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

Reserved on: 17.03.2023

Pronounced on: 24.04.2023

+ **W.P.(C) No. 3633/2022**

RUKSANA

.....Petitioner

Through: Mr. Dhruva Vig and Ms. Pooja Kumari,
Advs.

versus

JAWAHAR LAL NEHRU UNIVERSITY

.....Respondent

Through: Mr. Mrinmayee Sahu, Mr. Sandeep
Mahapatra, Advs.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J.

1. The Petitioner, who belongs to OBC category, seeks admission in Ph.D. course in "Social Exclusion and Inclusive Policy" in the respondent university for the academic year 2021-22.
2. For admission to the aforesaid Ph.D. course, a Computer Based Test (CBT) was conducted by the National Testing Agency. Undisputedly, there were a total of 08 seats available for the course opted by the petitioner, out of which 02 seats were reserved for OBC candidates.
3. The Petitioner took the Computer Based Test conducted by the National Testing Agency on 21.09.2021 and secured Rank-08 in the OBC category. However, the petitioner was informed that she had not been selected for the

course. At the same time, one Mr. Shahid C. who had obtained Rank-07 in the OBC category was selected for the said Ph.D. course.

4. The case of the Petitioner is that though Mr. Shahid C. had blocked his seat but he had failed to submit the required documents and certificates before 19.01.2022, the last and final date of admission according to the petitioner, which resulted in cancellation of his admission. The petitioner's further case is that Mr. Shahid C. also wrote an e-mail dated 15.02.2022 to the respondent university to request for cancellation of the seat blocked by him. In this backdrop the claim of the Petitioner is that the Ph.D. seat which thus fell vacant ought to have been offered to the Petitioner as she was the next candidate in the merit list.

5. At this juncture it is apposite to note Clause 6.3 of the Admission Policy and Procedure 2021-22 notified by the respondent university, which provides the manner, in which the selected candidates could block their seat, and the seats that remained vacant could be offered to the candidates next in the merit list, before the deadline stipulated for the admissions in the Schedule in the e-prospectus. Clause 6.3 reads as under:-

“6.3 Candidates selected are required to block their seats through online mode within the time period permitted by the Admission Branch after payment of requisite fee and uploading of required documents. Subsequently, the seats left vacant in each course will be offered to the candidates next in the merit list to block the remaining seats in order of the merit. Considering the fact that admissions are required to be closed on or before the deadline mentioned in the SCHEDULE in the e-prospectus, such offers in batches shall be offered accordingly depending on the time left and number of vacancies / available for qualified candidates.”

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“1. As the timeline for admission to various courses for the academic year is not on record, the learned counsel appearing on behalf of the respondent-University seeks time to file an affidavit to place on record the last date of admission in terms of Clause 6.3 of the Admission Policy and Procedure 2021-22. In the affidavit, the respondent shall also give the justification for admitting Mr. Saddam Husain on 04.03.2022, which according to the petitioner, was after the cut off date.

2. Let the affidavit be filed within a period of one week.

3. Re-notify on 10.03.2023.”

7. Thereafter, the respondent university filed an affidavit dated 06.03.2023 in terms of the order dated 21.02.2023, to which a response affidavit dated 16.03.2023 was filed by the petitioner. Further arguments were put forth by the parties on 17.03.2023 confined to the clarification sought in the order dated

- “1. As the timeline for admission to various courses for the academic year is not on record, the learned counsel appearing on behalf of the respondent-University seeks time to file an affidavit to place on record the last date of admission in terms of Clause 6.3 of the Admission Policy and Procedure 2021-22. In the affidavit, the respondent shall also give the justification for admitting Mr. Saddam Husain on 04.03.2022, which according to the petitioner, was after the cut off date.*
- 2. Let the affidavit be filed within a period of one week.*
- 3. Re-notify on 10.03.2023.”*

Thereafter, the respondent university filed an affidavit dated 06.03.2023 in compliance of the order dated 21.02.2023, to which a response affidavit dated 10.03.2023 was filed by the petitioner. Further arguments were put forth by the respondent on 17.03.2023 confined to the clarification sought in the order dated 21.02.2023.

3. *Re-notify on 10.03.2023.”*

7. Thereafter, the respondent university filed an affidavit dated 06.03.2023 in terms of the order dated 21.02.2023, to which a response affidavit dated 16.03.2023 was filed by the petitioner. Further arguments were put forth by the parties on 17.03.2023 confined to the clarification sought in the order dated

21.02.2023.

