



2024:DHC:6593



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

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*Reserved on: 27.08.2024
Pronounced on: 30.08.2024*

+ **W.P.(C) 11137/2024 & CM APPL. 46029/2024**

NIKITA KASHYAP

.....Petitioner

Through: Mr. Furkan Ali Mirza, Mr.
Abdul Wasih and Ms. Anam
Rauf, Advocates

versus

DELHI UNIVERSITY & ANR.

.....Respondents

Through: Ms. Rashmi Singhanian,
Advocate for R-1/DU.
Mr. TVS Raghavendra Sreyas
and Mr. Siddharth Vasudev,
Advocates for R-2/AMU.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant petition under Article 226 of the Constitution of India read with Section 151 of the Code of Civil Procedure, 1908 ('CPC') has been filed on behalf of petitioner seeking following reliefs:

“...i) a writ in the nature of certiorari for quashing impugned order dated 02.12.2014 passed by the Hon'ble National Commission for minority Educational Institutions, Delhi (Annexure P-1) being illegal, arbitrary, erroneous and against



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the provisions of Constitution of India, National Commission For Minority Education Institutions Act, and other local acts of the State of Haryana and National Capital Territory of Delhi; and

ii) any other writ, order or direction may also be issued, that this Hon'ble Court may deem fit and proper in the given facts and circumstances of the case and in the interest of justice; and

iii) Issuance of advance notices be dispensed with; and

iv) Costs of the writ petition be also awarded in favour of the petitioner..."

2. Briefly stated, **the case set out by the petitioner** is that she is aggrieved by the action of **Respondent No. 2 i.e. Aligarh Muslim University**, of not granting her admission to the LL.M. program, due to the non-issuance of mark sheets by **Respondent No. 1 i.e. Delhi University**. As per the petitioner, she had appeared for the entrance test for admission to the LL.M. program at respondent no. 2 University and had qualified for the same. Thereafter, on 06.07.2024, the Delhi University had issued a counseling-cum-admission schedule for LL.M. admissions. The petitioner had duly followed the admission procedure mentioned in the said counseling-cum-admission schedule, registered herself, and uploaded the required documents, except the mark sheet of her LL.B. final semester, as the examinations for the LL.B. final semester had not been conducted by respondent no. 1 University. The petitioner had then received an email from respondent no. 2 University on 09.07.2024 requiring the re-submission of documents, which she had complied with, and had submitted a certificate dated 08.07.2024 issued by respondent no. 1 University, in place of the mark sheet of final semester, which said that the petitioner will be appearing in the final semester examination



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of her LL.B. program, which has not yet been held. The petitioner had also sent multiple emails to the concerned officials of respondent no. 2 University, requesting an extension of time for submitting the mark sheet for the final semester. On 13.07.2024, respondent no. 2 University had issued the first list of 63 successful candidates who had secured admission in the LL.M. program of the institute and the petitioner was not part of the list. The petitioner herein had also approached the Chairman of the Students Grievance Redressal Committee of respondent no. 2 University, to grant provisional admission. The petitioner had also appealed to the Ombudsman for an extension of time and provisional admission on 30.07.2024. Thereafter, the petitioner had received an email from respondent no. 2 University, on 31.07.2024 stating that her admission to the LL.M. program had not been cleared.

3. Aggrieved by the aforesaid, the petitioner is before this Court, against the action of Respondent no. 2/Aligarh Muslim University of denying her admission to the LL.M. program.

4. **Learned counsel appearing on behalf of the petitioner** argues that the petitioner is a meritorious student who has qualified for the LL.M. entrance test and is therefore entitled to admission in the LL.M. program at the respondent no. 2 University. It is argued that the petitioner's admission to the LL.M. program has not been cleared by respondent no. 2 University, without any valid reason, making the decision illegal, arbitrary, and unreasonable. Further, learned counsel for the petitioner states that no fault is attributable to the petitioner, as she has pursued her legal rights expeditiously



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without any delay. The fault lies, according to the counsel, with respondent no. 1 University for not conducting the LL.B. final semester examinations on time, and with the Aligarh Muslim University for not clearing her admission to the LL.M. program. It is also stated that on 31.07.2024, the petitioner was informed by the respondent no. 2 University that her admission to the LL.M. program had not been cleared, which is without just reasons.

5. **Learned counsel for Respondent No. 1/Delhi University** submits that they are not averse to issuance of her mark sheet, and sending it in a sealed cover to respondent no. 2 University, however, for that she has to take steps to deposit the requisite fee and to fill the requisite form, which has not been done. Learned counsel for the petitioner does not dispute this position.

6. **Learned counsel for Respondent No. 2/Aligarh Muslim University** draws the attention of this Court towards the prospectus, and Rule 20 of important information and rules, of Aligarh Muslim University's Guide to Admission 2024-25. The same reads as under:

“...20. A candidate whose qualifying examination is not recognized by this University shall not be eligible for admission. All such Application Forms / admissions shall be rejected/cancelled...”

