



2024:DHC:651



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

Reserved on: 23 January 2024
Pronounced on: 30 January 2024

+ W.P.(C) 12782/2023 and CM APPL. 50362/2023

SAMEER SINGH MINOR
THROUGH HIS FATHER

..... Petitioner

Through: Mr. Rakesh Kumar Khanna, Sr.
Advocate with Mr. Anant K. Vatsya,
Mr. Virender Singh, Mr. Aditya
Kumar Archiya and Dr. Vikas Pahal,
Advs.

versus

UNIVERSITY OF DELHI & ANR.

..... Respondents

Through: Mr. Mohinder Rupal, Mr.
Hardik Rupal and Ms. Pragati Keshri,
Advs. for R-1 to 3

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T

30.01.2024

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Facts, and the issue in controversy

1. Wards of employees of the University of Delhi ("the University", hereinafter) are entitled to the benefit of a preferential quota ("the Ward Quota") for admission to its colleges. Each college has an External Ward Quota ("EWQ", hereinafter), of wards of employees of other colleges or of the University, and an Internal Ward Quota ("IWQ" hereinafter), of wards of employees of that college

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itself. The EWQ and IWQ are further subdivided into Teaching and Non-Teaching Ward Quotas, the Teaching EWQ and IWQ applying to wards of teaching staff and the Non-Teaching EWQ and IWQ applying to wards of non-teaching staff.

2. On 27 November 2020, the Academic Council (AC) of the University convened a meeting in which, apropos admission under the ward quota, the following decisions were taken:

“9/- The Council considered the recommendations of the Committee constituted by the Competent Authority with regard to enhancement of seat for admission under Ward Quota. The Council resolved that the wards of the employees {(Teaching, Non-teaching (on rolls and superannuated); (Temporary, Adhoc, Contractual) with three years of service} of the University of Delhi and its colleges in the various Under-Graduate, Post-Graduate and Professional Courses (subject to the approval of the concerned professional bodies as applicable, if any), in the University Departments and its Colleges shall be in the order of preference as under.

1. Permanent Staff: Teaching and Non-Teaching
2. Retired Staff: Teaching and Non-Teaching
3. Temporary/Ad-hoc and Contractual Staff: Teaching and Non-Teaching {with three years of service}

The procedure for granting admission in the Under-graduate, Post-graduate and Professional Courses in the University Departments and its Colleges shall be as under:

a. For admission of the Wards (Sons/daughters) of the employees at the college where the employees are working:

Admission to the sons/daughters of employees (teaching and non-teaching separately) who are working in the college, in courses including Professional courses (subject to the approval of the concerned professional bodies as applicable, if any) be given on the basis of merit (Qualifying Examination and/or Entrance Test), among such candidates *subject to ordinarily one seat for every unit*



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of up to 60 students in a course and subject to fulfillment of minimum eligibility conditions.

b. For admission of the Wards (sons/daughters) of the employees of the University/other colleges (teaching/non-teaching):

The total number of seats for admission for the sons/daughters of the University/other colleges' employees (teaching and non-teaching) who are working in the University/other colleges, in courses including Professional courses (subject to the approval of the concerned professional bodies as applicable, if any) will not exceed Sixteen (Eight for the teaching and Eight for the non-teaching employees) on the basis of merit (Qualifying Examination and/or Entrance Test), among such candidates subject to a maximum of ordinarily one seat for every unit of up to sixty students in a course and subject to fulfillment of minimum eligibility conditions.

The admission of the above norms will be against seats over and above the normal strength."

(Emphasis supplied)

3. The petitioner passed his Class XII Higher Secondary Examination, held by the Central Board of Secondary Education (CBSE), in 2023, and undertook the Common University Entrance Test (CUET-2023) for admission to colleges affiliated to Central Universities, of which the University of Delhi is one. Candidates who clear the CUET are admitted to seats in colleges affiliated to the Delhi University as part of the University's Common Seat Allocation System (CSAS). The CSAS covers all students; those who are admitted against the open (unreserved) quota as well as those who are admitted against any reserved quota such as the Ward Quota. Apropos Ward Quota admissions, the CSAS for admission to undergraduate



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programs in the University, has released for the 2023-2024 academic session, in Clause 23.6, provided thus:

“Admission to the wards of the University and its College employees, both teaching and non-teaching, will be done as per Academic Council resolution 9 a & b dated 27.11.2020 and subsequent amendments/notifications thereof.”

4. On 2 August 2023, the petitioner was admitted to the B.A. (Hons.) History programme in the PGDAV College under the open quota, without the benefit of any preferential reservation, on the basis of his merit in the CUET. The petitioner took admission to the PGDAV College but opted for upgradation, one of the courses elected by him being the B.A. (Hons.) History course in the Hindu College.

5. On 24 August 2023, the petitioner was provisionally allocated the B.A. (Hons.) History course in the Hindu College against the Teaching EWQ, as his father was a teacher in the Delhi University, but was not a staff member of the Hindu College. He accepted the seat, completed all formalities and took admission.

