National Medical Commission vs. Mothukuru Sriyah Koumudi & Ors. 2020 SCC OnLine SC 992 [Civil Appeal No. 3940/2020, decided on 07.12.2020] applied the same guidelines for admission to post-graduate medical courses. The Court [in paragraph 9 of the said judgment] disagreed with the directions of the High Court to create an additional seat for the petitioner in the year under consideration, but granted her admission in the management quota of the concerned college for the next academic year. The petitioner was also granted compensation of Rs. 10 lakhs for the loss of one academic year.

(b) In Sneha Vats vs. University of Delhi & Ors. 2019 SCC OnLine Del 11199 [W.P. (C) 7854/2019, decided on 18.11.2019], the petitioner sought admission to the MBBS Course in University of Delhi in the CW category [Children/Widows of Officer and Men of the Armed Forces including Para-Military Personnel]. A Coordinate Bench of this Court relied upon the judgment in Asha and directed the respondents to consider the petitioner in the next academic session however, leaving the question of compensation open.

43. Having regard to the aforesaid precedents and the facts and circumstances of the present case, I am of the view that the appropriate course would be to direct the University to admit the petitioner in the MBA (International Business) Programme in the year 2021-22. As held hereinabove, the mistake made by the petitioner was condonable by the University, particularly in view of the fact that he had followed up the matter with due diligence and rectified the mistake before the University had commenced processing the admissions and before any third-party rights had intervened. He also approached this Court with alacrity. However, the passage of time makes it difficult to require the University to grant him admission for the year 2020-21. Having regard to the fact that he did admittedly commit a typographical error, which led to the impugned

decision of the University, I do not also consider it a fit case for grant of compensation to the petitioner for the year lost.

Conclusion

44. For the reasons aforesaid, the petition is disposed of by setting aside the decision of the Sub-Committee dated 07.08.2020 and directing the University to grant admission to the petitioner for the concerned course for the academic year 2021-22. Pending applications are also disposed of. There will be no order as to costs."

13. Learned Counsel for the University has vehemently argued before this Court that the issue involved in the present case was in respect of admission for the academic year 2021 and, thereafter, the University has granted admissions in the academic year 2021-22 and 2022-23 and at this juncture, the question of grant of admission to the Respondent Student in the peculiar facts and circumstances of the case, specially when the writ petitioner/respondent herein was at fault in submitting the documents in time, does not arise.

14. He has further argued before this Court that the learned Single Judge has erred in law and on facts in disagreeing with the specific instructions issued by the Appellant University in respect of submission of documents.

15. He has further argued that the executive instructions issued by the University were binding upon all the students specified for a particular course and no such mandamus could have been issued in the manner and method it has been done contrary to the instructions issued by the University on the subject.

16. Learned counsel has placed heavy reliance upon a judgment of the Supreme Court in *State of Uttar Pradesh v. Chaudhari Ran Beer Singh & Anr.*, (2008) 5 SCC 550. He further places reliance on a judgment in the case of *Divya Bansal v. University of Delhi through its Registrar*, W.P.(C) No. 9111/2020, decided on 23.11.2020, *Ujjawal Tripathi v. Director General National Testing Agency*, (2019) SCC Online Del 8702 and his contention is that in the light of the aforesaid judgment, by no stretch of imagination, the Writ Petition could have been allowed as it was a mistake on the part of the student himself in not submitting the requisite documents in time.

17. Reliance has also been placed upon a judgment delivered in the case of *Pallavi Sharma v. College of Vocational Studies*, (2015) 221 DLT 738. Learned counsel for the University has vehemently argued before this Court that in the peculiar facts and circumstances of the case, the question of granting any relief to the Writ Petitioner/ Respondent student does not arise. The student himself was at fault and the mistake was admitted by him stating categorically that he has not uploaded/ submitted the documents in time and did commit a mistake in sending the documents on a wrong email address and, therefore, the question of granting him admission after 2 years does not arise.

18. Learned counsel has vehemently argued before this Court that the case of the Respondent student was not an isolated case. There were 5 students who were denied admission in respect of the same course out of which 4 students did not submit their documents before the deadline fixed by the University and one of them sent his documents on a wrong email

address like the Writ Petitioner/ Respondent and, therefore, the Sub-Committee was justified in rejecting the representation of the Respondent and the same was done in all the other identical cases and, therefore, the learned Single Judge has erred in law and on facts in issuing a mandamus to the University.