8. For the sake of ready reference, the material part of the affidavit dated 06.03.2023, filed by the respondent university, which spells out the stand of the respondent, reads as under:-

“xxx xxx xxx

3. I say that for the Academic Year 2021-22, with the publication of last merit list on 28.01.022 admission process was over.

4. *I say that as detailed in the Counter Affidavit, Mr. Shahid M. having been selected for admission to Ph.D in Exclusion and Inclusive Policy Program blocked his seat before December 19, 2021. Mr. Shahid C communicated cancellation of his admission on 15.02.2022 having blocked the same in December 2021. It is stated that by the said time, the admission process was already over with the publication of last merit list on 28.01.2022. It is pertinent to mention that unless a candidate, who has been selected for a particular course communicates his / her decision not to join the course, the Respondent has no option but to consider the seat to be blocked by such a candidate.*

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6. *I say that the aforesaid provision makes it clear that only such seat/s which has/have not been blocked can be offered for admission to the next candidate in the order of merit. Mr. Sahid C had blocked the seat and was pursuing M. Phil also in Pondicherry University at the time of blocking the seat in JNU. A student cannot be registered at two regular courses at the same time. JNU issued a Circular dated December 29, 2021 for such M.Phil students. As per this circular an M. Phil students had to submit dissertation in their respective universities on or before 31.01.2022. However, such students may opt to take admission in PhD program of JNU after getting discontinued from M.Phil Program of their respective universities. Mr. Shahid C kept the seat blocked till the publication of last merit list published on 28.01.022. Hence no seat was vacant to offer to petitioner till 28.01.2022. No further list was published after this merit list and hence at no point of time this seat was vacant during the admission process. Mr. Shahid informed about cancellation of his admission only on 15.02.2022 by writing a mail to admission branch. It was of no use at such a late date as admissions are time bound process and cannot go throughout the year.*

7. *In view of the foregoing, it is reiterated that the Respondent has acted in compliance of the Admission Policy as any other view would have vitiated the entire process. It is therefore submitted and reiterated that the Petitioner has no right to seek admission when there was no vacant seat till the last merit list announced on 28.01.2022 and admission process was already over.*

8. *I say that in a situation like the present one the seat gets carried over to the next academic year and thus the allegations of the same getting wasted has no merit.*

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11. *I say that all those who got admission to the various PhD programmes, during the Academic Year 2021-2022 have already completed 1 year of their course, which include extensive class room teaching and thus no purpose would be served to entertain the instant Petition. It would not be out of place to submit that the process for admission to the Respondent University, for the Academic Year 2022-23 has already commenced and if the Petitioner is desirous she can apply for the same.*

12. *I say that the Petition merits no consideration and deserves to be dismissed, more so when there has been no interim order in favour of the Petitioner. It is reiterated that the Petition cannot be used as a tool to reopen the admission process which got over more than one year back.”*

9. Likewise, the material part of the response affidavit dated 16.03.2023 filed by the Petitioner, which articulates petitioner’s case, reads as under:-

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7. *I say that the Petitioner herein, who falls in the ‘Other Backward Class Category’, seeks admission in the Ph.D. course in Social Exclusion and Inclusive Policy Programme of JNU qua the academic year 2022. It is pertinent to mention here this Ph.D. course is a 5-year course (i.e., 2022-2027).*

Thus, there is ample time and opportunity to cover up the remaining course of the Programme.

8. *I say that as per the Respondent University's Notice, any selected student who does not submit their required documents on or before **19.01.2022**, their admission was to be **deemed as cancelled**.*

9. *I say that one Mr. Shahid had not submitted either his required documents nor his requisite fees in accordance with the Respondent University's Rules, and withdrew his admission whereby intimating the Respondent University by writing an email dated **15.02.2022**. The intent of Mr. Sahis to not continue with his admission and give up his seat to someone else was very well conveyed in his email, which the Respondent had overlooked. (**Page 27** of Petition). The relevant extract of the email has been reproduced herein for the sake of brevity:-*

"Respected sir/madam

I am Shahid C got selected for PhD program in Exclusion and Inclusive Policy, (application n.210810072340, selected in OBC Category, OBC Rank-7), had continuously (three four times) refused for taking admission whenever I was asked by the admission branch as well as by Center for Study of Exclusion and Inclusive Policy, JNU and told them to allot this seat to next who is eligible for the same.

Again, I am requesting to cancel my admission as soon as possible and allot the seat to next eligible candidate so that seat should not go wasted. I will be thankful to you.

Thankyou

Your sincerely

Shahid C"

10. I say that Mr. Shahid's admission automatically stood cancelled when he failed to submit the documents within the specific time frame, and had also duly informed the University through email several occasions, and well as giving the same response upon receiving reminder calls from the University as well, where he conveyed his intention to withdraw from the University and give up his seat to someone else.