6. On 28 August 2023, the petitioner received an email from the University, informing him that his allocation under the EWQ, as well as the allocation of a few other students, “had to be corrected as per the merit of the candidate, Employment status, and Program Clusters”. He was, therefore, informed that the course allocation had been revised, and he was requested to accept his revised allocation. As per the revised allocation, the petitioner was admitted to a Teaching EWQ



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B.A. (Hons.) History seat in the SGTB Khalsa College (“the Khalsa College” hereinafter).

7. Several representations were made by the petitioner, as well as by his father, to the University authorities, to restore the EWQ admission granted to the petitioner in the B.A. (Hons.) History course in the Hindu College, especially as no EWQ admission to the said course had been made. It was also submitted that the cancellation of admission, after the admission process had been completed and a student had commenced the course, was not permissible.

8. As these representations elicited no favourable response, the petitioner as approached this Court, seeking a writ of certiorari, quashing the communication dated 28 August 2023 *supra*, whereby the petitioner had been informed that his allocation had been revised and directing the University to restore the petitioner submission to the B.A. (Hons.) History course in the Hindu College against the Teaching EWQ.

9. The University has filed a counter-affidavit, paras 5 to 9 of which seek to explain the reason for reallocating the seat to which the petitioner was admitted, thus:

“5. The Petitioner had applied under the External Ward quota for seeking admission in various colleges of the University of Delhi. The allocation list under External Ward quota was declared on 24.08.2023. However, the University of Delhi withdrew the said Allocation List as there was error in assessing the merit list under the ward quota, which is different from the normal allocation list under the other categories. However inadvertently the merit



list was prepared as per the other categories and hence the said was withdrawn forthwith. The corrected allocation list under ward quota was declared on 28.08.2023. Accordingly, all the affected candidates were sent a Bulk mail on 28.08.2023 of the correct allocation under External Ward.

6. ... Similarly, all colleges were also intimated that the merit list had to be corrected under external ward quota and the revised Allocation List as per the merit was made visible on the dashboard. The Petitioner also received a mail from the University on 28.09.2023 at 06.12 hours to accept the correct allocation in Sri Guru Tegh Bahadur Khalsa College¹. Hence the admissions which were done on the basis of the earlier allocation list dated 24.08.2023 were withdrawn due to error in the said allocation list dated 24.08.2023. The Petitioner was wrongly given admission in Hindu College on the basis of the said wrong allocation list dated 24.08.2023. The merit of the Petitioner as per the corrected allocation list dated 28.08.2023 did not entitle him to secure admission in Hindu College. The candidates who were above the merit list than the Petitioner accordingly got admission in Hindu College. There were no further seats vacant in Hindu College under ward quota and therefore the Petitioner has no right to seek admission in Hindu College under ward quota. The Petitioner has not challenged the allocation list in the present writ petition and therefore the Petitioner has no case made out to seek the reliefs prayed for. The Petitioner despite given several opportunities to take admission as per his merit in other colleges has not availed this opportunity and now the admission stands closed, the cut-off date being dated 30.09.2023.

7. It is respectfully submitted that as per the resolution of the Academic Council of University of Delhi, 8 supernumerary seats are sanctioned for each i.e., teaching and non-teaching wards of employees of University of Delhi. *These are further divided stream-wise across colleges 2 (Two) for Sciences, 3 (Three) for Humanities and 3 (Three) for Commerce.* Additional inputs as asked:

(a) *Ward quota admissions are done Stream-based. Combined merit for each program in three streams are considered for allocations in UoD Ward quota.*

(b) *As per the correct allocations, three candidates could make upto the merit of Humanities Stream Cluster. Their CUET scores were 740.6184, 732.9285, 776.925*



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whereas the score of the Petitioner for Humanities Cluster is 658.3911364. Clearly, he did not make to the Stream-based Cluster.

8. It is respectfully submitted that according to the merit, order of preference, and allocation policy of University of Delhi for supernumerary ward quota, BA (H) History in SGTB Khalsa College was allocated to the Petitioner in Round-I of External Ward Quota on 28.08.2023. It is pertinent to mention that the Petitioner did not accept the allocation within the sanctioned time.

9. It is respectfully submitted that after Round-I of External Ward Quota, a Round II was declared by the University. Since the Petitioner did not accept the seat in Round-I, the Petitioner could not be considered for allocation in Round-II, as per Admission Policy.”

(Emphasis supplied)

Para 10 of the counter-affidavit goes on to aver, therefore, that, as there was no seat available in the Teaching EWQ in the Hindu College Humanities Stream, and as no seat was available in the Khalsa College either, the petitioner could be offered the B.A. (Hons.) History program in the PGDAV College.

10. The petitioner, in his rejoinder to the above counter-affidavit of the University, contests the University’s stand that Ward Quota admissions were made on stream-wise basis. No such system of allocation, he submits, is envisaged in the AC meeting minutes dated 27 November 2020, which prescribes the procedure for granting admission to undergraduate, postgraduate and professional courses in the University. Rather, the said minutes envisage Ward Quota admissions as being made on a course-wise basis. When assessed on a course-wise basis, as the merit of candidates who seek admission to the B.A. (Hons.) History course, as per the CUET score, is invariably

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lower than the merit of candidates who seek admission to other humanities courses such as English, Economics or Political Science, the admission of the petitioner to the B.A. (Hons.) History course in Hindu College could not have been cancelled on the ground that there were more meritorious students – as per the CUET score – who desired admission to the B.A. (Hons.) Economics course in the same college.

