

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1167/2023 & CM APPL. 4498/2023**

Date of Decision: 20.02.2023

IN THE MATTER OF:

AHSAN ALI LONE
AGED ABOUT 22 YEARS
S/O SHABIR HUSSAIN LONE
R/O FIRDOUS COLONY,
BALHAMA, SRINAGAR,
NEAR NORTHLAND PUBLIC SCHOOL,
JAMMU & KASHMIR – 191101 PETITIONER

Through: Mr. Shakir Shabir, Mr. Aakashdeep
Pandey, Mr. Sazid S. R. Shah and
Mr. Md. Javed, Advocates.

Versus

JAMIA MILLIA ISLAMIA
(A CENTRAL UNIVERSITY)
THROUGH ITS REGISTRAR,
MAULANA MOHAMMAD ALI JAUHAR MARG,
JAMIA NAGAR,
NEW DELHI – 110025. RESPONDENT NO. 1

JAMIA MILLIA ISLAMIA
(A CENTRAL UNIVERSITY)
THROUGH ITS VICE-CHANCELLOR,
MAULANA MOHAMMAD ALI JAUHAR MARG,
JAMIA NAGAR,
NEW DELHI – 110025. RESPONDENT NO. 2

JAMIA MILLIA ISLAMIA
(A CENTRAL UNIVERSITY)
THROUGH THE CONTROLLER OF EXAMINATIONS, JMI,

MAULANA MOHAMMAD ALI JAUHAR MARG,
JAMIA NAGAR,
NEW DELHI – 110025.

.... RESPONDENT NO. 3

JAMIA MILLIA ISLAMIA
(A CENTRAL UNIVERSITY)
THROUGH ITS DEAN,
DEPARTMENT OF CIVIL ENGINEERING,
FACULTY OF ENGINEERING & TECHNOLOGY,
MAULANA MOHAMMAD ALI JAUHAR MARG,
JAMIA NAGAR,
NEW DELHI – 110025.

.... RESPONDENT NO. 4

JAMIA MILLIA ISLAMIA
(A CENTRAL UNIVERSITY)
THROUGH ITS DEAN,
STUDENTS' WELFARE, JMI
MAULANA MOHAMMAD ALI JAUHAR MARG,
JAMIA NAGAR,
NEW DELHI – 110025.

.... RESPONDENT NO. 5

Through: Mr. Pritish Sabharwal, Standing
Counsel for R-1/JMI with Mr. Sanjeet
and Ms. Shweta, Advocates.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

J U D G M E N T

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

1. This petition seeks a direction against respondent No.1- Jamia Millia Islamia (in short, the University) to expedite the admission process of the petitioner and allow him to attend classes in the Department of Civil Engineering, Faculty of Engineering & Technology, Jamia Millia Islamia –

respondent No. 1-University.

2. The case of the petitioner is that in June, 2022, he applied for admission in the Department of Civil Engineering, Faculty of Engineering & Technology in respondent No.1-University. On 07.08.2022, the result of the Joint Entrance Exam JEE (Main) - 2022 was declared. His name finds place in the merit list. On 21.11.2022, the petitioner on the basis of his merit position reported to respondent No.1- University for the purpose of document verification and subsequently securing an admission. A pay slip was generated by respondent No. 1-University in favour of the petitioner to deposit the prescribed fees. The fee was to be deposited through the Indian Bank-JMI branch. On 21.11.2022 i.e., on the same date, by the time the petitioner reported to the JMI-Bank branch, the branch was already closed. Therefore, fees could not be deposited. The petitioner, thereafter, tried to deposit the fees through respondent No. 1-University's online fee portal, however, he could not successfully complete the transaction due to a technical error on the online portal of respondent No. 1-University.

3. On 22.11.2022, the petitioner again reached the bank to deposit the fees but was refused by the bank as the last date for fee deposition had already expired. On 22.11.2022, the petitioner made a representation to the Dean, Department of Civil Engineering, Faculty of Engineering and Technology, respondent No. 1-University stating his grievance. On 25.11.2023 also, he made a representation, however, on 26.12.2022, somehow the petitioner was able to make the payment of the requisite fees through the online link, which was provided to him. After depositing the fees on 27.12.2022, the petitioner visited respondent No. 1-University and brought on record the proof of payment of the fee.

4. Learned counsel appearing on behalf of the petitioner states that the last date for completing the formality i.e., verification of the document including the payment of the fee was 21.11.2022. According to him, the petitioner reported to respondent No. 1-University well before the expiry of time and already did the verification of the document. It is on account of the non-deposition of the fees on 21.11.2022 that too because the concerned branch was closed, the admission has been denied. He, however, states that on the next date also, when the petitioner approached the branch, the payment was not accepted. He explains that the name of the petitioner finds place in the merit position. The petitioner is not through the back door. He, on the basis of his merit position, is entitled to admission and on account of non-acceptance of the requisite fee by the concerned branch, the right to admission which was already accrued on the basis of the merit, should not be denied. According to him, such an approach is highly erroneous and the substantial right of the petitioner should not be curtailed on technical reason. He, therefore, states that the petitioner be granted admission and be allowed to complete the course.

5. Respondent No.1-University, has filed its reply and has stated that the petitioner had arrived a few minutes before the lapse of the time for reporting. The petitioner did carry out the verification of the document and did submit the affidavit in the second half of 21.11.2022. However, when the petitioner was issued a pay slip for the payment of the fee, he could not able to deposit the requisite fee amount.