7. Having **heard** arguments addressed by both the parties, this Court observes that while there was an overlap of dates in the present case, the petitioner had appeared for her final semester LL.B. examinations only on 19.07.2024, by which time the two rounds of counseling conducted by respondent no. 2 University had already



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concluded. Despite this, respondent no. 2 University had still permitted the petitioner herein to participate in the counseling process. However, the fact remains that the final counseling session for admission to LL.M. program of respondent no. 2 University was over on 01.08.2024, whereas the petitioner's examinations of LL.B. final semester in respondent no. 1 University came to an end on 02.08.2024. Thus, the petitioner's final examinations of LL.B. program were only completed the day after the final counseling session had concluded.

8. This Court notes that it is clear that the Prospectus issued by respondent no. 2 University mentions that on the date of admission, the candidate has to be in possession of the documents to prove their eligibility for the program they are applying for. It is undisputed that the petitioner's result has not yet been declared. The petitioner also had an option of requesting the respondent no. 1 University to send her result in a sealed cover to the concerned University, however, she has also not filled the requisite form nor has she deposited the fee towards the same.

9. Therefore, unfortunately, the petitioner herself has not taken the necessary steps even till date to obtain the mark sheet of her LL.B. program, for the purpose of her admission in the LL.M. Program.

10. It is a settled law that the terms of the Prospectus/Bulletin of Information in respect of admissions, framed by the Universities, are binding on all the candidates and have to be strictly adhered to. The petitioner, who admits to being aware of the terms of the Bulletin and



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having filled the online application form after reading all the information provided in the Bulletin, cannot now be permitted to plead ignorance of the same. In this regard, reference can be made to the following observations of Hon'ble Division Bench of this Court in case of *Nidhi Goyal v. Faculty of Medical Sciences University of Delhi* 2015 SCC OnLine Del 8347:

“9. We have considered the rival contentions. The hard fact of the matter is that the petitioner took admission in the MS (Ophthalmology) course in the year 2014 knowing fully well of Clause 9.11 aforesaid. The question is, whether she can now be relieved therefrom. We are of the opinion that the petitioner, after applying for appearing in AIPGMEE on the terms and conditions contained in the Bulletin of Information (supra) and after appearing in the examination and securing admission, cannot be heard to contend otherwise.

11. One of us (Rajiv Sahai Endlaw, J.) in *Jyoti Yadav v. Government of NCT of Delhi* relying on *Gorak Nath Balu Shinde v. State of Maharashtra* and *Amlan Jyoti Borooah v. State of Assam* (2009) 3 SCC 227 held that **the terms and conditions of a brochure of admission are binding on all persons in the conduct of examination and all are expected to adhere thereto strictly in order to avoid prejudice to any person and that candidates who take part in selection process knowing fully well the procedure laid down therein, cannot be permitted to turn back and assail the same after having been declared unsuccessful.** Mention may also be made of *Madan Lal v. State of Jammu & Kashmir* (1995) 3 SCC 486 also laying down that if a candidate takes a calculated chance and appears at the interview, then only because the result of interview is not palatable, he cannot turn around and subsequently contend that process of interview was unfair or the Selection Committee was not properly constituted; when the petitioner appears at the examination without protest and when he finds that he would not succeed at the examination, he files a petition challenging the examination, the Court should not grant relief to the petitioner. Reference in this regard may also be made to *Manish Kumar Shahi v. State of Bihar* (2010) 12 SCC 576. Recently also in *Chandigarh Administration v.*



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Jasmine Kaur (2014) 10 SCC 521 it was reiterated that if the candidate takes a calculated risk/chance by subjecting himself/herself to the selection process, after knowing his/her non-selection cannot turn around and contend that the process of selection was unfair. It was further held that once the candidate is aware that he/she does not fulfil the criteria of the prospectus, he/she cannot be heard to say that he/she chose to challenge the same only after preferring the application and after the same was refused on the ground of eligibility.”

(Emphasis supplied)

11. Learned counsel for the petitioner during the course of arguments has also relied on the judgment of *S. Krishna Sradha vs. The State of Andhra Pradesh & Ors.* in Civil Appeal No. 1081/2017 decided on 13.12.2019, however, the same is different on facts as well as on the findings and is not applicable in the facts and circumstances of the present case.

12. In the given set of facts and circumstances, where it is still unclear whether the petitioner has passed her final semester examinations of the LL.B., it is not possible to direct that a seat be reserved for her or that she be granted provisional admission to the LL.M. program, especially when the entire counselling process and admission processes have already been completed, and no seats remain for spot counseling with respondent no. 2 University. At the cost of repetition, it is to be noted that it is not known as to whether the petitioner, till date, is eligible to be admitted to the LL.M. Program. Therefore, this Court does not find merit in the present petition.



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13. Accordingly, the present petition along with pending application, if any, stands dismissed.

14. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

AUGUST 30, 2024/zp