



2024:DHC:3244



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

+ **W.P.(C) 2612/2022**

DAVNEET KAUR Petitioner

Through: Mr. Govind Bali and Ms.
Dakshita Sangwan, Advs.

versus

JAMIA MILLIA ISLAMIA AND ORS. Respondents

Through: Mr. Pritish Sabharwal, Standing
Counsel for JMI.

Mr. J.P Nahar and Ms. Nihaarika Jauhari,
Advs. for R-5/RCI.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

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23.04.2024

W.P.(C) 2612/2022

1. The prayer clause in this writ petition reads as under:

“It is therefore, most respectfully prayed that this Hon'ble Court may most graciously be pleased to:

A. Issue a writ, order or direct the Respondents to admit the Petitioner in the course of M.Ed.

B. Issue a writ, order or direction to quash the unusual condition in the admission criteria so that violation Article 14 does not take place in the future.

C. Issue a writ, order or direction in the nature of Prohibition to put the admission process in course of M.Ed. Special education, till the disposal of this writ.

D. To consider the Education along with Relevant Experience of the Petitioner and allow her to pursue M.Ed Special education (learning disabilities) from Jamia Milia Islamia University.

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E. Issue any other suitable writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the instant matter.

F. Award cost of this petition in favour of the petitioners.”

2. At the outset, Mr. Bali, learned Counsel for the petitioner submits that he does not press Prayer B. As such, the only reliefs that survive are Prayers A, C and D. Of these, Prayer C has also no application at this stage.

3. The only question that the Court has to consider is, therefore, whether the petitioner is eligible for being admitted to the M.Ed. course in the Jamia Millia Islamia (JMI) university.

4. The minimum eligibility requirements stipulated for admission to the M.Ed. course in the JMI as contained in the prospectus of the JMI, are as under:

“B.A. or B.Sc. (except B.A./ B.Sc. Vocational or B.Com.) from Jamia or any other university recognized by the Jamia and 50% marks in B. Ed. (Special Education) with specialization in Visual Impairment or Learning Disabilities.

OR

B.A. or B.Sc. (except B.A./ B.Sc. Vocational or B.Com.) from Jamia or any other university recognized by the Jamia and 50% marks in B. Ed. degree and 50% marks in One Year Course in Special Education with specialization in Visual Impairment or Learning Disabilities.

OR

B.A. or B.Sc. (except B.A./ B.Sc. Vocational or B.Com.) from Jamia or any other university recognized by the Jamia and 50%

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marks in Diploma for Secondary School teachers of Visually Handicapped or Learning Disability from Institution recognized by Rehabilitation Council of India.”

5. Mr. Bali, at the outset, acknowledges that his client does not, strictly speaking, qualify under any of the three categories of eligibility qualifications envisaged in the prospectus (*supra*).

6. However, though she has a B.Ed. in Special Education, the degree does not include any specialization in visual impairment or learning disabilities.

7. Mr. Bali has drawn my attention to the provisional certificate dated 24 August 2012 issued by the Lady Irwin College from where the petitioner obtained her degree. The certificate is for “B.Ed. (Special Education – M.R.)”. It is quite clearly not for B.Ed. with any specialization in visual impairment or learning disabilities.

8. Mr. Bali then seeks to contend that “M.R.” stands for “Mental Retardation”, which is also a learning disability. The petitioner has, therefore, he submits, to be regarded as possessing the prescribed qualifications for admission to the M.Ed. course in the JNU. He places reliance in this context on the definition of “specified disability” in Section 2(zc) of the Rights of Persons with Disabilities Act, 2016 (RPD Act), which defines “specified disability” as meaning the disabilities as specified in the Schedule.

9. This contention cannot be accepted, for more reasons than one.

10. In the first place, Section 2(zc) does not define “learning

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disabilities” but defines “specified disabilities”. We are concerned, in the eligibility qualifications for the M.Ed course in the JNU, with the expression “learning disabilities”, not “specified disabilities”.