11. I say that I was the next in the **waiting list** of the University (**Rank 8**); therefore, it's her right to get the seat of Mr. Shahid (rank 7). The very fact that the Petitioner was kept on a "waiting list" clearly illustrates and propounds the possibility of a re-consideration of the seats that were allotted. Had the admission been closed, there would have been no need to keep the Petitioner on the waiting list at all. The very term "waiting list" constitutes that in the scenario a vacant seat is provided, the same shall be given to the next in line.

12. I say that the Petitioner has approached the Hon'ble Court in view of the violation of Articles 14 and 15 of the Indian Constitution as soon as she got aware of the fact that she was not admitted for the said course even after the vacancy of the seat, that too in a **reserved category** of OBC-NCL.

13. I say that the Affidavit of the Respondent dated 06.03.2023 to the present Writ Petition is wholly misconceived and is filed merely to deceive and further delay this court from reaching a decisive conclusion. The delay on part of the Respondents are prejudicing the rights of the Petitioners on a daily basis as the PhD. course/classes has been running parallel to these proceedings.

14. I say that time and again, Mr. Shahid, who has wilfully conveyed his intent to cancel his admission vide his email dated 15.02.2022, had also received text messages from JNU wherein it was informed to him that that if he doesn't submit his

documents on or before 19.01.2022, his admission to the course will be deemed to be cancelled.

*15. I say that in fact Mr. Shahid did not even submit his document or his requisite fee deposit, and yet he was never given intimation that his admission has already been cancelled. However, when Mr. Shahid was made aware that his admission is not cancelled he sent a mail dated **15.02.2022**, even when the last of submitting documents was 19.01.2022.*

*16. I further submit that admissions in the Respondent University were being carried out till 15.03.2022 completely contrary to the claims of the Respondents that the admission process had stood closed on 28.01.2022, wherein they had admitted one Mr. Saddam Hussain on **04.03.2022**, well after the closure of the admission process.*

17. I say that the Respondent is making such contradictory statements, which only show that the Respondent university has acted out of their own whimsical and arbitrary discretion to grant admission to whoever they wanted and not to.

18. I state that by Respondent's very own admission of fact, it has been stated in their affidavit dated 06.02.2023 that the M.Phil students were obligated to submit submitted their dissertations on or before 31.01.2022 vide the circular dated 29.12.2021. And that the last merit list as per Respondents own admission states that the admission process was already over with the publication of the last merit list on 28.01.2022, which gives ample time to the University to cancel the admission of Mr. Shahid and grant the vacant to the next eligible candidate i.e., the Petitioner herein.

*19. I say that in view of the above, it is submitted that the Petitioner is completely eligible for admission to the University and also is covered by the judgment of **Student Federation of India Vs. Union of India**; [W.P.(C) No. 3032 of 2017.]”*

10. In the course of arguments, the petitioner and the respondent, in support of their respective submissions produced and relied upon some additional documents, which were subsequently filed by the respondent and the petitioner in the Registry of this court on 06.04.2023 and 11.04.2023, respectively, in terms of the liberty granted to them vide order 10.03.2023. The Petitioner also filed her written submissions. The additional documents filed by the petitioner, apart from those already filed with the writ petition, are as follows: -

- (i) Admit Card of petitioner.
- (ii) Email from JNU to Mr Shahid C.
- (iii) 4 Lists released by JNU.
- (iv) Timetable for Admission issued by JNU in terms of the e-prospectus.
- (v) Minutes of the Advisory Committee Meeting on Admission dated 21.12.2021.
- (vi) JNU Circular dated 24.12.2022.
- (vii) Corrigendum Circular dated 29.12.2021.
- (viii) JNU Admission Branch Note.
- (ix) E-mail from petitioner to JNU Director dated 18.02.2022.
- (x) Minutes of the Advisory Committee Meeting on Admission dated 22.02.2022.

11. The additional documents filed by the respondent university are enumerated as under:

- (i) Time Table [Section XXIII]for Admission in terms of e-prospectus.
- (ii) Minutes of the Advisory Committee Meeting on Admission held on 21.12.2021;
- (iii) Circular dated 24.12.2021 issued pursuant to the recommendations to the Advisory Committee on Admission;
- (iv) Note issued by the Admission Branch seeking approval of the process of blocking of seats for the 5th and final list

prepared by the Admission Branch from 28th January to 31st January, 2022;

- (v) Minutes of the Advisory Committee Meeting on Admission held on 22.02.2022;
- (vi) Migration undertaking furnished by Mr. Shahid C.; and
- (vii) E-mail dated 18.02.2022 written by the Petitioner to Director, Admission stating that the seat which has fallen vacant on account of non uploading of documents by Mr. Shahid C. by 19.01.2021 be allotted to her.