11. The rejoinder also places reliance on Section 31² of the Delhi University Act, 1922 (“the DU Act”). It is further contended that there is no display of the course-wise merit list, though there were about 200 applicants under the Ward Quota. It is emphasised that the resolution of the Academic Council could not have been superseded by anybody, including the Executive Council of the University.

12. The rejoinder also contains allegations regarding admissions to the Hindu College having been effected in excess of the sanctioned seats, which are of no relevance, insofar as the dispute at hand is concerned.

² 31. Ordinances how made. –

(1) The Ordinances of the University as in force immediately before the commencement of the Delhi University (Amendment) Act, 1952 (Act 5 of 1952), may be amended, repealed or added to at any time by the Executive Council:

Provided that—

(i) no Ordinance shall be made affecting the conditions of residence or discipline of students, except after consultation with the Academic Council;

(ii) no Ordinance shall be made—

(a) affecting the admission on enrolment of students or prescribing examinations to be recognized as equivalent to the University examinations, or

(b) affecting the conditions, mode of appointment or duties of examiners or the conduct or standard of examinations or any course of study,

unless a draft of such Ordinance has been proposed by the Academic Council.



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13. Mr. Mohinder J.S. Rupal, learned Counsel for the University, sought permission to place certain additional documents on record, which was granted by this Court on 15 December 2023. Accordingly, under cover of an index dated 8 January 2024, the University had placed on record

- (i) the Bulletin of Information (“the Bulletin” hereinafter) relating to Undergraduate Admissions issued by the University for the 2023-24 Academic Year,
- (ii) a file noting dated 4 November 2022, by the Deputy Registrar (Admission Branch) in the University, as approved by the Dean (Admission), the Registrar and the Vice-Chancellor of the University,
- (iii) Notification No. Aca-1/Ward Quota/2022/655 dated 1 August 2022 issued by the University,
- (iv) an internal email dated 28 August 2023 issued by the Office of the Admission of the University titled “Allocation of External Ward Quota” and
- (v) an email dated 3 October 2023 addressed by the Dean (Admissions) to the petitioner, informing him that he had been allocated the B.A. (Hons.) History course in the Khalsa College under the External Ward Quota in the Teaching category.

14. Inasmuch as the file noting dated 4 November 2022 forms the main plank of the respondent’s defence, it requires to be reproduced *in extenso* thus:

“UNIVERSITY OF DELHI

Ref. No. Admission. Br. /2022/4654/11

04.11.2022

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As per Academic Council Registration No. 9 dt., 27.11.2020, University Notification No. Aca1/Ward Quota/2021/40 dt. 13.8.2021, University Notification No. Aca1/Ward Quota/2021/888 dt. 28.10.2021 and University Notification No. Acad. I/Ward Quota/2022/655 dt. 1.8.2022 wherein the order of preferences for Ward quota have been stated with effect from Academic Session 2022-23.

A discussion on this was also held in the Admission Advisory Committee held on 25.07.2022 For the Academic Session 2022-23, the University of Delhi is doing centralized admission based on CUET-2022 and CSAS-2022, therefore, to bring in centralized Ward Quota allocations (for Academic Council Resolution No. 9(b) dt. 27.11.2020), the following are proposed.

1. The over all admissions under ward quota will be determined in three Program Clusters.

Program Cluster – I	Program Cluster – II	Program Cluster - III
B.A. (Hons.) Arabic	B. Com (Hons)	B.Sc. (Hons.) Anthropology
B.A. (Hons.) Bengali	B. Com	B.Sc. (Hons.) Biological Science
B.A. (Hons.) English	B.B.A. (Financial Investment Analysis)	B.Sc. (Hons.) Botany
B.A. (Hons.) French	Bachelor of Management Studies (BMS)	B.Sc. (Hons.) Zoology
B.A. (Hons.) German	B.A. (Hons) Business Economics	B.Sc. (Hons.) Biomedical Science
B.A. (Hons.) Hindi		B.Sc. (Hons.) Biochemistry
B.A. (Hons.) Italian		B.Sc. (Hons.) Chemistry
B.A. (Hons.) Persian		B.Sc. (Hons.) Physics
B.A. (Hons.) Punjabi		B.Sc. (Hons.) Polymer Science

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B.A. (Hons.) Sanskrit		B.Sc. (Hons.) Computer Science
B.A. (Hons.) Spanish		B.Sc. (Hons.) Electronic Science
B.A. (Hons.) Urdu		B.Sc. (Hons.) Instrumentation
B.A. (Hons.) Applied Psychology		B.Sc. (Hons.) Environmental Science
B.A. (Hons.) Psychology		B.Sc. (Hons.) Food Technology
B.A. (Hons.) Economics		B.Sc. (Hons.) Geology
B.A. (Hons.) Geography		B.Sc. (Hons.) Mathematics
B.A. (Hons.) Hindi Patrakarita		B.Sc. (Hons.) Statistics
B.A. (Hons.) History		B.Sc. (Hons.) Microbiology
B.A. (Hons.) Humanities & Social Sciences		B.Sc. (Hons.) Home Science
B.A. (Hons.) Journalism		B.Sc. (Pass) Home Science
Five Year Integrated Program in Journalism		B.Sc Applied Physical Science with Analytical Methods in Chemistry and Biochemistry
B.A. (Hons.) Multimedia & Mass Communication		B.Sc (Prog) Applied Physical Science with Industrial Chemistry
B.A. (Hons.)		B.Sc (Prog) Physical Science

