



2024 : DHC : 2270



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **W.P.(C) 12757/2023****KUMAR SAURABH & ANR.**

..... Petitioners

Through: Mr. Vikas Kumar Pandey, Mr. Aditya Kaushik, Mr. Aman Sharma, Mr. V.K. Pandey, Mr. Avanish Kumar, Mr. Hemdeep Moran and Mr. Prateek Tiwari, Advs.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Vikrant N. Goyal, Mr. Abhishrut Singh, Mr. Ahwan and Ms. Anushka, Advs for UOI

Mr. Anuj Aggarwal, ASC with Ms. Arshya Singh, Mr. Aakash Dahiya, Mr. Yash Upadhyay and Mr. Siddhant Dutt, Advs for R-2

Ms. Anita Sahani, Adv. for R-3/GGSIPU

CORAM:**HON'BLE MR. JUSTICE C. HARI SHANKAR****J U D G M E N T (O R A L)**

%

18.03.2024

1. The petitioners are siblings. They are the brother and sister of Kumar Shubham, who was a Sailor in the services of the Indian Navy.
2. Kumar Shubham expired in harness on 16 September 2022. Thereafter, on 11 November 2022, the Indian Navy issued an Indian Navy Service Certificate (INSC), certifying that Kumar Shubham had expired on 16 September 2022, that he was single at the time when he died and that dependent cards had been issued to his mother Neeraj Singh and Petitioner 2, Subhangi Priya, his sister, who were certified

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19:05:06



2024 : DHC : 2270



as dependents of the deceased Kumar Shubham.

3. Following this, on 16 March 2023, a Dependent Identity Card of Ex-serviceman (hereinafter referred to as “DICES”) was issued to Petitioner 1 and, on 25 May 2023, a DICES was issued in favour of Petitioner 2. Both the identity cards certified the petitioners as being dependents of the deceased Kumar Shubham. There is no dispute that both the identity cards are still alive. The DICES of Petitioner 1 is due to expire on 15 March 2028 and DICES of Petitioner 2 is due to expire on 27 December 2025. The aforesaid identity cards were issued by the Rajya/Zila Sainik Board, GNCTD.

4. On 31 August 2023, Naval Pension Office, Mumbai issued a Dependency Certificate, which read thus:

“DEPENDENCY CERTIFICATE

1. This is to certify that **Late Kumar Shubham, Ex-EM (R) I, NO. 257519-Y** served in the Indian Navy from **09 AUG 2019 to 16 SEP 2022** and expired while in service, which is attributable to Naval Service.

2. As per records held in this office, the late sailor has two siblings younger to him namely **Miss Subhangi Priya** and **Master Kumar Saurabh**. Further, late Kumar Shubham was the sole earning member of his family and the family was totally dependent to him while he was in service.

Sd.
(I Siva Kumar)
Commander
Staff Officer (General Branch)
for Logistics Officer-in-Charge

Date: 31 Aug 2023

Naval Pension Office
c/o INS Tanaji

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KUMAR

Signing Date: 20.03.2024 P.(C) 12757/2023

19:05:06



2024 : DHC : 2270



Sion Trombay Road
Mankhurd
Mumbai - 400088”

5. As is seen, the Dependency Certificate certified that petitioners were younger siblings of Kumar Shubham and that the family of Kumar Shubham was totally dependent on him while he was in service.
6. Further, on 22 May 2023, Relationship Certificates were also issued by the Naval Pension Office, Mumbai, separately to Petitioner 1 and Petitioner 2. These Relationship Certificates read thus:

“Relationship Certificate of Petitioner 1

RELATIONSHIP CERTIFICATE (EQUIVALENT TO PROFORMA ‘C’)

1. This is to certify that **KUMAR SHUBHAM, Ex- EM (R) I, N0.257519-Y served in the Indian Navy from 09 AUG 2019 to 16 SEP 22** and was discharged from services as **DEAD** as a **Pensioner**.
2. This certificate has been issued for the Sister/Brother of above mentioned ex-sailor for the purpose of seeking enrolment in Indian Armed Forces/ Civil Services/Admission for Higher Education (Diploma/Engineering/Medical). In accordance with GOI, MOD Department of Ex-Serviceman Welfare d (Res-II) dated 30 Nov 2017. The ex-sailor comes under **PRIORITY III** for reservation of preference to wards of armed forces personnel. As per record held the name of ex-sailor's Brother is **KUMAR SAURABH** and date of Birth is **16 MAR 2003**.
3. This certificate is issued to the individual at his own request and should not be treated as a dependent certificate. The dependency status may be verified/ascertained in accordance with the laid down policies in this regard

Sd.

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KUMAR

Signing Date: 20.03.2024 P.(C) 12757/2023

19:05:06



2024 : DHC : 2270



(I Siva Kumar)
Commander
Staff Officer (General Branch)
for Logistics Officer-in-Charge

Certificate Number: IOFDRC/1355 (B)

Date: 22 May 23

Naval Pension Office
c/o INS Tanaji
Sion Trombay Road
Mankhurd
Mumbai – 400088”

Relationship Certificate of Petitioner 2

RELATIONSHIP CERTIFICATE (EQUIVALENT TO PROFORMA ‘C’)

1. This is to certify that **KUMAR SHUBHAM, Ex-EM (R) I, N0.257519-Y** served in the Indian Navy from **09 AUG 2019 to 16 SEP 22** and was discharged from services as **DEAD** as a **Pensioner**.

2. This certificate has been issued for the Sister/Brother of above mentioned ex-sailor for the purpose of seeking enrolment in Indian Armed Forces/ Civil Services/Admission for Higher Education (Diploma/Engineering/Medical). In accordance with GOI, MOD Department of Ex-Serviceman Welfare d (Res-II) dated 30 Nov 2017. The ex-sailor comes under **PRIORITY III** for reservation of preference to wards of armed forces personnel. As per record held the name of ex-sailor's Sister is **SUBHANGI PRIYA** and date of Birth is **28 DEC 2000**.

3. This certificate is issued to the individual at his own request and should not be treated as a dependent certificate. The dependency status may be verified/ascertained in accordance with the laid down policies in this regard

Sd.
(I Siva Kumar)
Commander
Staff Officer (General Branch)
for Logistics Officer-in-Charge

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Signing Date: 20.03.2024 W.P.(C) 12757/2023

19:05:06



2024 : DHC : 2270



Certificate Number: IOFDRC/1355 (A)

Date: 22 May 23

Naval Pension Office
c/o INS Tanaji
Sion Trombay Road
Mankhurd
Mumbai - 400088"

7. Thus, the Naval Pension Office, Mumbai had, by the aforesaid Relationship Certificates, specifically issued for, among other things, admission for higher education (in diplomas/engineering/medical courses) in accordance with Circular dated 30 November 2017 issued by the Ministry of Defence ("the MoD"), certified the petitioners to be wards of armed forces personnel, entitled to preferential admission in Priority-III.

8. The MOD Circular dated 30 November 2017, to which the Relationship Certificates dated 22 May 2023 makes reference, reads thus:

"F.No.6(1)/2017/D(Res.II)

Government of India
Ministry of Defence
Department of Ex-Servicemen Welfare
D (Res-II)

Room No.237 'B' Wing
Sena Bhawan, New Delhi
November 30, 2017

To
The Chief Secretaries/Administrators
All States/UTs

Subject: Inter-se priority for reservation/preference to the wards of Armed Force personnel by States /UTs for

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Signing Date: 20.03.2024 P.(C) 12757/2023
19:05:06



2024 : DHC : 2270



admission to Medical/Professional/ Non- Professional Courses.