12. From the time table for admission filed as an additional document by both the parties, it is evident that the deadline for admission/registration was 20th December, 2021. However, the case of the respondent university in its affidavit dated 06.03.2023 is that the fifth and the final list for Academic Year 2021-22 in respect of various courses was published on 28.01.2022 and with the publication of the said list the admission process stood concluded. The petitioner in her written submissions has also relied upon a Note/Notice dated 28.01.2022 released by the Admission Branch of the respondent university wherein approval of competent authority was sought for issuing fifth and the final merit list, which was approved by the competent authority on 28.01.2022. This Note/Notice dated 28.01.2022 has been filed, both by the petitioner as well as by the respondent, as an additional document. It is also the case of the respondent that no further list was published after this merit list. This position has not been disputed by the petitioner either in her response affidavit dated 16.03.2023 or in her written submissions.

13. Meanwhile, the Advisory Committee of the respondent university in its meeting on Admission held on 21.12.2021 considered the matter of M.Phil students of JNU and other universities who had qualified for admission to the Ph.D. Programme but had not submitted their dissertation till then. In the said

meeting, the Advisory Committee recommended for an extension of time for submission of the dissertation till 31.01.2022. Agenda No. 1 which was taken up for discussion and the recommendation of the said Committee reads as under:-

“Agenda No. 1: To consider and decide the matter of M.Phil students those who qualified for admission to Ph.D. programme but have not submitted dissertation till date.

Recommendation: The matter was deliberated in detail and Committee recommended that registered M.Phil students in JNU who have completed minimum four semesters but have not submitted their dissertation yet and are willing to take admission in PhD program have to submit dissertation on or before 31.01.2022 (No Further Extension) in order to be considered for admission into PhD program as it is not feasible to give them registration in two programme of studies concurrently. Those M.Phil students who have been selected for admission in Ph.D. programme may like to take admission in Ph.D. programme after discontinuation from M.Phil or may like to continue with M.Phil programme as per their choices. Similar arrangement for M.Phil students of other Universities selected into PhD programme in JNU will be acceptable. A circular in this regard may be issued and published on the JNU website.

अस्यमेव जयते (emphasis supplied)

14. Pursuant to the above recommendation of the Advisory Committee, a circular dated 24.12.2021 was issued by the respondent university, the relevant text of which reads as under:-

On the basis of the recommendations of the Advisory Committee on the above matter, the competent authority has been pleased to approve the followings:

1. *The continuing M.Phil students of JNU who have completed minimum four semesters but not yet submitted their dissertations and who are willing to take admission in Ph.D programme of the university on their getting selected for admission in Ph.D for academic session 2021-22, have to submit their dissertation on or before by 31.01.2022 (not extendable) in order to be considered for admission into Ph.D programme as it is not feasible to give them registration for two programme of studies concurrently.*
2. *The continuing M.Phil students of JNU who have completed two semesters and have been selected for admission in Ph.D programme may opt to take admission in Ph.D programme after discontinuation from M.Phil or may opt to continue with M.Phil programme as per their choices.*
3. *Accordingly, the continuing M.Phil students of other universities / institutes selected for admission in Ph.D programme in JNU shall have to submit dissertation in their respective universities on or before December 31, 2021 and produce certificate of submission with Admission Branch, JNU by 31.12.2021 in order to ensure admission, failing which they will not be considered for admission. However, such students may opt to take admission in Ph.D programme of JNU after getting discontinued from M.Phil Programme of their respective universities.*
This issues with the approval of the Competent Authority.”

15. Since in para 3 of the circular dated 24.12.2021 the dates for submission of dissertation and production of certificate have inadvertently been mentioned

as 31.12.2021 instead of 31.01.2022, the respondent university issued a corrigendum dated 29.12.2021, which reads as under:-

No.Eval.II/10/AC/2021

December 29, 2021

Corrigendum

Sub:- Admission of continuing M. Phil Students in Ph.D. programme in JNU for the Academic Session 2021-22

With reference to the Circular No.Eval.II/10/AC/2021 dated December 24, 2021 on the above subject the point no.3, of the said circular may be read as under:

3. Accordingly, the continuing M.Phil students of other university/institutes selected for admission in Ph.D. programme in JNU shall have to submit dissertation in their respective universities on or before 31.01.2022 and produce certificate of submission with Admission Branch, JNU by 31.01.2022 in order to ensure admission, failing which they will not be considered for admission. However, such students may opt to take admission in Ph.D. programme of JNU after getting discontinued from M.Phil Programme of their respective universities.