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Philosophy		with Chemistry
B.A. (Hons.) Political Science		B.Sc (Prog) Physical Science with Electronics
B.A. (Hons.) Social Work		B.Sc (Prog) Physical Science with Computer Science/Informatics Practices
B.A. (Hons.) Sociology		B.Sc (Prog) Life Science
B.A. (Program)		B.Sc (Prog) Applied Life Science
B.El. Ed		B.Sc (Prog) Mathematical Science
B.A. (H) Music		B.Tech (Information Technology and Mathematical Innovation)
B.A. (Vocational Studies) & B. Voc.		B.Sc Physical Education, Health, Education and Sports B.Sc (PE, HE & S)

2. The allocation will also depend upon the number of programs offered in a College/Department:

Programs offered by a College	Allocation of seats (teaching)	Allocation of seats (non-teaching)
Colleges offering Programs under one Program Cluster	8 in the Program Cluster	8 in the Program Cluster
Colleges offering	4 in each Program	4 in each Program

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programs under two program clusters	Cluster	Cluster
Colleges offering programs under three program clusters	3 in the Program Cluster I 3 in Program Cluster II 2 in Program Cluster III	3 in the Program Cluster I 3 in Program Cluster II 2 in Program Cluster III

3. Allocations of Ward Quota will be based on merit scores of candidates in program clusters and the order of preferences given by the candidates.

The seats under ward quota allocated for teaching and non-teaching will not be interchangeable. However, allocations may be considered within the Program Clusters to maximize the benefit.

Dr. O.P. Sharma

Deputy Registrar (Admission Branch)”

The decision stands approved by the Dean (Admission), the Registrar and the Vice-Chancellor (VC) of the University on 4 November 2022 itself.

Additional Affidavit dated 15 January 2024 filed by the University

14. Apropos the documents filed by the University on 8 January 2024, Mr. Rakesh Khanna, learned Senior Counsel for the petitioner

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submitted, on 10 January 2024, that the documents related only to the decision regarding the manner in which the Ward Quota seats were to be filled for the year 2022-2023. There was no material to indicate that the University had taken a conscious decision to follow the same procedure in 2023-2024. In the circumstances, the Court required Mr. Rupal to file an additional affidavit on this aspect.

15. Subsequently, the University filed an additional affidavit dated 15 January 2024, in which it has been averred thus:

“3. The Respondent No. 1 – University of Delhi adopted the same criteria as was implemented for the admissions in the Academic Year 2022-2023 with respect to allocation policies, including External and Internal Wards Quota allocations.

4. The Respondent No. 1 – University of Delhi vide office Academic Council meeting No. 1014 Resolution dated 26-27.05.2023 resolved that “the policies for allocation and admissions to all undergraduate programs for the Academic Session 2023-2024 will be as per the Common Seat Allocation System Undergraduate (CSAS-UG 2022-2023). The admission branch was authorized to do necessary changes/modifications/amendments to strengthen it further as per the requirements, with approval from the competent authority”. Hence, all the policy decisions for allocation and admission which were taken for admission to all the undergraduate programs of University of Delhi including admissions to supernumerary seats as per the Academic Council Resolution were also implemented for admission to Academic Year 2023-2024, has done in 2022-23.

5. The Petitioner has filed by the present writ petition for seeking admission under External Wards Quota in Hindu College. There were only three (3) seats in humanities in the External Wards Quota which have been filled up by candidates who are much higher in merit than the Petitioner. There are still twelve (12) candidates higher in merit than the Petitioner under the External Wards Quota under Humanities Stream for Hindu College, who have not been able to get admission in Humanities in Hindu College. Thus, the Petitioner has no case to seek admission in Hindu College.”

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The University has annexed, with the Additional Affidavit, the Minutes of Academic Council Meeting No. 1014 which contains the following decision:

“Agenda 2: Common Seat Allocation System – Undergraduate (CSAS-UG (2023)) for the academic session 2023-24 and Seat allotment in the first round of Allocation-cum-Admissions”

2.1 Common Seat Allocation System (UG):

It was decided that the policies for allocations and admissions to all Undergraduate Programs of UoD for the academic session 2023-24 will be as per the Common Seat Allocation System-Undergraduate (CSAS-UG-2022-23). The Admission Branch was authorized to do it necessary changes/modifications/amendments to strengthen it further as per the requirements, with approval from the Competent Authority.”

Supplementary Affidavit filed by the petitioner

16. The petitioner has filed a supplementary affidavit, by way of response to the additional affidavit of the University. It is emphasised that the University has not placed, on record, any document ratified by the Academic Council of the University, which is its supreme body, approving the allocation of External Ward Quota seats amongst colleges on the basis of stream/cluster -wise allocation. The file noting dated 4 November 2022, which was put up by the Deputy Registrar (Admission Branch), it is submitted, was never placed before the Academic Council and is, therefore, of no legal force.