In continuation of this Department's letter of even number 19.05.2017, the Competent Authority has approved the following revised order of priorities for reservations or preferences to the wards of Armed Forces personnel by States/UTs/Central/State Universities/ Autonomous Institutions for admission in medical/professional/non-professional courses:

Priority I : Widows/Wards of Defence personnel killed in action.

Priority II: Wards of disabled in action and boarded out from service.

Priority III: Widows/Wards of Defence personnel who died while in service with death attributable to military service.

Priority IV: Wards of disabled in service and boarded out with disability attributable to military service.

Priority V: Wards of Ex-Servicemen and serving personnel who are in receipt of Gallantry Awards:

- i) Param Vir Chakra
- ii) Ashok Chakra
- iii) Sarvottam Yudh Seva Medal
- iv) Maha Vir Chakra
- v) Kirti Chakra
- vi) Uttam Yudh Seva Medal
- vii) Vir Chakra
- viii) Shaurya Chakra
- ix) Yudh Seva Medal
- x) Sena, Nau Sena, Vayu Sena Medal
- xi) Mention-in-Despatches.

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Signing Date: 20.03.2024
19:05:06

W.P.(C) 12757/2023



2024 : DHC : 2270



Priority VI: Wards of Ex-Servicemen.

Priority VII: Wives of:

- i) defence personnel disabled in action and boarded out from service.
- ii) defence personnel disabled in service and boarded out with disability attributable to military service
- iii) ex-Servicemen and serving personnel who are in receipt of Gallantry Awards.

Priority VIII: Wards of Serving Personnel.

Priority IX: Wives of Serving Personnel.

Sd.
(Santosh)
Joint Secretary (Res.II)
Tel. 23015772"

9. As is seen from the aforesaid Circular of the MoD, Priority-III relates to widows/wards of defence personnel (hereinafter referred to as "WDPs"), who died while in service, with their death attributable to military service.

10. Both the petitioners registered themselves for appearing in NEET UG 2023 examination conducted on 7 May 2023 for admission to the undergraduate MBBS course. Petitioner 1 obtained an All India Rank of 318969, whereas Petitioner 2 obtained an All India Rank of 863641.

11. Thereafter, as the petitioners were allocated for admission to Respondent 3, Guru Gobind Singh Indraprastha University (GGSIPU), they uploaded their respective profiles on the website of the GGSIPU. At that stage, the afore-noted documents, including the

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Signing Date: 20.03.2024 P.(C) 12757/2023

19:05:06



2024 : DHC : 2270



Relationship Certificates issued by the Naval Pension Office, Mumbai were uploaded by the petitioners on the GGSIPU website.

12. Consequent thereon, Petitioner 1 was provisionally allotted a seat under the UR (Open Defence) quota in the Dr. BSA Medical College & Hospital (“the BSAMCH” hereinafter) and Petitioner 2 was allotted a seat under the same quota in the NDMC Medical College (“the NDMCMC” hereinafter), both of which are affiliated to the GGSIPU.

13. It is necessary, at this juncture, to also refer to the Admission Brochure of the GGSIPU for the academic year 2023-2024, particularly to Clause 6.1.2 thereof, which deals with reservation for defence category students, and read thus:

“6.1.2 Defence Category

In reference to letter no. DHE6(32)/Court Case/2312-13/2367-2077 dated 08.05.2019 on the reservation in respect of wards of Paramilitary Force/Police Personnel with direction to follow same Reservation Policy as mentioned in year 2018-19 in the forthcoming sessions in admission to the wards of Paramilitary Force/Police Personnel. The reservation preference policy in respect of wards of Armed forces shall be as per the letter no. F. No 6(1)2017/D (Res.II) Govt of India, Ministry of Defence, Department of Ex-Servicemen Welfare dated 21.05.2018 circulated vide this Directorate of Higher Education letter no. F.No. DHE6(32)/Court Case/2312-13/3333-39 dated 06.07.2018.

Priority I: Widows/Wards of Defence personnel/Para Military Personnel killed in action. Required Certificate: Proof in Original.

Priority II: Wards of Defence Personnel and ex-servicemen/Para Military personnel disable in action and boarded out from service with disability attributed to military service. Required Certificate: Original disability certificate clearly indicating the disability is attributable to Military Services in action and was boarded out.

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KUMAR

Signing Date: 20.03.2024 P.(C) 12757/2023

19:05:06



2024 : DHC : 2270



Priority III: Widows/Wards of Defence personnel/Para Military personnel who died in peace time with death attributable to military service. Proof in Original.

Priority IV: Wards of Defence personnel/Para Military personnel disabled in service and boarded out from service with disability attributable to military service. Required Certificate Original disability certificate clearly indicating the disability is attributable to Military Services and was boarded out.

Priority V: Wards of serving Defence personnel and Ex-Servicemen /para military/police personnel who are in receipt of Gallantry Awards. Required Certificate: Proof in Original.

- i. Param Vir Chakra
- ii. Ashok Chakra
- iii. Maha Vir Chakra
- iv. Kirti Chakra
- v. Vir Chakra
- vi. Shaurya Chakra
- vii. Sena, Nau Sena, Vayu Sena Medal
- viii. Mention in Despatches
- ix. President's Police Medal for Gallantry
- x. Police Medal for Gallantry

As per letter no. 371/Adm/Medical Seats/Vol.I dated 02.07.2023 of Govt. of India, Ministry of Defense, Kendriya Sainik Board, West Block 4, Wing-7, R K Puram, New Delhi 110066, the precedence of Gallantry Awards as per Priority V.

Priority VI: Wards of Ex-Servicemen. Required Certificate: Original ex-servicemen Identity Card/ discharge book supported by PPO (Pension Payment Order).

Priority VII: Wives of

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KUMAR

Signing Date: 20.03.2024 W.P.(C) 12757/2023

19:05:06



2024 : DHC : 2270



i. Defence personnel disabled in action and boarded out from service. Required Certificate: Original disability certificate clearly indicating the disability is attributable to Military Services in action and was boarded out.

ii. Defence personnel disabled in service and boarded out with disability attributable to military service. Required Certificate: Original disability certificate clearly indicating the disability is attributable to Military Services and was boarded out.

iii. Ex Servicemen and serving personnel who are in receipt of Gallantry Awards. Required Certificate: Proof in Original. Only the Gallantry Awards specified in Priority V shall be considered:

Priority VIII: Wards of Serving Personnel. Required Certificate: Original Service Identity Card and Dependent Card/Certificate issued by the Competent Authority.

Priority IX: Wives of Serving Personnel Required Certificate: Original Service Identity Card and Dependent Card/ Certificate issued by the Competent Authority.

For claiming reservation on a seat reserved for Defence Category, entitlement card in original issued by the Record Officer of the concerned unit or the regiment of the armed forces in case of personnel of the armed forces is to be produced as proof for claiming reservation in a particular category at the time of counselling for admission.

In addition to original entitlement card/ document as referred above, the candidate will also have to bring the relevant format as per Appendix 1 of Part E duly completed in original and signed by the competent authority which will become part of the Admission file.

The policy of the University in regard to defence category, in effect at the time of notification of the counselling detailed schedule, shall be used for admission.

Note:

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KUMAR

Signing Date: 20.03.2024
19:05:06

W.P.(C) 12757/2023



2024 : DHC : 2270



1. Sena/Nau Sena/Vayu Sena Medal: This Medal is awarded for Gallantry as well as for distinguished service Accordingly, it is notified in correspondence as under: -

i. Sena Medal (G)/Nau Sena Medal (G)/Vayu Sena Medal (G) for the medal awarded for Gallantry.

ii. Sena Medal (D)/Nau Sena Medal (D)/Vayu Sena Medal (D) for the medal awarded for Distinguished Service. However, for the purpose of reservation, only notification which states that the Sena Medal has been awarded for Gallantry will be accepted and the Sena Medal for Distinguished Services will not be considered.