11. Secondly, Section 2(zc) applies only to the RPD Act. A definition clause in a statute has no independent operational existence. It merely defines expressions used in the statute. *Qua* any defined expression, therefore, the definition clause has meaning only when read *with* the provision in which the expression finds place.

12. Moreover, as is clear from the opening words of Section 2 which states that the definition enumerates in the various clauses of the Section apply “in this Act, unless the context otherwise requires”. The petitioner is not invoking any provision of the RPD Act to sustain her claim in the writ petition.

13. As such, the question of the petitioner getting any benefit from Section 2(zc) of the RPD Act would not arise.

14. Thirdly, there is no mention, anywhere in the Schedule of the RPD Act – assuming it at all applies – that “learning disabilities” would include mental retardation. To a specific query in this regard, Mr. Bali places reliance on paras 2 and 3 of the Schedule to the RPD Act, which read thus:

“2. Intellectual disability, a condition characterised by significant limitation both in intellectual functioning (reasoning, learning, problem solving) and in adaptive behaviour which covers a range of every day, social and practical skills, including—

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(a) “specific learning disabilities” means a heterogeneous group of conditions wherein there is a deficit in processing language, spoken or written, that may manifest itself as a difficulty to comprehend, speak, read, write, spell, or to do mathematical calculations and includes such conditions as perceptual disabilities, dyslexia, dysgraphia, dyscalculia, dyspraxia and developmental aphasia;

(b) “autism spectrum disorder” means a neuro-developmental condition typically appearing in the first three years of life that significantly affects a person's ability to communicate, understand relationships and relate to others, and is frequently associated with unusual or stereotypical rituals or behaviours.

3. Mental behaviour,—

“mental illness” means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, but does not include retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by subnormality of intelligence.”

15. Neither Serial 2 nor Serial 3 makes any reference to mental retardation. It is not possible, therefore, for this Court, even on the basis of the Schedule to the RPD Act, to come to a substantive conclusion that learning disabilities would include mental retardation.

16. Even assuming for the sake of argument, and stretching the submission of Mr. Bali to its most elastic extent, that learning disabilities include mental retardation, the stipulated eligibility qualification for admission to the M.Ed. course in the JMI is a B.Ed. degree in Special Education with specialization in visual impairment or learning disabilities. Ignoring the stipulation for visual impairment,

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what is required is a B.Ed. degree in Special Education in specialization in learning disabilities. Even if one were to assume that mental retardation is a species of learning disabilities, that still would not make the petitioner eligible for admission to the M.Ed. Course, as it still remains only one species of the larger genus of learning disabilities. What is required is a B.Ed. with specialization in learning disabilities (or visual impairment), and not specialization in one aspect of learning disabilities.

17. Faced with this position, Mr. Bali seeks to fall back on the third prescribed eligibility requirement in the prospectus of the JMI for admission to the M.Ed. course. He seeks to point out that the petitioner is the holder of a Postgraduate Diploma dated 11 November 2021 in Management of Learning Disabilities from the Orkids Institute of Higher Learning. Ms. Niharika Jauhari, learned Counsel for the RCI clarifies that the SNDT Women's University, Mumbai, to which the Orkids Institute of Higher Learning is affiliated, is not recognized by the RCI and that, therefore, any degree which is issued by the SNDT Women's University, Mumbai can also not be treated as a qualification obtained from an institution which is recognized by the RCI.

18. Moreover, Mr. Pritish Sabharwal, learned Standing Counsel for the JMI, also submits that, even in the syllabus of the RCI, there are separate syllabi prescribed for Mental Retardation, Intellectual Impairment and Learning Disabilities. Even on that ground, therefore, it not possible to equate a specialization in Mental Retardation with Specialization in Learning Disabilities.

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19. Viewed any which way, therefore, the petitioner cannot be treated as eligible for admission to the M.Ed. course in the JMI. There is, therefore, no substance in this writ petition.

20. The writ petition is accordingly dismissed, with no order as to costs.

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21. This application does not survive for consideration and stands disposed of.

C.HARI SHANKAR, J

APRIL 23, 2024

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Click here to check corrigendum, if any

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