17. Moreover, it is contended, the proposal for stream-wise allocation contained in the file noting dated 4 November 2022 is



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inconsistent with and contrary to the AC Resolution dated 27 November 2020. It rendered, ineffective, the stipulation, in the Resolution dated 27 November 2020, that there would be one EWQ seat reserved for every unit of up to 60 students. Any modification of this resolution, if submitted, could only have been with the approval or ratification of the AC.

18. It is also pointed out, in this context, that there is no reference to the documents dated 4 November 2022 in the Bulletin of Information for the 2023-2024 Academic Year or in the minutes of the Academic Council meeting held on 26/27 May 2023. The additional affidavit filed by the University, too, does not categorically assert that the proposal dated 4 November 2022 was of detailed or binding force or effect even without approval or ratification by the Academic Council. Where any binding decision was required to be approved by the Academic Council, no such decision could be implemented without such approval, for which purpose the supplementary affidavit cites *Nazir Ahmad v. King Emperor*³, *State of U.P. v. Singhara Singh*⁴ and *A.K. Roy v. State of Punjab*⁵.

Rival contentions

19. I have heard Mr. Rakesh Khanna, learned Senior Counsel for the petitioner and Mr. Mohinder J.S. Rupal, learned Counsel for the University, at length. Submissions of learned Counsel are being noted

³ AIR 1936 PC 253

⁴ AIR 1964 SC 358

⁵ (1986) 4 SCC 324



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here only to the extent they are not already contained in the rival contentions already noted *supra*.

Submissions of Mr. Rakesh Khanna of the petitioner

20. Mr. Khanna refutes the contention of the University that Ward Quota admissions were made on a stream-wise basis. He submits that the AC minutes dated 27 November 2020 conclusively determined, by use of the words “subject to a maximum of ordinarily one seat for every unit of up to 60 students *in a course*” in para 9(b), that EWQ admissions were to be made on course-wise basis. In this context, Mr. Khanna has referred me to the first Admission List for admissions against the EWQ for the year 2021-2022, released on 13 November 2021, which reads thus:

**“DELHI UNIVERSITY (OUTSIDE COLLEGE) STAFF
WARD QUOTA**

First Admission List (2021-22)

The following candidates have been shortlisted for admission under the Delhi University Ward Quota as per the university guidelines in this regard. The admissions are subject to the approval by the university and the verification of documents uploaded on the admission portal.

Teaching Staff:

S. No	Form No.	Ward Name	Course	BFS/PCM/PCB
1	21194983	Prakhar Kumar Singh	B.Com. (H)	98.50
2	21123539	Saniya Bassi	B.A. (H) Economics	98.50
3	21022529	Aryaveer Singh	B.A. (H) Economics	98.50

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4	21065402	Nitin Vrihaspati	B.A. (H) Pol. Science	98.50
5	21024820	Eesha Priya	B.A. (H) Sociology	97.00
6	21047439	Khushi Gupta	B.A. (H) English	97.00
7	21215111	Girish Sahdev	B.Sc. (H) Physics	96.00
8	21217846	Udayan Jain	B.Sc. (H) Zoology	96.00

Non-Teaching Staff:

S. No	Form No.	Ward Name	Course	BFS/PCM/PCB
1	21036961	Bhashi	B.Sc. (H) Statistics	97.00
2	21182081	Risht Sharma	B.Sc. (H) Maths	96.75
3	21236793	Deepika	B.A. (H) English	96.50
4	21011573	Sakshi Narain	B.Com. (H)	96.25
5	21226381	Chaitanya Singh Rawat	B.A. (H) Economics	96.00
6	21118263	Ayana Shukla	B.A. (H) Economics	95.75
7	21018947	Vedant Rana	B.A. (H) Sociology	95.00
8	21284072	Dipesh Singh	B.A. (H) Pol. Science	94.50

21. Mr. Khanna also refers to a tabular statement depicting the category-wise distribution of seats for undergraduate courses in the Hindu College for the 2023-2024 academic year. He submits that, in the B. Com (Hons.) course, there were 79 students in all. Applying the principle that there could be one Ward Quota admission in a class of 60 students, he submits that there could have been only two Ward Quota students admitted to the B. Com. (Hons.) program. There were, however, three Ward Quota admissions in B. Com. (Hons.) in Hindu

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College, thereby breaching the instructions governing Ward Quota admissions.

22. Assuming that there had been a mistake in admitting the petitioner to the B.A. (Hons.) History course in Hindu College, Mr. Khanna submits that it was not open to the University to cancel the admission of the petitioner on that ground. He draws my attention to Chapter 9 of the instructions governing the CSAS (UG) for 2023-2024, titled “Cancellation of Provisionally Allocated Seat/Admission” which envisages the following four circumstances in which alone a provisionally allocated seat could be cancelled, and none other:

- “1. Failure to ‘Accept’ the provisionally Allocated Seat within the stipulated timeline will lead to the cancellation of the Allocated Seat.
2. The provisionally Allocated Seat will be cancelled if a candidate fails to pay the Admission fees within the stipulated time.
3. The provisionally Allocated Seat/Admission will be cancelled if, at any time, any of the document(s)/certificate(s) is/are found to be invalid/fraudulent.
4. The provisionally Allocated Seat/Admission will be cancelled if, at any time, it is found that a candidate does not meet the Minimum Eligibility Criteria as declared by UoD.”