2. For admission to a seat reserved for Defence Category:

i. Entitlement card in original issued by the Record Officer of the Unit Regiment of Armed Personnel of the Armed Forces in case of Armed Personnel.

ii. The Children/ Widow of the officers and men of Armed forces who died or were disabled on duty must submit a certificate to that effect from the following authorities.

i. Secretary, Kendriya Sainik Board.

ii. Secretary, Rajya/Zila Sainik Board.

iii. Officer-in-Charge, Record Office.

Note: A statement to the effect that “the death/ disability is attributed to military service” is required to be included in the certificate.”

14. At the time of counselling, the students seeking benefit of defence category reservation were also required to subscribe to the following undertaking:

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KUMAR

Signing Date: 20.03.2024
19:05:06

W.P.(C) 12757/2023



2024 : DHC : 2270

**“Appendix 1**

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY
(A State University established by the Govt. of NCT of Delhi)
Accredited as NAAC A++ Grade

UNDERTAKING FOR DEFENCE CATEGORY
(To be submitted at the Time of Counselling /Admission
for Academic Session 2023-24

I KUMAR SAURABH, BROTHER of LATE KUMAR SHUBHAM
NLT /CET/CUET

Application No. 230411013875 NLT/CET/CUET Rank _____
Programme MBBS (ug) hereby
undertake that I fall under the following Priority of Defence category
as tick marked below: -

Priority I: Widows/Ward of Defence personnel/Para Military
Personnel killed in action..

Priority II: Wards of Defence Personnel and ex-servicemen/Para
Military personnel disable in action and boarded out from service
with disability attributed to military service

**Priority III: Widows/Wards of Defence personnel/Para Military
personnel who died in peace time with death attributable to
military service.**

Priority IV: Wards of Defence personnel/Para Military personnel
disabled in service and boarded out from service with disability
attributable to military service.

Priority V: Wards of serving Defence personnel and Ex-
Servicemen/Para military/police personnel who are in receipt of
Gallantry Awards.

- i. Param Vir Chakra
- ii. Ashok Chakra
- iii. Maha Vir Chakra
- iv. Kirti Chakra
- v. Vir Chakra
- vi. Shaurya Chakra
- vii. Sena, Nau Sena, Vayu Sena Medal
- viii. Mention in despatches
- ix. President's Police Medal for Gallantry
- x. Police Medal for Gallantry

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Signing Date: 20.03.2024 W.P.(C) 12757/2023

19:05:06



2024 : DHC : 2270



Priority VI : Wards of Ex-Servicemen.
Priority VII : Wives of

- i. Defence personnel disabled in action and boarded out from service.
- ii. Defence personnel disabled in service and boarded out with disability attributable to military service.
- iii. Ex-Servicemen and serving personnel who are in receipt of Gallantry Awards.

Priority VIII : Wards of Serving Personnel
Priority IX : Wives of Serving Personnel

Name of father/mother LATE KUMAR SHUBHAM Name of
Candidate: KUMAR SAURABH
Rank EM(R)-I Address: CA-61, NARAINA VILLAGE, NEW
DELHI
Service No. 257519Y Unit: INS-_____ Tel No.: _____
Father/Mother LATE KUMAR SHUBHAM Name
Signature of Father/Mother Sd/- Signature of Candidate: Sd/-

Countersigned by: Secretary, Kendriya Sainik Board, New Delhi /
Secretary. Rajya or Zila Sainik Board / Officer-in-Charge, Record
Office/Concerned Officials of Ministry of Home Affairs in case of
Para Military Forces/Police personnel who are in receipt of Gallantry
Awards. Iden Card No D-184330.

I have checked the original documents and I certify that he/she is
entitled for reservation under defence category under priority III
(three) (Note: the priority must be filled otherwise the claim shall be
rejected).

Date: 25/5/2023
Place: 614/ RSB Delhi

Note: Entitlement card in original issued by Record Officer of the
Unit/Regiment xxxx personnel of the Armed Forces in case of
Armed personnel or from Home Ministry in case of Para Military
Forces/ Police personnel who are in receipt of Gallantry Awards.

ADMISSION BROCHURE 2023-24

PAGE 171"

15. As is seen from the above, the undertaking given by the
students is followed by a certificate of the Secretary, Rajya Sainik

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KUMAR

Signing Date: 20.03.2024 P.(C) 12757/2023

19:05:06



2024 : DHC : 2270



Board (RSB), certifying that he had checked the original documents and was satisfied that the student was entitled for reservation under Priority III of the defence category reservations.

16. Consequent to the grant of the aforesaid provisional admissions, the petitioners commenced their classes with the respective colleges allotted to them.

17. On 19 September 2023, the following letter was issued to the Director of the BSAMCH and Dean of the NDMCMC by the Guru Gobind Singh Indraprastha University (GGSIPU), cancelling the petitioners' MBBS admission:

“Guru Gobind Singh Indraprastha University
Sector 16C, Dwarka, Delhi-110078
Website: www.ipu.ac.in

F.No.IPU-7/Admissions/Cancellation/2023/4398 Dated:19/09/23

To,

Director Principal
Through the Nodal Officer-Admission
Dr. Baba Saheb Ambedkar Medical College
& Hospital,
Rohini, Sector-6,
Delhi-110085

Dean
North Delhi Municipal Corporation
Medical College,
Hindu Rao Hospital,
Malka Ganj, Delhi-110007

Subject: Cancellation of admission of (1) KUMAR SAURABH, GGSIPU Application ID 103230012304, NEET UG 2023 Roll No. 2001370629, All India NEET UG 2023 Rank 318969 in Dr BSA Medical College & Hospital AND (2) SUBHANGI PRIYA, GGSIPU Application ID 103230013633 NEET UG 2023 Roll

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KUMAR

Signing Date: 20.03.2024 P.(C) 12757/2023

19:05:06



2024 : DHC : 2270



No.-2001310322, All India NEET UG 2023 Raak 863641 in NDMC Medical College, allotted during the Academic Session 2023-24.

Sir/Madam,

This letter of cancellation of admission relates to the admission of (1) KUMAR SAURABH, GGSIPU Application ID 103230012304, NEET UG 2023 Roll No. 2001370629, All India NEET UG 2023 Rank 318969 in Dr BSA Medical College & Hospital AND (2) SUBHANGI PRIYA, GGSIPU Application ID 103230013633 NEET UG 2023 Roll No. -2001310322, All India NEET UG 2023 Rank 863641 in NDMC Medical College, allotted during the Academic Session 2023-24.

The candidates, as detailed above, registered and enrolled for Centralized Counselling for allotment of seat in the programme MBBS to be conducted by the University. At the time of filling up the application forms, they claimed their seat in "Defence Category Priority III" i.e. (widows/wards of defence personnel/para military personnel who died in peace time with death attributable to military service). They submitted the prescribed Appendix 1 (as given in the Admission Brochure 2023-24) duly signed by Rajya Sainik Board along with other documents.

Prima-facie their claim was found legitimate and they were verified as "Defence Category Priority III" in the University's Online Portal. Consequently, they were allotted seat in in Dr BSA Medical College & Hospital and NDMC Medical College in Round 1 Online Counselling conducted by the University. After allotment of seat they approached their respective allotted medical colleges and were marked as "Reported" on the University Portal.