The other terms and conditions of the said Circular shall remain unchanged.

Sd/-

(Manoj Kumar Manuj)
Deputy Registrar (Admissions & Eval.)

16. For the sake of completeness, it is noted that Mr. Shahid C. had blocked his seat in the respondent university while he was simultaneously pursuing M.Phil from Pondicherry University, therefore, in his case also, the time period for submission of dissertation and production of certificate of such submission before the Admission Branch of respondent university stood extended till

31.01.2022, in terms of the circular dated 24.12.2021 read with corrigendum dated 29.12.2021. Concededly, Mr Shahid C. did not cancel his seat till 31.01.2022. Rather, the case of the petitioner is that Mr. Shahid conveyed his intent to the respondent university to cancel his admission only on 15.02.2022 by sending an email.

17. Another important fact that may be noted at this juncture is that the writ petition was filed by the petitioner on 28.02.2022, a month after the issuance of fifth and final merit list, and this Court did not grant any interim relief to the petitioner during the pendency of the writ petition.

18. It is in the above factual background that the petitioner's prayer for admission to the Ph.D. course against the seat vacated by Mr. Shahid C. has to be considered.

19. Mr. Dhruva Vig, learned counsel for Petitioner submits that text messages were received by Mr. Shahid C. clearly stating that the last date for submitting paperwork for admission was 19.01.2022 and further forewarning that in the event of failure to upload the papers by 19.01.2022 the admission will be deemed as cancelled. He contends that as Mr. Shahid C. failed to submit the required documents on or before 19.01.2022 and his admission to the course shall deemed to be cancelled. He further submits that Mr. Shahid C. vide his e-mail dated 15.02.2022 had also conveyed his intention to the respondent university to cancel his admission. The learned counsel, therefore, urges that the seat having become vacant on account of such cancellation ought to have been offered to the Petitioner. He further contends that the last date for the admission as per the time table was 20.12.2021 but the fifth and final list was issued by the university on 28.01.2022 i.e. much later than the deadline,

which shows that the respondent itself did not adhere to the last date of the admission as notified in the time table for the admission. The learned counsel, therefore, submits that the respondent had the discretion in deciding whether candidates were to be admitted or not after the last date.

20. Next, the learned counsel invited the attention of the Court to the Semester Registration Card (Annexure P-2) of Mr. Saddam Husain, to contend that the date of admission appended on the said Registration Card is 04.03.2022, which is much after the conclusion of admission process, therefore, on the ground of parity the respondent ought to be granted admission to the petitioner after the seat blocked by Mr. Shahid C. stood cancelled, notwithstanding that the admission process had already culminated.

21. The learned counsel for the petitioner also placed reliance on the following decisions:-(i) *GhalipZeyad vs. Jawaharlal Nehru University &Ors: W.P.(C) 9878/2018* (ii) *Gautam Sharma vs. Jawaharlal Nehru University: (2016) 227 DLT 635* (iii) *Bhat Ab. Urban Bin I Aftaf and Ors. Vs UT of Jammu and Kashmir and Ors.: MANU/JK/0653/2022* (iv) *S. Krishna Sradha vs. State of Andhra Pradesh &Ors.: (2020) 17 SCC 465*.

22. *Per contra*, Mr. Sandeep Mahapatra, learned counsel for the respondent university submits that Mr. Shahid C. was pursuing M.Phil from Pondicherry University but at the same time he had blocked a seat for Ph.D. According to him, a student cannot be registered in two regular courses at the same point of time. Inviting the attention of the court to the circular dated 24.12.2021 and the corrigendum dated 29.12.2021, he submits that the respondent university through said circulars provided that the students pursuing M.Phil from other universities had to submit the dissertation in their respective universities on or

before 31.01.2022 and simultaneously had to submit a certificate with the respondent university to that effect on or before 31.01.2022 for confirming their admission in Ph.D program of JNU after discontinuing their M.Phil program. He submits that Mr. Shahid C. kept the seat blocked till the publication of fifth and the last merit list on 28.01.2022 and accordingly, no vacant seat was available which could be offered to the Petitioner till 28.01.2022. He further submits that Mr. Shahid C. informed about the cancellation of his admission only on 15.02.2022 by sending an e-mail to the Admission Branch. He submits that cancellation of admission by Mr. Shahid C. on 15.02.2022 was of no use for the Petitioner as the admission process had already concluded by then. He urged that the respondent university had acted within the four corners of the admission policy and the Petitioner had no right to seek admission when there was no vacant seat till the last merit list was announced on 28.01.2022.