None of these criteria applied in the present case and, therefore, according to Mr. Khanna, the provisional admission of the petitioner to the B.A. (Hons.) History course in Hindu College could not have been cancelled. Where the applicable statute, or guidelines, rules or regulations, envisaged specific circumstances in which an act can be performed, Mr. Khanna’s contention is that, absent those

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circumstances, that act cannot be performed. He sides, for this purpose, the judgments of the Supreme Court in *Ashok Chand Singhvi v. University of Jodhpur*⁶ and *Dr Kuntesh Gupta v. Management of Hindu Kanya Mahavidyalaya*⁷ and of this Court in *Saumya Chopra v. University of Delhi*⁸.

23. For all these reasons, as well as the Grounds urged in the writ petition and rejoinder, Mr. Khanna prays that the decision to reverse the provisional admission granted to the petitioner in the B.A. (Hons.) History course in the Hindu College be set aside, and the admission be confirmed.

Submissions of Mr. Rupal in response

24. Besides reiterating the contentions contained in the pleadings of the University, Mr. Rupal submits that the decision as proposed in the noting dated 4 November 2022 of the Admission Branch which had been approved up to the Vice-Chancellor, has uniformly been followed for all admissions to the Ward Quota in the year 2023-2024 and that, if the petitioner's claim is to be allowed, it would upset the entire apple cart.

25. Mr. Rupal also submits that the judgments cited by Mr. Khanna are distinguishable. *Ashok Chand Singhvi*, he seeks to point out, was an instance of an admission being made through inadvertence or

⁶ (1989) 1 SCC 399

⁷ (1987) 4 SCC 525

⁸ 2018 SCC OnLine Del 13061



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mistake, as is clear from para 14 of the judgment. *Dr Kuntesh Gupta* dealt with the power to review a quasi-judicial order. He cites, in his favour, para 5 of the judgment of the Supreme Court in *R.R. Verma v. U.O.I.*⁹ and paras 38 and 55 of a Full Bench of this Court in *Sandhya Kabra v. University of Delhi*¹⁰.

26. Mr. Rupal further submits that Mr. Khanna's arguments glosses over the fact that there were 12 students who had applied for admission in the EWQ in Hindu College who were, on merits, above the petitioner. None of the said students, he points out, has even been impleaded in these proceedings.

27. Mr. Rupal submits, therefore, that the petitioner has not been able to make out any case for grant of relief.

Mr. Rakesh Khanna's submissions in rejoinder

28. Apart from reiterating his earlier contentions, Mr. Khanna, in rejoinder, relies on Sections 8¹¹, 23¹² and 32(1)¹³ of the DU Act to

⁹ (1980) 3 SCC 402

¹⁰ AIR 1993 Delhi 40

¹¹ 8. **Officers of the University.** – The following shall be the officers of the University –

- (i) the Chancellor,
- (ii) the Pro-Chancellor,
- (iii) the Vice-Chancellor,
- (iv) the Pro-Vice-Chancellor, if any.
- (v) the Treasurer,
- (vi) the Registrar,
- (vii) the Deans of the Faculties, and
- (viii) such other persons in the service of the University as may be declared by the Statutes to be Officers of the University.

¹² 23. **The Academic Council.** – The Academic Council shall be the academic body of the University, and shall, subject to the provisions of this Act, the Statutes and the Ordinances, have the control and general regulation, and be responsible for the maintenance of standards of instruction, education and examination within the University, and shall exercise such other powers such other duties as may be conferred or imposed upon it by the Statutes. It shall have the right to advise the Executive Council on all academic matters. The



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submit that the Vice-Chancellor is merely one of the officers of the University and that it is the AC which is the supreme body, whose decisions are binding. The authorities of the University are, by virtue of Section 32, superior to its officers.

29. Mr. Khanna also relies on Statutes 7, 8, 11-F and 11-G (4) of the Statutes of the University, contained in the Schedule to the DU Act and which, by virtue of Section 29(1)¹⁴ of the DU Act, are of binding legal effect. He also relies on Clause 4(2) of Ordinance II of the University. I will advert to these provisions in the discussion which follows.

30. Mr. Khanna submits that the University was required, while making Ward Quota allocations in any college, to first allocate, on the basis of merit, the first eligible candidate in each course, before proceeding to allocate the first candidate to any course. In other words, having allocated one EWQ candidate to the B.A. (Hons.) Economics course, Mr. Khanna submits that the University could not have allocated a second EWQ candidate to the same course without first admitting the petitioner against the EWQ to B.A. (Hons.) History.

constitution of the Academic Council and the term of office of its members, other than *ex-officio* members, shall be prescribed by the Statutes.