Subsequently, on 13.09.2023, the University received an email from Dr. Sangeeta Yadav. Nodal Officer- Admission, Dr BSA Medical College and Hospital, titled "Nullification of Defence Category certificate for admission in MBBS, issued to Kumar Saurabh, roll no. 2001370629, NEET Rank-318969". After going through this mail, it was found that during the course of verification of defence documents, the college authorities approached to the concerned authority i.e. Rajya Sainik Board for clarification whether the student is eligible for defence quota or not. Brig SK Narain. YSM, SM of Rajya Sainik Board very categorically has mentioned that "Kumar Saurabh Brother of Late Kumar Shubham is not eligible for admission in bsamchacad

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KUMAR

Signing Date: 20.03.2024 W.P.(C) 12757/2023

19:05:06



2024: DHC: 2270



(MBBS) as ward of defence personnel".

In this regard, it is stated that the admission of the two candidates/siblings i.e. (1) KUMAR SAURABH, GGSIPU Application ID 103230012304, NEET UG 2023 Roll No. 2001370629, All India NEET UG 2023 Rank 318969 in Dr BSA Medical College & Hospital AND (2) SUBHANGI PRIYA GGSIPU Application ID 103230013633 NEET UG 2023 Roll No. -2001310322, All India NEET UG 2023 Rank 863641 in NDMC Medical College had taken admissions in MBBS on the basis of same documents and the identical Appendix 1 issued and signed by Rajya Sainik Board. Since, Rajya Sainik Board has categorically stated that "*Kumar Saurabh Brother of Late Kamar Shubham is not eligible for admission in bsamchacad (MBBS) as ward of defence personnel*", the admission of KUMAR SAURABH, GGSIPU Application ID 103230012304, NEET UG 2023 Roll No. 2001370629, All India NEET UG 2023 Rank 318969 in Dr BSA Medical College & Hospital and SUBHANGI PRIYA, GGSIPU Application ID 103230013633 NEET UG 2023 Roll No.-2001310322, All India NEET UG 2023 Rank 863641 in NDMC Medical College stands cancelled with immediate effect.

Discrepancy, any, may be communicated to the University without delay.

Sd.

Brig. P. K. Upmanyu (Retd.)
Incharge (Admissions)

Copy to:

1. Controller of Examinations, GGSIP University.
2. Finance Officer, GGSIP University.
3. EDP Section, Admissions Branch, GGSIP University.
4. KUMAR SAURABH, GGSIPU Application ID 103230012304, NEET UG 2023 Roll No. 2001370629. All India NEET UG 2023 Rank 318969, through Director/Principal, Dr. Baba Saheb Ambedkar Medical College & Hospital.
5. SUBHANGI PRIYA, GGSIPU Application ID 103230013633 NEET UG 2023 Roll No.-2001310322, All India NEET UG 2023 Rank 863641, through Dean, North DMC MC, HRH
6. Guard file

Sd.

Dr. Vijay Kumar
Deputy Registrar (Admissions)"

18. It is immediately apparent from the afore-extracted letter that

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KUMAR

Signing Date: 20.03.2024
19:05:06

W.P.(C) 12757/2023



2024: DHC: 2270



the admission of the petitioners to the respective colleges under the WDP quota was based on a communication received from Brig. S.K. Narain of the RSB, to the effect that the petitioners were not eligible for admission to the MBBS course as WDPs. This communication was, in fact, in response to a query raised by the academic branch of the BSAMCH to which Petitioner 1 had been granted admission. The query e-mail and the response e-mail, both of which are dated 13 September 2023 read thus:

“Re: Query regarding Defence Quota certificate issued by RSB in r/o Kumar Saurabh September 13, 2023 2.57 PM

From: Brig SK Narain, YSM. SM (Retd)
To: bsamchacad@gmail.com

Madam,

1. Please refer to your email of date.
2. Kumar Saurabh Brother of Late Kumar Shubham is not eligible for admission in bsamchacad (MBBS) as ward of defence personnel.

Regards

From: bsamchacad@gmail.com
To: “Brig SK Narain, YSM. SM (Retd)” <rsbdelhi@nic.in>
Sent: Wednesday, September 13, 2023 1:09:51 PM
Subject: Re: Query regarding Defence Quota certificate issued by RSB in r/o Kumar Saurabh.

Sir/Madam,

Further to the trailing mail, it is reiterated that clarification regarding eligibility of Mr. Kumar Saurabh may please be provided on urgent basis.

As per telephonic conversation with the concerned official (present on 01123861876) the candidate is not eligible for the benefit of defence quota.

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KUMAR

Signing Date: 20.03.2024 P.(C) 12757/2023
19:05:06



2024 : DHC : 2270



Therefore, please clarify the priority and eligibility.

Also to inform you that there is grievance regarding the same case in the Public Grievance monitoring system. (Copy attached)

Also correct the ID number mentioned on the certificate if the student is eligible.

Kindly treat this mail as high priority.

Regards,

Academic Branch
Dr. BSA Medical College and Hospital
Rohini Sec-06, Delhi – 110085”

19. Aggrieved by the cancellation of their admissions by the respondents’ colleges under the GGSIPU by the letter dated 19 September 2023, the petitioners have approached this court by means of the present writ seeking issuance of appropriate writ, quashing and setting aside the said letter, and restoring their admissions to the colleges in question.

20. I have heard Mr. Aman Sharma, learned Counsel for the petitioner, Ms. Anita Sahani, learned counsel for GGSIPU and Mr. Yash Upadhyay, on behalf of Mr. Anuj Aggarwal, for the RSB.

21. Counter affidavits have also been filed by the RSB and the GGSIPU.

22. The counter affidavit on behalf of the RSB has been filed by the Brig. S K Narain, the author of the e-mail dated 13 September 2023, expressing the opinion that the petitioners were not eligible for



2024 : DHC : 2270



admission to the MBBS course as WDPs. In his affidavit, Brig. Narain has sought to justify the view expressed by him in his email dated 13 September 2023 thus, in paras 3 to 7:

“3. That it is most respectfully submitted that the answering respondent issued a dependent card in favour of Master Kumar Saurabh, younger brother of No. 257519Y Late EM(A) Kumar Shubham by the Answering Respondent on 16.03.2023 on the basis of the discharge certificate/service particulars issued to mother of the deceased viz. Smt. Neeraj Singh. A copy of the dependent card issued to the Petitioner has been marked and annexed herewith as **ANNEXURE R-1**.

4. That it is most respectfully submitted that the Naval Pension Office, Mumbai vide its letter NAVPEN/9B/10/FDRV/257519Y dated 10.02.2023 addressed to the father of the deceased, duly clarified the eligibility criteria for the "Dependents". The relevant portion of the said letter has been produced hereinbelow-

“.....The term dependent is applicable to the following next of kin (For Pensioners only):

- (i) Wife or Spouse Father/Mother
- (ii) Unmarried/Unemployed son till 25 years of age
- (iii) Unmarried/Unemployed/Widowed/ Divorced daughter irrespective of her age
.....”

Therefore, it is clear that ambit of the term "Dependants" doesn't include siblings of a deceased. A copy of the said letter dated 10.02.2023 issued by Naval Pension Office, Mumbai has been marked and annexed herewith as **ANNEXURE R-2**.