19. This Court has heard learned counsel for the parties and perused the record. The matter is being disposed of with the consent of the parties at the admission stage itself.

20. The undisputed facts of the case reveal that the Respondent applied for admission to MBA Programme (International Business) in the Department of Commerce, Faculty of Commerce and Business, Delhi School of Economics, University of Delhi for the academic year 2020-21 and he was provisionally selected in the OBC Category in the 8th Admission List. The Respondent student was informed by an email dated 02.08.2020 to submit the documents from 02.08.2020 to 04.08.2020 between 10AM to 4PM. It is an undisputed fact that the Respondent on 04.08.2020 submitted the documents on a wrong email address and he was informed by the University that the University has not received the documents. The Respondent, on 04.08.2020 at 09:19 PM, apologizing his mistake, again sent an email to the University and it is an undisputed fact that the Respondent was not provided with the payment link as he did not submit the documents in time and the University on 05.08.2020 at 02:19 PM informed the Respondent that his case cannot be considered because of the deadline of submission of documents.

21. The present case is not a case where the university was at fault. The time line was prescribed for submitting the documents and the same was not complied with by the Respondent Student. The learned Single Judge, in the year 2022 has directed the University to grant admission to the Respondent in respect of MBA Programme for the academic year 2021-22 even though the Court has arrived at a conclusion that the mistake was on the part of the Respondent. In the matter of admissions such a mistake cannot be held to be condonable mistake especially when 5 such identically placed students were denied admission by the University. The Respondent's case in isolation cannot be looked into as has been done by the learned Single Judge and the University has to take a uniform decision in respect of all the cases.

22. A Division Bench of this Court in the case of ***Meenakhi and Others v. All India Institute of Medical Sciences and Others***, LPA 370/2020, decided on 05.04.2021 was dealing with a controversy in the matter of grant of admission in M.Sc and Ph.D courses and the Division Bench in paragraphs 15 to 18 in the aforesaid case has held as under:

“15. Though the delay in conduct of the qualifying examination or declaration of result thereof, this time around may be attributable to the Covid-19 pandemic but it is not as if in the past there were no such delays; in the past also, individual universities/colleges have delayed conduct of examinations and declaration of result and which has cost its students further admissions and in none of the cases, was it ever held, to our remembrance, that for such reasons, the provisions of the prospectus would be given a go-bye and the Courts would intervene. Even otherwise, the interference by the Courts in academic matters, which are best left to be governed to the education bodies, has to be minimal and the Courts, by making orders, cannot interfere in the running of the educational

institutions and academic courses. Reference in this regard may be made to Dr. J.P. Kulshrestha (Dr.) Vs. Chancellor, Allahabad University (1980) 3 SCC 418, Maharashtra State Board of Secondary Education Vs. Paritosh Bhupesh Kumar Sheth (1984) 4 SCC 27, Bhushan Uttam Khare Vs. Dean, B.J. Medical College (1992) 2 SCC 220, All India Council for Technical Education Vs. Surinder Kumar Dhawan (2009) 11 SCC 726 and Basavaiah (Dr.) Vs. Dr. HL Ramesh (2010) 8 SCC 372. Already for the last nearly three months, the academic calendar of AIIMS has suffered for the reason of interim orders in these proceedings and a year cannot be permitted to be wasted.

16. It cannot also be forgotten that there may be a large number of students, who by now would have cleared the qualifying examination and may have had a meritorious position in the result of the entrance examination but have chosen not to pursue any legal remedy. There is no reason why the appellants alone should be given the benefit of COVID-19 and why it should not be extended to all others also who may be entitled thereto.

17. There has to be a finality to admissions. The appellants participated in the admission process, in terms of the prospectus published for such admissions. As per the terms and conditions of such admission process, the appellants are not eligible for admission. As per the said terms and conditions, others, though placed lower in merit in the result of the entrance examination, are eligible for and entitled to admission. The Court cannot displace those who have already been admitted or whose admissions have been crystallized, to admit the appellants. Reference in this regard may also be made to Ran Vijay Singh Vs. State of Uttar Pradesh (2018) 2 SCC 357.