23. In so far as the date 04.03.2022 appended on the Registration Card of Mr. Saddam Hussain is concerned, the learned counsel for the respondent submits that he was enrolled with the respondent university as a student of an integrated course of M.Phil / Ph.D in Persian and he had already blocked his seat in Ph.D Program in the 1st merit list itself i.e. before 19.01.2021. He submits that as per the extant policy of the respondent university, Mr. Saddam Hussain was required to submit his M.Phil dissertation by 31.12.2021, however, on account of the respondent's circular dated 24.12.2021 the time for the submission of dissertation was extended to 31.01.2022. Justifying the date of 04.03.2022 on the registration folio of Mr. Saddam Hussain, the learned counsel referred to the respondent's affidavit dated 06.03.2022 to submit that the admissions in question pertains to the Monsoon semester – 2021 but due to

Covid the semester started late and the date mentioned on the registration folio of Mr. Saddam Hussain is the date on which the same was generated at the school / centre level. He, therefore, contends that the Petitioner cannot seek parity by citing the case of Mr. Saddam Hussain who was differently placed than the Petitioner.

24. Having heard the learned counsel for the parties and after perusing the record, the questions which falls for the consideration of this court are:-

- (i) Whether the seat blocked by Mr. Shahid C. for Ph.D program fell vacant before the culmination of admission process, and if the answer is in negative, whether the petitioner has any right to claim admission against the said seat?
- (ii) Whether Mr. Saddam Hussain was granted admission in Ph.D. by the respondent university after the admission process had concluded, and whether the Petitioner could claim parity with Mr. Saddam Hussain?

Issue No. (i)

25. The facts, as they have emerged from the record, clearly reveal that the deadline for admission / registration, as per the time table for admission, was 20.12.2021. It is an admitted position that the competent authority of the respondent university had granted approval to the proposal of the Admission Branch of the university in respect of the result prepared for fifth and final merit list. It is also not in dispute that the fifth and the final merit list was published by the respondent on 28.01.2022 and thereafter no merit list was published. This clearly shows that the deadline for admission stood extended till 28.01.2022, with the approval of the competent authority.

26. A plain reading of clause 6.3 of the Admission Policy and Procedure 2021-22, would make it clear that only such seats which are vacant / available

before the deadline for admission, shall be offered to the eligible candidates next in the merit list. In other words, the seats which were blocked and did not become vacant before the deadline for admission, could not have been offered to the candidates next in the merit list.

27. It is an admitted case of the parties that Mr. Shahid C. had blocked his seat in terms of Clause 6.3 of the Admission Policy 2021-22 after he was declared as selected for Ph.D. course in the OBC category. It is also a matter of record that Mr. Shahid C. was pursuing M.Phil from Pondicherry University at the time of blocking of the Ph.D. seat in the respondent university, therefore, to confirm his seat, he could submit a certificate with regard to submission of his M.Phil dissertation in Pondicherry University, latest by 31.01.2022, in terms of respondent university's circular dated 24.12.2021 read with corrigendum dated 29.12.2021. Meanwhile, the extended deadline for admission expired on 28.01.2022. By this date the Ph.D. seat blocked by Mr. Shahid was not vacant as he still had time till 31.01.2022, to submit his dissertation of M.Phil and to produce a certificate of such submission with the Admission Branch of the respondent university.

28. It seems that Mr. Shahid C. did not produce the requisite certificate before the admission branch even till the extended date of 31.01.2022 and eventually sent an email on 15.02.2022 expressing his intent to cancel the seat blocked by him. It is at that stage that the seat could be treated as cancelled and consequently fell vacant.

29. Clearly, the Ph.D. seat blocked by Mr. Shahid was not vacant till the expiry of extended deadline for admission i.e., 28.01.2022, therefore, the same

was not available for being offered to the petitioner; it became vacant only after that.

30. At this juncture, advertence to the case law may be apposite. It is trite law that the time schedule for admission in educational institutions has to be adhered to.¹In ***Meenakshi Vs. All India Institute of Medical Sciences, 2021 SCC OnLine Del 2715***, a Division Bench of this Court held that there has to be a finality to admissions; and the terms and conditions and schedule of the admission process has to be adhered to.

