

\$~47

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

Date of decision: 02nd NOVEMBER, 2022

IN THE MATTER OF:

+ **LPA 620/2022 & CM APPLs. 46852-54/2022**

NUSRAT JAHAN

..... Appellant

Through: Mr. Javed Ahmad and Ms. Aakriti
Aditya, Advocates.

versus

PROFESSOR NAZIM HUSSAIN JAFRI & ORS. Respondents

Through:

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

SUBRAMONIUM PRASAD, J

1. The Appellant seeks to challenge the Order dated 28.09.2022, passed by the learned Single Judge in W.P. (C) 13575/2022, dismissing the writ petition which was filed by the Appellant herein for a direction to the Respondents herein to admit her provisionally against the vacant seats in Ph.D programme, Department of Electrical Engineering at Jamia Millia Islamia ('University').

2. The facts, in brief, leading to the present appeal read as under:

- a) The Respondents/University issued a notification dated 21.03.2022 for admission to its Ph.D programme for the academic session of 2021-2022. The Appellant applied for admission to the Ph.D programme, appeared in the entrance test, and was declared successful.

She submitted her research proposal with the Departmental Research Committee (DRC) of the University. She was called for an interview on 21.07.2022, and on the basis her presentation, she was declared as a selected candidate in the provisional list *vide* notification dated 11.08.2022 issued by Respondents/University.

- b) It is stated that the candidature of the Appellant was rejected in a meeting conducted by the Departmental Research Committee (DRC). The rejection of the Appellant was on the basis of the Minutes of Meeting dated 23.08.2022 whereby instructions had been received from the competent authority of the University that only those Ph.D candidates would be admitted in Ph.D programmes (whose supervisor's name is to be approved), who have completed the post-graduate (M.Tech) in 2021 or before.
 - c) It is stated that since the Appellant had not completed her post-graduate (M.Tech) in 2021 or before, she was not declared as eligible for taking part in the Ph.D programme for the academic session 2021-2022.
 - d) The decision taken by the Departmental Research Committee (DRC) in the meeting dated 23.08.2022, by which the Appellant was declared ineligible for admission to Ph.D programme, was challenged by the Appellant herein by filing the W.P. (C) 13575/2022 before this Court.
 - e) W.P.(C) 13575/2022 was dismissed by the learned Single Judge *vide* Order dated 28.09.2022. Aggrieved by the same, the Appellant has approached the Court by way of an appeal.
3. It was contended by the learned Counsel appearing for the Appellant that on the day when the interview was conducted by Departmental Research Committee (DRC) i.e., 21.07.2022, the Appellant had acquired the requisite qualification i.e., degree in M.Tech programme. It is contended that the

University cannot be permitted to change the eligibility criteria after the Appellant had cleared the examination. It is further contended that there were vacant seats available and, therefore, no prejudice would be caused to any candidate, if the Appellant was admitted to the Ph.D programme.

4. The stand of the University was that the Appellant had applied for admission to the Ph.D programme for the academic session of 2021-2022. However, when she applied for the said programme, her academic session for M.Tech programme was ongoing and, therefore, she could not have been permitted to take admission as it would have led to the Appellant attending two courses/programmes in the same academic session, which is impermissible.

5. The learned Single Judge *vide* impugned Order dated 28.09.2022 dismissed the writ petition and held as under:

"9. In the opinion of the Court, relief sought cannot be granted as: -

9.1 Petitioner was not eligible for admission in terms of notification dated 23rd August, 2022. The law relating to eligibility criteria for purpose of admission is well settled and the Court does not ordinarily interfere with the same unless there is manifest arbitrariness on part of university/institution.

9.2 Petitioner appeared in entrance examination for Ph.D. programme for academic session 2021-22, without having the requisite qualification, merely on basis of having appeared for M.Tech. examinations. She had not acquired M.Tech. degree as on date of inviting of application for academic session 2021-22 vide notification dated 21st March, 2022. Her results for M.Tech. were declared on 20th July, 2022, which is evident from the marksheet [Annexure P-8]. Since the eligibility qualification for Ph.D. programme was not satisfied on date of her application, she cannot be granted admission.

9.3 M.Tech. degree acquired subsequently is of no avail and cannot render Petitioner eligible for the Ph.D. programme in academic session 2021-22.

9.4 As per Respondent-University's Ordinance 5(V) titled "Admission and Enrollment of Students", students/candidates cannot be admitted in two regular courses/programmes concurrently. The relevant extract reads as under:

"3. Restrictions for admission on certain grounds

(i) No student shall be admitted in two regular courses.

xxx ... xxx ... xxx

(v) No candidate shall be allowed admission in two or more degree-level programmes in the University concurrently."

9.5 The decision in minutes of meeting of DRC dated 23rd August, 2022 based on above Ordinance, is reasonable and thus, calls for no interference. 9.6 Inclusion of Petitioner's name in provisional list dated 11th August, 2022 did not create any vested right in her favour."

6. Heard learned Counsels appearing for the Parties and perused the material on record.

7. The issue that arises before this Court is simple. The Ordinance 5(V) titled "Admission and Enrollment of Students" enumerates the restrictions that can be placed on admission and categorically indicates that students cannot be admitted in two regular courses/programmes concurrently. The Minutes of Meeting dated 23.08.2022 which mandates for candidates to have completed their M.Tech before 2021 is based on the Ordinance 5(V).

8. Admittedly, the Appellant was pursuing her M.Tech in the academic session 2021-2022 which is evident from the fact that her results for M.Tech were declared on 20.07.2022. The Appellant appeared in entrance examination for Ph.D programme for academic session 2021-2022. The learned Single Judge was correct in observing that the Appellant appeared in entrance examination for Ph.D. programme for academic session 2021-22, without having the requisite qualification and, therefore, was not eligible for admission to Ph.D programme for academic session 2021-2022. The learned Single Judge was also legally firm while arriving at the conclusion that admission could not be granted to the Appellant as the same would amount to her attending two courses/programmes in the same academic session.

9. In the considered opinion of this Court, the fact that the Appellant had already acquired her M.Tech degree on the date when she appeared in the interview on 21.07.2022 i.e. one day after her results for M.Tech were declared, would not make the Appellant eligible to take part in the Ph.D programme for the academic session 2021-2022. The impugned Order dated 28.09.2022 and the observations of the learned Single Judge therein, therefore, warrant no interference of this Court.

10. With these observations, the appeal is dismissed, along with pending application(s), if any.

SATISH CHANDRA SHARMA, C.J.

SUBRAMONIUM PRASAD, J

NOVEMBER 02, 2022

S. Zakir