18. There is no merit in the appeals. Dismissed.”

23. The Division Bench in the aforesaid case has held that there has to be finality to admissions and the admission process has to be concluded keeping in view the prospectus published for such admissions. In the

present case, as per the terms and conditions of the prospectus and the time schedule, the Respondent did not submit the documents as required for the purpose of admission and, at this stage, the question of granting admission to the Respondent, especially when admissions have been done in respect of academic year 2022-23, does not arise.

24. The learned Single Judge has also arrived at a conclusion that the minutes on record of the Committee which has rejected the case of the Respondent do not reveal any application of mind and a blanket decision was taken by the committee. In the considered opinion of this Court, the Committee was justified in taking a uniform decision in all such cases where documents were not submitted in time and, in fact, the Committee was justified in taking a uniform decision in the present matter as well.

25. This Court has also carefully gone through the judgment delivered in the case of *S. Krishna Sradha vs. The State of Andhra Pradesh & Ors.*, 2019 SCC OnLine SC 1609 [Civil Appeal No. 1081/2017, decided on 13.12.2019] and it was a case of grant of admission after the cut off date fixed for admission i.e 30th September in case of a medical student. Paragraph 33 of the aforesaid judgment reads as under:

“33. xxxx

xxxx

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(iii) In case the Court is of the opinion that no relief of admission can be granted to such a candidate in the very academic year and wherever it finds that the action of the authorities has been arbitrary and in breach of the rules and regulations or the prospectus affecting the rights of the students and that a candidate is found to be meritorious and such candidate/student has approached the court at the earliest and without any delay, the court can mould the relief and direct the

admission to be granted to such a candidate in the next academic year by issuing appropriate directions by directing to increase in the number of seats as may be considered appropriate in the case and in case of such an eventuality and if it is found that the management was at fault and wrongly denied the admission to the meritorious candidate, in that case, the Court may direct to reduce the number of seats in the management quota of that year, meaning thereby the student/students who was/were denied admission illegally to be accommodated in the next academic year out of the seats allotted in the management quota.

(iv) Grant of the compensation could be an additional remedy but not a substitute for restitutional remedies. Therefore, in an appropriate case the Court may award the compensation to such a meritorious candidate who for no fault of his/her has to lose one full academic year and who could not be granted any relief of admission in the same academic year. ”

26. In the present case, no such contingency is involved. The only issue involved is whether the Respondent student was wrongfully denied admission and the mistake, if any, can be attributed to the University or not. In the concerned opinion of this Court, the mistake, if any, lapse, if any, was on the part of the Respondent student who did not upload his documents in time before the deadline fixed by the University and, therefore, the order passed by the learned Single Judge deserves to be set aside and is, accordingly set aside. Not only this, the admission in respect of Respondent student was for the academic year 2021-22 and now the university has granted admissions in respect of the academic year 2022-23 and, at this juncture, especially when the mistake was on the part of the student, the question of granting him admission does not arise. Resultantly, the order passed by the learned Single Judge is hereby set aside and decision of the University in not granting him the admission in MBA (International

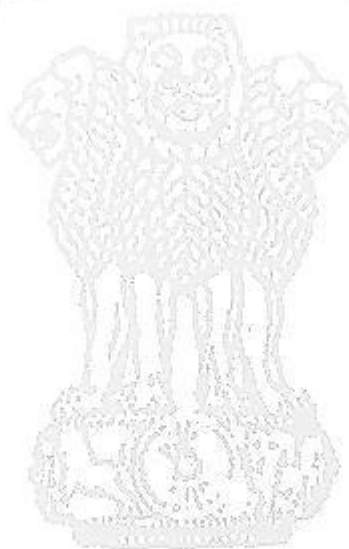
Business) Programme, Department of Commerce, Faculty of Commerce and Business for the academic year 2020-21 is upheld.

(SATISH CHANDRA SHARMA)
CHIEF JUSTICE

(SUBRAMONIUM PRASAD)
JUDGE

OCTOBER 28, 2022

N.Khanna



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