31. In ***Bhim Shankar Thakur Vs. Delhi University and Anr. 2017 SCC Online Del, 7627***, the default was on part of the appellant in submitting the original degree on the date of counselling, and the Division Bench of this Court dismissed the intra-court appeal, inter-alia, on the ground that an admission after the last date fixed for admissions cannot be allowed as it is mandatory for the students to satisfy the minimum attendance prescribed by the university and further, the admissions for the concerned academic year were closed as per the university's notice even before the date of filing of the writ petition. The relevant extract of the judgment reads as under:

“12. We are also of the view that the plea of the appellants that even after the last date fixed for admissions, the appellants could have been allowed admission since the original documents are now ready cannot be accepted since it is mandatory for all the students to satisfy the minimum attendance prescribed by the University to qualify to appear for the examinations. At any rate, having regard to the fact that even by the date of filing of the writ petitions, the admissions for the Academic Year 2016-17 were closed as

¹Order dated 10.06.2022 in SLP(C)10571/2022, St. Stephens Hospital College of Nursing v. UOI & Ors. (SC)

per the University's notice dated 22.09.2016, the learned Single Judge had rightly declined to entertain the writ petitions.”

(emphasis supplied)

32. It is also settled legal position that the conditions stipulated in the prospectus are guidelines for all concerned and everyone is required to follow the same in letter and spirit and not act in transgression.² It is equally settled that that no mandamus can be issued directing educational institutions to act contrary to their own procedure.³ A Division Bench of this High Court in ***Pallavi Sharma vs. College of Vocational Studies &Anr.***, (2015) 221 DLT 738, has also held that the procedure prescribed in the Prospectus/Bulletin of Information issued by the institutions is binding and no mandamus can be issued directing the educational institutions to act contrary to their own procedure.

33. Having regard to the legal position, the seat which became vacant only after the extended deadline for admission, could not be offered to the petitioner, contrary to the mandate of Clause 6.3 of the Admission Policy and Procedure, 2021-22 nor a mandamus can be issued directing the respondent institute to grant admission to the petitioner contrary to the approved timeline. Therefore, the petitioner cannot claim right to admission against the said seat.

34. The next question which looms large is that whether the respondent university's non-adherence to the deadline of 20.12.2021 fixed for admission in the time table for admission issued in terms of Clause 6.3, vests any right in the

²Varun Kumar Aggarwal vs. Union of India &Ors., 179 (2011) DLT 24 (DB)

³Maharishi Dayanand University vs. Surjeet Kaur, 2010 (11) SCC 159

petitioner to claim the seat in Ph.D course after the extended deadline of 28.01.2022. This court can take judicial note of the fact that the year 2021 was hit by Covid 19 pandemic and it has been a cataclysmic year afflicted by restrictions and lockdowns which led to the delay in examination and consequent delays in admissions across the country. This being the position, the publication of the fifth and the final merit list on 28.01.2022 and consequent extension of deadline for admission, with the approval of the competent authority, cannot be held against the respondent university nor it will vest any right in the petitioner to claim admission against the seat in the Ph.D. course which became available after the extended deadline for admission was over. It is not the case of the petitioner that the respondent university published any merit list after publication of the fifth and the final merit list and continued to make admissions. It goes without saying that the admissions to educational institutions cannot be endless process, it must end at a particular point of time.⁴ There is thus, no merit in the contention of the petitioner that since the respondent university itself did not treat the deadline of 20.12.2021 as sacrosanct, the respondent could have relaxed the deadline even beyond 28.01.2022 for offering the vacant seat to the petitioner.

35. The contention of the petitioner that the last date for submission of documents of Mr. Shahid C. was 19.01.2022 and since he failed to submit his documents by that date, the seat blocked by him shall be deemed to have been cancelled on 19.01.2022, and resultantly the same should have been offered to the petitioner, is also without merit. Apart from some text messages, the authenticity of which was doubted by the learned counsel for the respondent, there is not an iota of document on record to suggest that the last date for

⁴ Dr. Astha Goel & Ors. vs. Medical Counselling Committee & Ors., 2022 SCC OnLine SC 734

submission of documents by Mr. Shahid with the admission branch of respondent was 19.01.2022. On the contrary, the circular dated 24.12.2021 read with corrigendum dated 29.12.2021, establishes that the last date for production of certificate as proof of submission of dissertation in the case of Mr. Shahid C. stood extended till 31.01.2022. Clearly, the seat blocked by Mr. Shahid did not fall vacant on 19.01.2022, as contended.