¹³ 32. **Regulations. –**

(1) The authorities of the University may make Regulations consistent with this Act, the Statutes and the Ordinances—

- (a) laying down the procedure to be observed at their meetings and the number of members required to form a quorum;
- (b) providing for all matters which by this Act, the Statutes or the Ordinances are to be prescribed by Regulations; and
- (c) providing for all other matters solely concerning such authorities or Committees appointed by them and not provided for by this Act, the Statutes or the Ordinances.

¹⁴ 29. **Statutes how made. –**

(1) On the commencement of the Delhi University (Amendment) Act, 1943 (Act 24 of 1943), the Statutes of the University shall be those set out in the Schedule.

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“Admit the candidates course-wise first”, appears to the burden of Mr. Khanna’s song. As such, it is submitted that the respondent could not have legitimately allocated a second EWQ candidate to the B.A. (Hons.) Economics course in Hindu College, leaving the EWQ claim of the petitioner for admission to the B.A. (Hons.) History course languishing, even if the second student admitted to the B.A. (Hons.) Economics course was superior in merit to the petitioner.

31. Mr. Khanna relies, in conclusion, on para 14 of the judgment of Division Bench of this Court in *Charanpal Singh Bagri v. University of Delhi*¹⁵ and para 22 of the decision of another Division Bench of this Court in *S.N. Singh v. U.O.I.*¹⁶

Analysis

32. At the outset, it requires to be noted that there was no student admitted in the Hindu College against the EWQ, who had scored less than the petitioner in the CUET.

33. Mr. Khanna predicated his case on Clause 9(b) of the minutes of the Academic Council Meeting dated 27 November 2020. According to Mr. Khanna, this clause required admissions to the Ward Quota in any college to be made on course-wise basis. He submits that, before admitting any second EWQ student to a course, first admissions to the various courses on the basis of merit should be exhausted. He, therefore, takes exception to a second student having been admitted to

¹⁵ (2019) 176 DRJ 334 (DB)

¹⁶ 2003 IV (AD) Delhi 378 (DB)



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the B.A. (Hons.) Economics course in the Hindu College even while no ward quota admission to the B.A. (Hons.) History course was made, despite the petitioner being available.

34. Para 9(b) of the minutes of the Academic Council Meeting dated 27 November 2020, does not, however, lend itself to any such interpretation. What is stated in the said clause is that a maximum of 16 students could be admitted against the EWQ in any College, of which 8 would be wards of Teaching staff and 8 would be wards of Non-teaching staff. The reference to a “course”, in the said sub-para is only apropos the maximum number of EWQ students who can be admitted to a course, which is 16.

35. Para 9(b) further provides that, for every unit of upto 60 students, there would ordinarily be one EWQ admission. Where, therefore, the number of students in a unit/class exceeded 60, a second EWQ student could be admitted.

36. In the B.A. (Hons.) Economics course in Hindu College in 2023-24, there were 68 students. As the number of students was in excess of 60, but below 120, two EWQ admissions could be made. The second EWQ student who was admitted to B.A. (Hons.) Economics had a CUET score of 732.9285, as against the petitioner’s CUET score of 658.3911364.



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37. As already noted, there was no stipulation, in any of the statutory documents or guidelines, to the effect that, despite it being permissible to admit two EWQ students in the B.A. (Hons.) Economics, and despite the second EWQ student being superior in merit to the petitioner, the petitioner, as a student with a lower CUET score than the second student admitted to B.A. (Hons.) Economics, should nonetheless have been admitted to B.A. (Hons.) History in the Hindu College.

38. Indeed, in case the petitioner had been admitted, the second EWQ candidate admitted to the B.A. (Hons.) Economics course would not have been able to secure admission and could legitimately have challenged the admission to the petitioner to B.A. (Hons.) History in preference to him.

39. Mr. Rupal sought to submit that admission to the Ward Quota had been effected on stream-wise basis, as per the file noting dated 4 November 2022 of the Admission Branch, which was approved till the VC. As per the said note, all subjects were divided into three clusters. In the case of colleges which offered programs under all three program clusters, the maximum number of 8 admissions each of the teaching and non-Teaching EWQ candidates were to be effected by admitting 3 in Cluster-I, 3 in Cluster-II and 2 in Cluster-III. B.A. (Hons.) Economics and B.A. (Hons.) History were both in Program Cluster-I. Thus, a maximum of three students could, as per the



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aforesaid noting dated 4 November 2022, be admitted against the teaching EWQ.

40. There was no inflexible rule that, before admitting a second student to any one course in a particular cluster, first admission to other course had to be exhausted. Of the EWQ students who desired admission to the Hindu College, the University was required to examine,

- (i) first, how many students desired admission to each Program Cluster, and
- (ii) thereafter, grant admission to the EWQ students to each Program Cluster upto the maximum number of students who could be admitted against that Cluster,

subject to the stipulation that not more than one EWQ student was admitted in a course of upto 60 students.

41. The AC meeting minutes dated 27 November 2020 contained only two stipulations. The first was that a maximum of 8 Teaching EWQ admissions could be made. The second was that, for every class of 60 students, one student could be admitted under the EWQ. The 8 admissions which could be made under the Teaching Ward Quota were, as per the Admission Branch decision dated 4 November 2022, to be made in proportion of 3:3:2, with 3 students admitted to courses in Program Cluster-I, 3 to courses in Program Cluster-II and 2 to courses in Program Cluster-III. B.A. (Hons.) History, to which the petitioner desired admission, was in Cluster-I, as was B.A. (Hons.)