5. That it is thus most respectfully submitted that the Naval Pension Office, Mumbai on the basis of the letter dated 10.02.2023 duly informed Mr. Baidyanath Singh, father of the deceased regarding the details of the family members clearly stating that the term "Dependents" is applicable only to wife or spouse/Father/Mother and not to the siblings. The said letter dated 10.02.2023, however, was not shown to the Answering Respondent by Mr. Baidyanath Singh, who visited the office of

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Signing Date: 20.03.2024 W.P.(C) 12757/2023

19:05:06



2024 : DHC : 2270



the Answering Respondent with available records for procuring the dependent I-card to avail ECHS/CSD facilities. It is pertinent to mention that since the board of officer proceedings had not been finalised at the relevant time, the I-card of the Petitioner came to be issued inadvertently by the Head Clerk of the Answering Respondent. A copy of the case-sheet has been marked annexed herewith as **ANNEXURE R-3**

6. That it is most respectfully submitted that the Naval Pension Office, Mumbai, upon a request made by the father of the deceased vide Certificate No IOFDRC/1355(B) dated 22.05.2023 issued a relationship certificate recommending Priority III for the reservation of preference to wards of the Armed Forces personnel. It is pertinent to note that the same was done during the pendency of the enquiry when the cause of death was being ascertained so as to determine the quantum of pension/benefits to be to the respective dependent, however, since the board of officers had not been finalised at the relevant time and the enquiry had not been concluded the said recommendation was issued by the Navy inadvertently while adopting a sympathetic approach. A copy of Certificate No IOFDRC/1355(B) dated 22.05.2023 issued by the Naval Pension Office, Mumbai has been marked and annexed herewith as **ANNEXURE R-4**.

7. That it is most respectfully submitted that upon the completion of the enquiry by the Board of Officers, the cause of death ascertained as death while on duty in service. Accordingly, Smt. Neeraj Singh, Mother of the deceased was duly granted special family pension at the rate of Rs. 18,000/- per month and dearness allowance vide P.P.O dated 09.06.2023. It is further pertinent to mention that the grant of special pension to the mother of the deceased falls squarely within the ambit of the term "Dependant". A copy of the P.P.O details dated 09.06.2023 provided by the Office of the Principal Controller of Defence Accounts (Pensions), Prayagraj has been marked and annexed herewith as **ANNEXURE R-5**."

23. The affidavit of GGSIPU is more eloquent. It states, in paras 6 to 12, thus:

"6. That, prima-facie their claim was found legitimate as it was issued by the Rajya Sainik Board, Delhi, therefore, these two candidates were verified as "Defence Category Priority III" in the University's Online Portal. Consequently, they were allotted the

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KUMAR

Signing Date: 20.03.2024 W.P.(C) 12757/2023

19:05:06

Page 20 of 39



2024 : DHC : 2270



seats in Round-1 Online Counselling conducted by the University. Kumar Saurabh was allotted a seat in Dr. BSA Medical College & Hospital and Subhangi Priya was allotted a seat in NDMC Medical College. These two candidates approached their respective medical colleges and were marked as 'Reported' by them on the University portal.

7. That, subsequently, on 13.09.2023, the University received an email from Dr. Sangeeta Yadav, Nodal Officer-Admission, Dr. BSA medical College and Hospital, titled "Nullification of Defence Category Certificate for admission in MBBS, issued to Kumar Saurabh, roll No. 2001376029, NEET Rank-318969". It was observed that during the course of verification of defence documents, the college authorities approached to the concerned authority, i.e, Rajya Sainik Board for clarification whether the student is eligible for defence quota or not. Brig. S.K. Narain, YSM, SM of Rajya Sabha Board, vide email dated 13.09.2023 very categorically mentioned that "Kumar Saurabh Brother of Late Kumar Shubham is not eligible for admission in bsamchacad (MBBS) - BSA Medical College and Hospital as ward of defence personnel.

8. That, SUBHANGI PRIYA, GGSIPU Application ID 103230013633 NEET UG 2023 Roll No. - 2001310322, All India NEET UG 2023 Rank 863641 had also taken admission in NDMC Medical College in MBBS, on the basis of same documents and the identical Appendix 1 issued and signed by Rajya Sainik Board. Since, Rajya Sainik Board has categorically stated "Kumar Saurabh Brother of Late Kumar Shubham is not eligible for admission in bsamchacad (MBBS) as ward of defence personnel", the admission of Subhangi Priya was also jeopardized.

9. Accordingly, admissions of KUMAR SAURABH, GGSIPU APPLICATION ID 103230012304, NEET UG 2023 Roll No. 2001370629, All India NEET UG 2023 Rank 318969 in Dr BSA Medical College and Hospital and SUBHANGI PRIYA, GGSIPU Application ID 103230013633 NEET UG 2023 Roll No. 2001310322, All India NEET UG 2023 Rank 863641 in NDMC Medical College was cancelled vide University's letter No. IPU-&/Admissions/Cancellation/2023/4398 dated 19.09.2023 (**Annexure-R-1**).

10. That the petitioners herein are desirous to take issue of admissions in MBBS Programme to the Court and claim reservation in the category of "a ward of defence personnel" on the basis of a dependent identity card of Ex-Servicemen (ESM) issued



2024 : DHC : 2270



by the Rajya/Zila Sainik Board, Govt. of NCT of Delhi. It is alleged that the Petitioners have also been issued the Ex Servicemen Contributory Health Scheme (ECHS) card. It is further alleged that relationship certificate (Equivalent to Proforma "C") has also been issued to the petitioners by the Naval Pension office Mumbai wherein it is clearly mentioned that this certificate is issued to the individual at his own request and should not be treated as a dependent certificate. The dependency status may be verified/ascertained in accordance with the laid down policies in this regard. The petitioners have claimed the eligibility for considering the reservation to a "ward of defence personnel" based on these documents.

11. That in the affidavit filed on behalf of respondent no. 2 Rajya Sainik Board has clarified that the navel pension office Mumbai vide its letter NAVPEN/9B/10/FDRV/257519Y dated 10.02.2023 addressed to the father of the deceased, duly clarified that the eligibility criteria for the "dependents" is as follows:

- (a) The term dependent is applicable to the following next of kin (for pensioners only)
 - i. Wife or spouse father / mother
 - ii. Unmarried/unemployed son till 25 years of age
 - iii. Unmarried/ unemployed widowed/divorced daughter irrespective of her age.

12. That it has been further stated by the said respondent no.2 that the certificates have been issued inadvertently and that the said benefits are not available to the petitioners herein."

24. Ms. Anita Sahani, who appears for GGSIPU, submits that the reservation which was granted for WDPs was intended for the surviving children of defence personnel, who died in harness, and not for their brothers or sisters.

25. She submits that brothers and sisters of such personnel can never be regarded as wards, either as the expression is etymologically understood or in common parlance. She has also drawn attention in



2024 : DHC : 2270



this context, to Clause 6.1.2 of the Prospectus of the GGSIPU and has particularly placed reliance on Note 2(ii) below said clause, which, for ready reference, may be reproduced once again thus:

“2. For admission to a seat reserved for Defence Category:

ii. The Children/Widow of the officers and men of Armed forces who died or were disabled on duty must submit a certificate to that effect from the following authorities.

- i. Secretary, Kendriya Sainik Board.
- ii. Secretary, Rajya/ Zila Sainik Board.
- iii. Officer-in-Charge, Record Office.”

26. Ms. Sahani submits that, even if there is no specific definition of the expression “ward” to be found in the Prospectus of the GGSIPU, Note 2(ii) makes it clear that the expression was intended to refer to children or widows of deceased armed forces personnel. Ms. Sahani also submits that the identity cards were wrongly issued and they have been cancelled subsequently.

27. Besides, Ms. Sahani submits that a holistic appreciation of various clauses of the Prospectus along with the Circular dated 30 November 2017 issued by the MoD and the undertaking which is to be submitted by the students at the time of counselling for obtaining admission under the WDP quota make it clear that it is the opinion of the RSB which governs the entitlement of the students to admission. In fact, she submits that the concept of preferential admission for WDPs owes its genesis to the Circular dated 30 November 2017 issued by the MoD, which is applicable to several universities, including the GGSIPU. It is the RSB which takes a decision as to



2024 : DHC : 2270



whether a candidate is entitled to preferential admission as a WDP. Once, therefore, the RSB itself clarified, through the e-mail dated 13 September 2023 of Brig. S.K. Narain, that the petitioners were not eligible for admission under the WDP quota, the GGSIPU had no option but to cancel the petitioners' admission.