6. It is the case of respondent No.1-University that since the petitioner did not deposit the fee as mandated, therefore, he missed the deadline for the payment of the fees. According to the University, when the petitioner

subsequently approached the office of the Dean i.e., on 21.11.2022, the office of the Dean, Faculty of Engineering wrote a letter addressed to Controller of Examination, JMI referring the case of the petitioner and further highlighting the fact of failure on the part of the petitioner to make the payment of requisite fee even after providing necessary arrangements for online payment of the fee. Respondent No.1-University further states that the link which was provided to the petitioner for depositing the fee was only valid till 21.11.2022 (midnight). The petitioner in connivance with some of the officials of the university was able to deposit the fees on 26.12.2022 which was not acceptable by respondent No. 1-University. Learned counsel appearing on behalf of respondent No.1-University further submits that there are various students who have been denied admission on account of non-completing the formalities before the expiry of the last date. If the case of the petitioner is considered, there would be many other students who also fall within the same category.

7. He specifically pointed out in his counter-affidavit about an untoward incident dated 01.12.2022. According to University, the petitioner without any authorised permission entered the premises and occupied one of the very sensitive and confidential places of respondent No.1 -University where important documents such as question papers and answer scripts are kept. According to University not only the petitioner but a few anti-social elements who were not students of the University were gathered at the instance of the petitioner and created a very awkward situation for the University where the ingress and outgress of all officials and staff were adversely affected.

8. Learned counsel appearing on behalf of respondent No. 1-University

states that firstly, the deadline i.e., 21.11.2022 was already expired and beyond that date no candidate can be allowed to make the payment of the requisite fee. Secondly, there are various other students of the same category who were denied admission on the same ground and thirdly, on account of the conduct of the petitioner-student for creating an untoward situation in the University, he should not be allowed admission to respondent No. 1-University. He also explains that there is no seat in the University to accommodate the petitioner to the concerned course.

9. I have heard the learned counsel appearing on behalf of the parties and perused the record.

10. It is not disputed by the University that the petitioner did approach the University on 21.11.2022 i.e., before the last date of completing the formalities. Paragraph No.4 of the reply filed by the University clearly states that the petitioner had reported for admission on 21.11.2022 i.e., the last date of admission. For the sake of clarity paragraph No.4 of the counter affidavit filed by the University is reproduced as under:

“It is submitted that the petitioner had reported for the admission on 21/11/2022, the last date of admission and at the peak hour of the specified reporting time for the admission. He had arrived few minutes before the lapse of the time for reporting and carried out the admission procedures of the verification of the documents, submission of affidavits in the second half of the 21/11/2022. It is to be noted that after the preliminary fulfilment of the formalities of the admission procedure, the petitioner was issued the pay slip for the payment of the fees. The Copy of the Fee Slip issued to the petitioner is annexed herein as ANNEXURE R-1.”

11. It is also not disputed that up to 21.11.2022, the University according to its own showing allowed the petitioner to complete the transaction. It also cannot be disputed that the petitioner before midnight did try to complete the

formality for fee deposition. The petitioner did report to the JMI-Bank branch on 21.11.2022.

12. From the perusal of the entire facts, it would appear that right from 21.11.2022 till 26.12.2022, the period in which the petitioner could have made the transaction and the date on which transaction was made the petitioner has been regularly approaching the University to secure admission. Ultimately on 26.12.2022, the petitioner could be able to complete the transaction. The amount of fee is admittedly accepted by the University and is not refunded to the petitioner.

13. So far as the case of the University is concerned that on 26.12.2022, the transaction which was completed by the petitioner is in connivance with the University official, it is for the University to take that issue to its logical end. But the fact remains that on 26.12.2022, the requisite fee has been accepted by the University. The other aspect which relates to the indiscipline of the petitioner is concerned, the University has already taken action while making a complaint to the concerned police station. The University is well within its power to handle such a situation, where somebody enters the University without authorised permission and creates a nuisance. The law must take its own recourse.

14. The case today which requires to be considered is not the subsequent conduct of the petitioner with respect to the untoward incident which has happened in the University premises. This court needs to consider whether the petitioner is entitled to admission in the concerned course or the petitioner should be denied admission on the ground that on 21.11.2022 the requisite fee could not be deposited in respondent No. 1-University.

15. Having considered the entire material available on record and in view

of the fact that the petitioner did report before the expiry of the last date, he did make attempt for payment of the fees and there is evidence to that fact, this court finds no reason to deny the admission to the petitioner in the concerned course. The petitioner secured merit position after clearing JEE (Main). The paper formalities were already over on 21.11.2022 and the possible attempts were made to make the payment. Closer of branch of the bank or non-payment through online portal were the issues, beyond the control of the petitioner. Any deprivation on such a technical reason would result in causing great injustice to the student. It's a case where admission was actually granted when other formalities were completed; however, the same was withdrawn on account of non-acceptance of fee. The denial to complete the course is, therefore, under the facts of the present case, found to be improper.

16. In view of the aforesaid, this court directs the respondents that the petitioner be allowed to complete his B.Tech. (Civil Engineering) in the respondent-University. The University is directed to conduct extra classes for the petitioner so as to ensure that he should not miss his examination only on account of lack of attendance. If the University requires any other formality, let the same be also completed immediately. If need arises, one supernumerary seat be created by the university.

17. The petition stands allowed and disposed of along with pending application in the aforesaid terms.

PURUSHAINDR KUMAR KAURAV, J

FEBRUARY 20, 2023

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