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Economics and several other subjects. In all these subjects together, therefore, only three students could be accommodated against the teaching EWQ. The University has chosen the three most meritorious students who desired admission to the courses in Cluster-I in Hindu College. Of these, two happened to be students who desired admission to the B.A. (Hons.) Economics course. The CUET scores of both the students was higher than the petitioner. The CUET score of the third student who was accommodated in Cluster-I was also higher than that of the petitioner. The three who were accommodated in program Cluster-I (Humanities) had CUET scores of 740.6184, 732.9285 and 776.925. The petitioner's score was 658.3911364.

42. There was no question, therefore, of the petitioner obtaining admission to any course in Cluster-I, as the three Cluster-I vacancies were filled by students who had higher CUET scores.

43. Mr. Khanna's contention that the Admission Branch decision dated 4 November 2022 had no legal force or sanctity cannot be accepted. There is no doubt that the Admission Branch could not take any decision which would be contrary to any existing rules/regulations or instruction or guidelines which would have the force of law. Mr. Khanna has, however, not been able to draw my attention to any such provision contained either in the DU Act or in any of the rules or regulation framed therein or in any of the decision of the AC, with which the decision dated 4 November 2022 of the Admission Branch was in conflict.



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44. Mr. Khanna sought to contend that the Admission Branch noting dated 4 November 2022, even if approved upto the Vice Chancellor, was contrary to the AC resolution reflected in the minutes dated 27 November 2020.

45. I cannot agree.

46. As already noted, the AC decision was only that, firstly, there would be a maximum of 16 EWQ students admitted to each college, of which 8 would be wards of teaching staff and 8 would be wards of non-teaching staff, secondly, that, for every unit of 60 students or less, there would be only one EWQ (and one IWQ) admission. The Admission Branch's resolution dated 4 November 2022, which put in place the stream-wise ward quota allocation system, does not run counter to either of these decisions. It is well-settled that administrative decisions can always supplement the statutory regime though they cannot supplant it.¹⁷

47. The Admission Branch's resolution dated 4 November 2022, which was approved upto the Vice-Chancellor, and which was also decided to be followed for 2023-24, merely worked out a manner in which the admission to the quota of 8 students, against the teaching and non-Teaching EWQ admissions each, was to be made. In so doing, it did not infract any of the said decisions taken in the AC meeting dated 27 November 2020.

¹⁷ Refer **ESIC v UOI, (2022) 11 SCC 392** and **UOI v. Ashok Kumar Aggarwal, (2014) 16 SCC 147**



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48. In that view of the matter, there was no illegality in the University adopting the stream-wise allocation procedure, as envisaged by the Admission Branch decision dated 4 November 2022. The decision was affirmed upto the Vice Chancellor, who is undoubtedly the highest administrative authority in the University. It was also decided, in the AC meeting, that a similar procedure would be followed for the academic session 2023-24. That decision was approved both by the AC as well as the Executive Council of the University. There cannot, therefore, be said to have been any illegality in the respondent following the Cluster-based allocation system while effecting Ward Quota admissions in the University.

49. The reliance, by Mr. Khanna, on the first admission list, against the EWQ for the year 2021-22, released on 13 November 2022, is also of no particular significance. That list merely sets out the details of the 8 students who were found eligible for admission under the teaching and non-teaching Ward Quotas respectively.

50. Even there, it would be seen that there were more than one admissions in B.A. (Hons.) Economics both of wards of teaching and non-teaching staff.

51. Mr. Khanna also sought to contend that the instructions governing cancellation of provisional allocated seats did not permit cancellation of the seat allocated to the petitioner as was done in the present case. He has drawn my attention to Chapter IX to the instructions governing the CSAS for 2023-24 in that regard.



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52. I am unable to accept this contention either. Failure to meet the minimum eligibility criteria as declared by the University is one of the grounds on which the admission can be cancelled. Even otherwise, an admission which is made contrary to the applicable instructions/decisions can always be rectified, as it is only an administrative decision. So long as it applies uniformly and does not result in discrimination between student and student, no illegality can be said to exist therein.

53. No equities can be pleaded in such a case, as, if the petitioner was admitted as an EWQ student to the B.A. (Hons.) History Course in the Hindu College, it would have been at the expense of the third EWQ student admitted in Cluster-I, whose CUET score was higher than that of the petitioner and who would, therefore, have a preferential right of admission.

54. Had there been anything, in any Rule, Regulation or even administrative decision to support Mr. Khanna's plea that the University ought first to have admitted one student to each course as per comparative merit of the aspirants *to that course* before proceeding to consider admitting a second student to any course, the petitioner may have had a case. There is, however, no such stipulation. If, therefore, the University appointed the three most meritorious students who desired admission as teaching EWQ students



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to Cluster-I, it is not possible to characterize the decision as illegal, or inviting interference under Article 226 of the Constitution of India.

Conclusion

55. The writ petition is, therefore, devoid of merits. It is dismissed, albeit without costs.

C. HARI SHANKAR, J.

JANUARY 30, 2024

dsn