Issue No. (ii)

36. The Petitioner's contention that Mr. Saddam Hussain was granted admission on 04.03.2022 i.e. much after the deadline for admission process had come to an end, therefore, on the ground of parity she should have also been granted admission notwithstanding the fact that the seat in Ph.D. course became vacant and available after the extended deadline also deserves to be rejected. The respondent has clarified that the admissions which are subject matter of the present writ petition, were for Monsoon Semester 2021 but due to Covid, semester started late and the date 04.03.2022, which is appended on the registration folio of Mr. Saddam Hussain is, in fact, the date on which the registration folio was generated at the school / centre level. It is observed that the seat in Ph.D. program was blocked by Mr. Saddam Husain immediately after the merit list was issued on 19.01.2022. The stand in this regard has been spelt out by the respondent in it's affidavit dated 06.03.2023, in the following terms:-

9. I say that these are the admissions for Monsoon semester 2021 only but due to Covid semester started late and the registration folio bears the date on which this is generated at School / Centre Level that's why it read 04.03.2022. Mr. Saddam Hussain enrolled as a student of M. Phil/Ph.D

(Integrated) in Persian and as per the extant policy of the University was required to submit his M.Phil dissertation by 31.12.2021. However on account of JNU circular dated December, 29, 2021 the time for the said submission was extended to 31.01.2022. (copy attached). He had already blocked his seat in PhD Program in the first merit list itself during the given time. No new List was published after last Merit List announced on 28.01.2022 and Mr Saddam got himself registered in the very first list. i.e. before 19.01.2021.

10. I say that the Petitioner is thus not right in seeking to draw parity by citing the case of Mr. Saddam Hussain who was differently placed than her. It is submitted that Mr. Saddam Hussain had blocked the seat in the in the first list whereas petitioner was not offered seat as there was no vacant seat within the prescribed time limit of admission process. Admission process ended with the admissions of the candidates who were offered seats till the final list on 28.01.2022. An agenda was placed before the Advisory committee on admissions in its meeting dated 22.02.2022 to consider the request of candidates for admission who had blocked their seats but could not submit the required documents on time due to Covid and other reasons.

37. The above position was not controverted by the Petitioner in her response affidavit dated 16.03.2023. Therefore, this court find substance in the stand taken by the respondent university in respect of Mr. Saddam Hussain and the Petitioner cannot claim any parity with him.

38. Now adverting to the judgments relied upon by the petitioner; this Court finds that decision in **Ghalip Zeyad (supra)** is not applicable to the facts of the present case. The petitioner in that case had cleared the requisite entrance

examination for pursuing his M.Phil Programme with the JNU but he was not being awarded the M.A degree in Persian by the University as the petitioner fell short of the prescribed number of credits earned. The Court found flaw in the procedure adopted by the JNU in awarding credits and thus, held the petitioner therein to be eligible for award of M.A. degree and accordingly a direction was given to grant admission to the petitioner in the M.Phil Programme for which the petitioner had already qualified. Unlike, the facts of the present case, it was not a case where the admission was being sought by the petitioner against a seat which had fallen vacant after the deadline for admission was over and the process of admission had concluded.

39. In **Gautam Sharma (supra)** the petitioner therein had approached the court well before the admission process was closed. The petition was filed on 10.08.2015 and the admission process closed on 14.08.2015. In this backdrop when the learned Single Judge found favour with the case of the petitioner on merits, a direction was given to grant admission in the monsoon semester of the next year i.e., 2016. In the present case, as observed, the petitioner had approached the court after the admission process was over. Further, the seat against which the petitioner is claiming admission had fallen vacant only after the culmination of admission process. Therefore, the decision in Gautam Sharma (supra) will not enure to the benefit of the petitioner.

40. Likewise, the decision in **Bhat Ab. Urban Bin I Aftaf and Ors.(supra)** is also not applicable to the facts of the present case. The petitioner in the said case had made out a case that he was entitled to admission in MD course, whereas he had been denied the same due to negligence on account of *mala fide* inaction on the part of the respondent. It is in this backdrop that the learned Single Judge of the Jammu and Kashmir High Court directed to keep one seat

for the petitioner therein in the next session in the PG course of MDS. However, in the present case there is no mala fide attributed to the respondent. Besides that, the seat against which the petitioner claims admission fell vacant only after the deadline for admission was over.

41. In **S. Krishna Sradha (supra)**, the Hon'ble Supreme Court laid down that a direction can be given to grant admission to a candidate in the next academic year where the action of the authorities is arbitrary and in breach of the rules and the candidate is otherwise found to be meritorious and has approached the court at the earliest and without delay, which is not the situation in the present case. Therefore, the petitioner cannot take advantage of the said decision.

42. In view of the above, there is no merit in the writ petition and the same is accordingly dismissed along with the pending applications, if any.

VIKAS MAHAJAN, J.

APRIL 24, 2023
NSA/dss

नित्यमेव जयते