28. Ms. Sahani has also sought to contend that, if the expression “wards” is to include all relatives of the deceased armed forces personnel, such as sisters, brothers and the like, it would defeat the purpose of grant of the reservation, and would open floodgates for siblings of deceased armed forces personnel to claim reservation, to the prejudice of their sons and daughters who are the legitimate beneficiaries thereof.

Analysis

29. In the peculiar facts of the present case, I am not inclined to enter into the somewhat contentious arena of whether “wards”, as used in “wards of defence personnel”, should be read as limited to children, or extended to children and widows, or children, widows and other immediate relations such as brothers and sisters.

30. Without navigating the contours of the definition of the expression “ward”, for the purpose of entitlement to preferential admission to medical colleges, the cancellation of the petitioners' admission would, in my opinion, be liable to be set aside for several other reasons.



2024 : DHC : 2270



31. In the first place, the impugned cancellation letter dated 19 September 2023 merely cites the communication dated 13 September 2023 from Brig. S.K. Narain as the basis for cancellation of the petitioners' admission. There is no independent reasoning whatsoever contained in the said letter. All that emerges from the record is that Dr. Sangeeta Yadav, Nodal Officer Admissions in the BSAMCH addressed an e-mail to Brig. Narain, seeking clarification regarding the eligibility and entitlement of the petitioners for admission to the MBBS course as WDPs and that Brig. Narain in his response, expressed the opinion that they were not so entitled. Neither does the e-mail of Dr. Sangeeta Yadav disclose the reason why she doubted the eligibility or entitlement of the petitioners for admission to the MBBS course as WDPs, nor does the response of Brig. Narayan thereto disclose why, in his opinion, they were not so entitled.

32. As far back as in *Mohinder Singh Gill v. Chief Election Commissioner*¹, the Supreme Court, speaking through V.R. Krishna Iyer, J., expressed the legal position in this regard thus:

“8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in *Commr. of Police, Bombay v. Gordhandas Bhanji*²:

“Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended

¹ (1978) 1 SCC 405

² AIR 1952 SC 16



2024 : DHC : 2270



to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.”

Orders are not like old wine becoming better as they grow older.”

33. The aforementioned dictum in *Mohinder Singh Gill* has successively been followed by the Supreme Court in a number of decisions including *State of Punjab v. Bandeep Singh*³ and *Hindustan Petroleum Corpn. Ltd. v. Darius Shapur Chenai*⁴.

34. The position, therefore, is clear that an order or decision taken or passed by an authority has to stand or fall on its own legs. The reason for the decision must be apparent from the order itself. It cannot be improved either by way of affidavits filed in the Court or oral arguments at the Bar.

35. It is true that the above dictum was pronounced in the context of an executive order of a statutory functionary. It would, however, apply, *mutatis mutandis*, in the present case as well, as the impugned communication dated 19 September 2023 of the GGSIPU is based solely on the above e-mail dated 13 September 2023 which may, therefore, be said to constitute the single reason for its issuance.

36. Inasmuch as there is no reason for regarding the petitioners as disentitled for preferential admission as WDPs either in the e-mail dated 13 September 2023 from Dr. Sangeeta Yadav to Brig. Narain or



2024 : DHC : 2270



in Brig. Narain's response thereto, of the same date, nor is any such reason forthcoming in the impugned communication dated 19 September 2023 issued by the GGSIPU to the BSAMCH or the NDMCMC, the decision has necessarily to be set aside as been completely unreasoned.

37. Secondly, it is equally well settled, in law, that, even if a candidate is ineligible for admission, so long as the candidate has disclosed all particulars while obtaining admission and it is after considering the documents filed by the candidate and examining the candidate's eligibility for admission on that basis, that admission is granted, the admission cannot be subsequently cancelled by the authorities by revisiting the decision to grant admission. We may refer, in this context, to the judgment of the Supreme Court in *Rajendra Prasad Mathur v. Karnataka University*⁵, which was followed in *A. Sudha v. University of Mysore*⁶. Both these cases dealt with admissions to the MBBS course, as in the present case. In *A. Sudha*, the situation was worse than that which obtains in the present case. The candidate, A. Sudha ("Sudha", hereinafter) was, in fact, ineligible for admission as she had not secured the requisite percentage of marks in her pre-university certificate examination. On this basis, after granting admission to the MBBS course, the admission was cancelled on the ground that Sudha was not eligible for admission. Sudha petitioned the High Court, which held that she was not entitled for admission and, therefore, refused her plea for reversing

⁴ 2005 SCC OnLine SC 1361

⁵ 1986 Suppl. SCC 740

⁶ (1987) 4 SCC 537



2024 : DHC : 2270



the order of cancellation and readmitting her to the course.

38. Sudha carried the matter to the Supreme Court. Significantly, the Supreme Court held that the High Court was *correct* in holding that Sudha was not eligible for admission to the MBBS Course. The rejection of Sudha's plea that she was eligible for admission was, therefore, upheld.

39. Nonetheless, the Supreme Court went on to hold that as Sudha had not suppressed any information while obtaining admission, and all relevant documents were before the University while granting admission to her, the decision to admit her could not subsequently be cancelled. In so holding, the Supreme Court followed its earlier decision in *Rajendra Prasad Mathur*. Paras 12 to 18 of the report in *A. Sudha* may, in this context, be reproduced thus:

“12. Even assuming that the said Rules are applicable to the case of A the appellant, still the appellant will not be eligible for admission in the First Year MBBS Course in view of sub-rule (5) of rule 3 of the said Rules, which provides, inter alia, that a person who does not belong to any of the Scheduled Castes or Scheduled Tribes, he has to obtain 50% of marks in PUC or equivalent examination in Physics, Chemistry and Biology as optional subjects. *Thus, the appellant was not eligible for admission in the First Year MBBS Course of Mysore University. The High Court was, therefore, right in overruling the contention of the appellant that she was eligible for admission in the First Year MBBS Course.*

13. Now the question is whether the appellant should be allowed to continue her studies in the MBBS Course. By virtue of the interim order of the High Court, the appellant completed the First Year MBBS Course and by virtue of the interim order passed by this Court, the appellant appeared in the First Year MBBS Examination. *It has been strenuously urged by the learned Counsel appearing on behalf of the University that as the appellant was not eligible for admission and was illegally*



admitted by the Institute in violation of the eligibility rules of the University, the appellant should not be allowed to continue her studies in the MBBS Course under the University. In support of that contention, much reliance has been placed by the learned Counsel on a decision of this Court in ***A.P. Christians Medical Educational Society v. Government of Andhra Pradesh***⁷. What happened in that case was that the appellant-Society without being affiliated to the University and despite strong protests and warnings of the University admitted students to the Medical College in the First Year MBBS Course in total disregard of the provisions of the A.P. Education Act, the Osmania University Act and the regulations of the Osmania University. Some students, who were admitted to the Medical College, filed a writ petition before this Court. While dismissing the writ petition of the students, this Court observed as follows:

“Shri Venugopal suggested that we might issue appropriate directions to the University to protect the interest of the students. We do not think that we can possibly accede to the request made by Shri Venugopal on behalf of the student. Any direction of the nature sought by Shri Venugopal would be in clear transgression of the provisions of the University Act and the regulations of the University. We cannot by our fiat direct the University to disobey the statute to which it owes its existence and the regulations made by the University itself. We cannot imagine anything more destructive of the rule of law than a direction by the court to disobey the laws.”

14. It was further observed by this Court as follows:

“We regret that the students who have been admitted into the college have not only lost the money which they must have spent to gain admission into the college, but have also lost one or two years of precious time virtually jeopardising their future careers. But that is a situation which they have brought upon themselves as they sought and obtained admission in the college despite the warnings issued by the University from time to time.”

15. *It appears from the observations extracted above that the students were themselves to blame, for they had clear knowledge that the College was not affiliated to the University and in spite of the warning of the University they sought for the admission in the College in the First Year MBBS Course and were admitted. In that context this Court made the above observations.*



2024 : DHC : 2270



16. We may refer to a later decision of this Court in **Rajendra Prasad Mathur v. Karnataka University**. In that case, the condition for eligibility for admission to B.E. Degree Course of the Karnataka University was that the students seeking admission should have passed the two-year pre-University Examination of the pre- University Education Board, Bangalore, or an examination held by any other Board or University recognised as equivalent to it. *The appellants, in that case, were admitted to certain private Engineering Colleges for the B.E. Degree Course upon payment of capitation fees, although they were not eligible for admission as the Higher Secondary Examination held by the Secondary Education Board, Rajasthan, passed by some of the appellants and the first B.Sc. Examination of Rajasthan and Udaipur University passed by the remaining appellants, were not recognised as equivalent to the two-year pre-University Education Board, Bangalore.* While dismissing the appeals of the students on the ground that they were not eligible for admission in the engineering colleges, Bhagwati, C.J. who delivered the judgment of the Court, observed as follows:

“We accordingly endorse the view taken by the learned Judge and affirmed by the Division Bench of the High Court. But the question still remains whether we should allow the appellants to continue their studies in the respective Engineering Colleges in which they were admitted. It was strenuously pressed upon us on behalf of the appellants that under the orders initially of the learned Judge and thereafter of this Court they have been pursuing their course of study in the respective Engineering Colleges and their admissions should not now be disturbed because if they are now thrown out after a period of almost four years since their admission their whole future will be blighted. Now it is true that the appellants were not eligible for admission to the Engineering Degree Course and they had no legitimate claim to such admission. But it must be noted that the blame for their wrongful admission must lie more upon the Engineering Colleges which granted admission than upon the appellants. It is quite possible that the appellants did not know that neither the Higher Secondary Examination of the Secondary Education Board, Rajasthan nor the first year B.Sc. examination of the Rajasthan and Udaipur Universities was recognised as equivalent to the Pre-University Examination of the Pre- University Education Board, Bangalore. The appellants being young students from Rajasthan might have presumed that since they had passed

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Signing Date: 20.03.2024 P.(C) 12757/2023

19:05:06



the first year B.Sc. examination of the Rajasthan or Udaipur University or in any event the Higher Secondary Examination of the Secondary Education Board, Rajasthan they were eligible for admission. The fault lies with the Engineering Colleges which admitted the appellants because the Principal of these Engineering Colleges must have known that the appellants were not eligible for admission and yet for the sake of capitation fee in some of the cases they granted admission to the appellants. We do not see why the appellants should suffer for the sins of the managements of these Engineering Colleges. We would, therefore, notwithstanding the view taken by us in this judgment allow the appellants to continue their studies in the respective Engineering Colleges in which they were granted admission. But we do feel that against the erring Engineering Colleges the Karnataka University should take appropriate action because the managements of these Engineering Colleges have not only admitted students ineligible for admission but thereby deprived an equal number of eligible students from getting admission to the Engineering Degree Course. We also endorse the directions given by the learned Judge in the penultimate paragraph of his judgment with a view to preventing admission of ineligible students.”

17. This Court was, therefore, of the view that as the students were innocent and were admitted to the Colleges for the sake of capitation fee in some cases, they should not be penalised and should be allowed to continue their studies in the respective Engineering Colleges in which they were granted admission.

18. The facts of the instant case are, more or less, similar to the **Rajendra Prasad Mathur** case. It has been already noticed that on the appellant's query, the Principal of the Institute by his letter dated 26-2-1986 informed her that she was eligible for admission in the First Year MBBS Course. It was, *inter alia*, stated in the letter that the candidate should have obtained 50 per cent marks in the optional subjects in the B.Sc. Examination. There is no dispute that the appellant had obtained 54 per cent marks in those subjects in the B.Sc. Examination. The appellant was, therefore, quite innocent and she was quite justified in relying upon the information supplied to her by none else than the Principal of the Institute in the said letter in regard to the eligibility of the admission in the First Year MBBS Course. In the circumstances, we do not think that we shall be justified in penalising the appellant by not allowing her to continue her studies in the MBBS Course. Prima facie it was the fault of the



2024 : DHC : 2270



Principal of the Institute but, in our view, the statement that was made by him in his said letter to the appellant as to the eligibility of the appellant for admission in the MBBS Course, was on a bona fide interpretation of the regulations framed by the Mysore University for admission to MBBS Course for the academic year 1985-86, which to some extent suffer from ambiguity. The regulations should have been more clear and specific. Be that as it may, following the decision of this Court in Rajendra Prasad Mathur case while we dismiss the appeal, we direct that the appellant shall be allowed to prosecute her studies in the MBBS Course, and that her result for the First Year MBBS Examination be declared within two weeks from date.”

40. In the present case, too, no fault whatsoever lies with the petitioners. They had been issued Dependency and Relationship Certificates by the Naval Pension Office, Mumbai. The documents issued by the defence authorities, which have already been noted hereinabove, were presented by the petitioners at the time of obtaining admission. The undertaking submitted by the petitioners was, in fact, countersigned by Brig. Narain himself on behalf of the RSB certifying that he had seen the documents and satisfied himself that the petitioners were eligible for admission to the MBBS course as WDPs.

41. The subsequent opinion of Brig. Narain, as evidenced by his e-mail dated 13 September 2023, is, therefore, a complete *volte face*. Irrespective of whether the opinion of Brig. Narain was correct in the first instance or in the second, the petitioners having obtained admission without any suppression of facts and the RSB having expressly satisfied itself about the entitlement of the petitioners to preferential admissions as WDPs, the respondents could not subsequently have cancelled the petitioners’ admissions even if the RSB had a rethink on the issue.



2024 : DHC : 2270



42. The third reason why the impugned order cannot sustain is that it has been passed in flagrant violation of the principles of natural justice. An admission granted to a student, even if it is characterized as “provisional” cannot, if it has been granted after examining the documents submitted by the student and after recording satisfaction that the documents established the entitlement of the student to admission, be cancelled without affording a student an opportunity of being heard in the matter. This is one of the most elementary principles of natural justice. Any decision taken without making the student aware, in the first instance, as to why she, or he, was felt, at a later stage, to be ineligible for admission, and the subsequent decision to cancel the admission of the student had, at the very least, necessarily to be preceded by a notice and an opportunity of hearing to the student concerned. For this reason, too, the impugned decision cannot sustain.

43. The fourth reason why the petitioners would be entitled to relief is that, in fact, the expression used, whether in the Circular dated 30 September 2017 of the MoD, Clause 6.1.2 of the Admission Prospectus of the GGSIPU, or even in the undertaking to which the petitioners had to subscribe at the time of taking admission, is not “dependents”, but “wards” of defence personnel. Brig. Narain has, in his counter-affidavit filed in the present case on behalf of the RSB, based his rethink of the eligibility of the petitioners to admission as WDPs solely on the basis of a letter dated 10 February 2023 of the Naval Pension Office, Mumbai, which includes, *within the term “dependent”*, the wife or spouse, father/mother and the



2024 : DHC : 2270



unmarried/unemployed children of the deceased armed forces personnel. Para 4 of the counter affidavit filed by Brig. Narain notes, therefore, that the ambit of the term “dependents” did not, therefore, include siblings.

44. At the cost of repetition, the expression “dependents” finds no place either in the Circular dated 30 November 2017 of the MoD, or in Clause 6.1.2 of the Prospectus of the GGSIPU or even in the undertaking which was required to be submitted by the petitioners at the time of obtaining admission. The expression used is “wards”.

45. The reason cited by Brig. Narain in his counter-affidavit for the *de novo* opinion expressed by him in his e-mail dated 13 September 2023, as explained in his counter-affidavit filed in the present proceedings is, therefore, faulty. Having satisfied himself, at the time of grant of admission to the petitioners, that they were eligible for preferential admission as *wards* of defence personnel, Brig. Narain clearly erred in later opining that they were not, because they were not “dependents”.

46. As the petitioners are entitled to relief for all the above reasons, I do not deem it necessary to explore, in this judgment, as to whether the expression “wards” would be restricted to dependents or is to be otherwise interpreted. I cannot, however, agree with Ms. Sahani in her submission that the scope of the expression “wards”, as used in the “Wards of Defence Personnel” clause, is clear from Note 2(ii) below Clause 6.1.2 of the Admission Prospectus of the GGSIPU. There is nothing to indicate, from Clause 6.1.2, that it, in any way defines,



2024 : DHC : 2270



much less circumscribes, the expression “wards” in “Wards of Defence Personnel”. It merely states that, for admission to a seat reserved for defence category, children or widows of officers of the armed forces, who died or were disabled while in duty, were required to submit the certificate to that effect. This stipulation cannot be extrapolated to mean that the word “wards” as used in the expression “wards of defence personnel” must be restricted to children or widows.

47. It may be that, in common parlance and in everyday communication, the expression “wards” may normally refer to children. At the same time, Vikramajit Sen, J., when he was (as he then was) sitting singly in this Court, has in *Charu Sharma v. Motilal Nehru College*⁸, held that, in the facts of that case, even cousins were entitled to be regarded as “wards”. The facts of that case bear a strong resemblance to this. There, too, the petitioner, Charu Sharma obtained admission to the B.A. (Hons.) English course in the Motilal Nehru College, affiliated to the DU, as the ward of one of its employees. Later, on it being realized that Charu was not the daughter of the employee but his cousin, her admission was cancelled. The following extract from the said decision merits reproduction:

“2. This Court would be loathe to come to the aid of any person who has knowingly committed an illegality or an irregularity. *One of the features of this case, which cannot be ignored, is that in the application for admission no misrepresentation had been made in that the Petitioner had stated that she is the niece of Mr. Sanjay Sharma.* It has not been controverted that there is another case of a student who has been granted preferential admission on the strength of her being a ‘cousin sister’ of an employee. No action similar to that visited upon the



2024 : DHC : 2270



Petitioner has been taken in respect of the other student.

3. *It would thus be fair to infer and deduce that the College understood cousins/nieces to fall within the purview of the word 'Ward'. The fact remains that the citizens of Delhi cannot be expected to be aware of the restricted definition of 'Wards' contained in the University Regulations, which precisely defines it to include only sons and daughters. The Concise Oxford Dictionary ascribes a much wider meaning to the word ward as 'a child or young person under the care and control of a guardian appointed by their parents or a Court.' The Cobuild English Dictionary for Advanced Learners defines ward to be 'a child who is the responsibility of a person called a guardian because their parents are dead or because they are believed to be in need of protection'.*

8. *The watershed of this Petition, in my opinion, lies on the fact that the Petitioner has not made any incorrect statement while applying for admission. Had she stated that she is the daughter of Shri Sanjay Sharma my approach, which should also be that of the Delhi University, would have been drastically different. In the ordinary course it would have been expected of the Admission Committee to have looked into the Application itself, and thereupon arrived at the conclusion that the Petitioner is not entitled to admission as she is not a daughter of an employee of the college. The appropriateness of extending relief to a person who has violated Regulations, Therefore, does not arise in this case. On the contrary, I am concerned with a student who faces the prospects of not being able to complete her undergraduate studies only for the possible reason that the Respondent College had failed to properly peruse her application form. Prima facie, dereliction of duty is to be found in the camp of the College Faculty and Office."*

In *Charu Sharma*, therefore, not only was Charu a cousin of the employee of whom she had claimed to be a ward; *the Regulations of the DU specifically defined "wards" as only sons and daughters. This Court, nonetheless, set aside the decision to cancel Charu's admission, observing that she could not be punished for no fault of hers.*

Signature Not Verified

Digitally Signed By: AJIT

KUMAR

Signing Date: 20.03.2024 P.(C) 12757/2023

19:05:06



2024: DHC: 2270



48. The petitioners in the present case are vastly better situated. They are not cousins, but brother and sister of the deceased Kumar Shubham. There is no definition in the GGSIPU Prospectus, or in the MoD Circular dated 30 November 2017, defining “wards” as only sons or daughters. If Charu Sharma could be granted succour by this Court, therefore, so must the petitioners.

49. Ms. Sahani had also sought to rely on the decision of a coordinate Single Bench of this Court in *Dr. Megha Sugandh v. State*⁹. That was a case in which the petitioner claimed admission under the Economically Weaker Section (EWS) category. In her application, seeking admission, the petitioner specifically undertook thus:

“I will undertake the responsibility of showing the original EWS certificate at the time of counselling, which will be on 1/1/2021”.

50. In para 10 of the decision, the coordinate Bench has observed that, as the aforesaid undertaking constituted the “underlying basis for making the petitioner eligible under the EWS category”, the subsequent cancellation of admission did not call for interference.

51. Besides, in that case, the EWS certificate issued to the student was cancelled. That cannot be analogized to a case such is the present, in which the decision to cancel the petitioners’ admission was provoked by a rethink, by Brig. Narain, regarding the eligibility of the



2024 : DHC : 2270



petitioners for admission as WDPs. Besides, as already noted, that rethink was predicated on a clarification issued by the Naval Pension Office, Mumbai, which dealt with the ambit of the expression “dependents” and did not, in any way, clarify the expression “wards”.

52. Further, the decision in *Dr. Megha Sugandh* has not examined the aspect of fault liability or the law enunciated in *Rajendra Prasad Mathur* and *A. Sudha*, which apparently were not brought to the notice of the Court in that case.

53. That apart, unlike the ambiguity which, admittedly, exists in understanding the expression “ward”, as is also noticed in the decision in *Charu Sharma*, there is absolutely no ambiguity in deciding whether a candidate does, or does not, belong to the EWS.

54. The decision in *Megha Sugandh* cannot, therefore, disentitle the petitioners to the relief in the present case.

Conclusion

55. For all the aforesaid reasons, I am of the opinion that the petitioners are entitled to relief.

56. The cancellation of the petitioners’ admission to the GGSIPU, as communicated by the impugned letter dated 19 September 2023 is, therefore, quashed and set aside. The petitioners would be entitled to be readmitted to the said courses and to all consequential relief as is available under the law.



2024 : DHC : 2270



57. It is clarified that this Court has not expressed any final opinion on the scope and ambit of the expression “wards” in “wards of defence personnel” or whether the expression “wards” should be limited to dependents alone or would have a wider connotation. That debate stands relegated to a more opportune occasion.

58. As the petitioners have not been able to attend classes owing to the pendency of this writ petition before this Court, applying the principle *actus curiae neminem gravabit*¹⁰, it is clarified that the petitioners shall not be restrained from appearing in their examination on the ground of shortage of attendance during the period the present litigation has been pending.

59. The petition stands allowed in the aforesaid terms.

CM APPL. 50272/2023 (Stay)

60. The application does not survive for consideration and stands disposed of.

C.HARI SHANKAR, J

MARCH 18, 2024/rb

[Click here to check corrigendum, if any](#)