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

+ **W.P.(C) 11686/2024 & CM APPL. 48566/2024**

G JAHNAV PREM SAI

.....Petitioner

Through: **Mr.A.Velan and Ms.Navpreet Kaur,**
Advs.

versus

UNIVERSITY OF DELHI & ANR.

.....Respondents

Through: **Mr.Mohinder J.S.Rupal and**
Mr.Hardik Rupal, Advs for DU.
Mr.Sanjay Khanna SC with
Ms.Pragya Bhushan, Mr.Karandeep
Singh and Mr.Tarandeep Singh
Advs for NTA.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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14.10.2024

1. The instant writ petition has been filed seeking the following reliefs:-

- A. *Issue a writ of Certiorified Mandamus or any other appropriate Writs/Directions/Orders to quash the order passed by the 1st Respondent in Ref No0.96914-KMC-BAPR718-1189-CSAS-1-1-I-FA dated 19.08.2024 and consequently direct respondent no 1 to allot a seat in BA Program (Economics and Political Science) in Kirori Mal College to the petitioner in the academic year 2024-25.*
- B. *Issue a writ of Certiori or any other appropriate Writs/Directions/Orders to quash clause 5 of the Important Points of the Delhi University's Bulletin of Information, for admission to UG programs as being Ultra Vires Article 14, 19(1)(g) and 21 of the Constitution of India, 1950.*
- C. *Pass any other or further order as this Hon'ble Court may deem fit and just, in the facts and circumstances of the case, in the interest of justice*



2. Having heard learned counsel appearing on behalf of the parties, the Court finds that the brochure issued by respondent no.1-University for admission to the University of Delhi, makes it mandatory for the student to appear in the Common University Entrance Test-Under Graduate (“CUET-UG”) 2024 examination in those subjects in which the candidate appeared in class XII examination. Admittedly, in the instant case, the petitioner completed his class XII education with English, Sanskrit, Maths, Physics, and Chemistry. However, the petitioner appeared in the CUET UG 2024 examination in English, Geography, History, Political Science and Sociology subjects, therefore, on account of ambiguity in subject mapping, the petitioner's candidature has been rejected.

3. The Court, therefore, finds force in the submissions made by learned counsel appearing on behalf of the respondent no.1-University who states that having tendered the declaration that the appearance of the student is strictly in accordance with the subject mapping criteria, at this stage, the petitioner cannot be allowed to take admission in courses which were not studied in class XII examination.

4. At this juncture, it is apropos to lend credence to the observations of this Court in the case of **Varun Kumar Aggarwal v. Union of India & Ors.**¹, wherein, after perusing various precedents, the Division Bench of this Court held that the prospectus is binding on the candidates as well as on the State including the machinery appointed by it for identifying the candidates for selection and admission. The relevant observations of the said decision read as under:-

¹ 179 (2011) DLT 24.



“14. Presently we shall refer to certain authorities in the field that have dealt with sanctity of a prospectus or brochure and the legal impact when it is changed in the midstream. In *Dr. M. Vannila v. Tamil Nadu Public Services Commission*, 2007 (3) CTC 69, a Division Bench of the High Court of Madras has opined thus:

“19. The principle that the prospectus is binding on all persons concerned has been laid by the Supreme Court in *Punjab Engineering College, Chandigarh v. Sanjay Gulati*, (AIR 1983 SC 580 = 1983 (96) LW 172 S.N.). Following the same, a Division Bench of this Court has also observed in *Rathnaswamy, Dr. A. v. Director of Medical Education* (1986 WLR 207) that the rules and norms of the prospectus are to be strictly and solemnly adhered to. The same view is also taken by another Division Bench of this Court in *Nithiyan P. and S.P. Prasanna v. State of Tamil Nadu* (1994 WLR 624). The same principle is reiterated in the case of *Dr. M. Ashiq Nihmathullah v. The Government of Tamil Nadu*, 2005 WLR 697. It is clear that the prospectus is a piece of information and it is binding on the candidates as well as on the State including the machinery appointed by it for identifying the candidates for selection and admission.”

15. In *Indu Gupta v. Director Sports, Punjab*, AIR 1999 P&H 319 (FB), the Full Bench in paragraphs 9, 10 and 11 has expressed thus:

“9. A Full Bench of this Court in the case of *Raj Singh v. Maharshi Dayanand University*, (1994) 4 Recent Services Judgments, 289 disapproved the liberal construction of the terms and conditions of the brochure and specified the need for their strict adherence to avoid unnecessary prejudice to the candidate or the authority during the course of admission. The bench approved that the eligibility for admission to a course has to be seen according to the prospectus issued before the entrance test examination and that the admission has to be made on the basis of the instructions given in the prospectus having the force of law. While disapproving the law laid down by a Division Bench of this Court in the case of *Madhvika Khurana (minor) v. M.D. University Civil Writ Petition No. 15367 of 1991*, where contrary view had been taken, the Full Bench observed that the students seeking admission to the professional colleges are even otherwise matured enough and supposed to understand the full implication of filling the admission form and compliance with the instructions contained in the brochure.



10. Subsequently, another Full Bench of this Court in the case of *Rahul Prabhakar v. Punjab Technical University, Jalandhar*, 1997 (3) RSJ 475 : (AIR 1998 Punj. & Har. 18) recapitulated the entire law on the subject. The Full Bench was considering the same brochure for the previous year of the Punjab Technical University. The Court held as under : -

“A Full Bench of this Court in *Amardeep Singh Sahota v. State of Punjab*, (1993) 4 Serv LR 673 had to consider the scope and binding force of the provisions contained in the prospectus. The Bench took the view that the prospectus issued for admission to a course, has the force of law and it was not open to alteration. In *Raj Singh v. Maharshi Dayanand University*, 1994 (4) R.S.J. 289 another Full Bench of this Court took the view that a candidate will have to be taken to be bound by the information supplied in the admission form and cannot be allowed to take a stand that suits him at a given time. The Full Bench approved the view expressed in earlier Full Bench that eligibility for admission to a course has to be seen according to the prospectus issued before the Entrance Examination and that the admission has to be made on the basis of instructions given in the prospectus, having the force of law. Again Full Bench of this Court in *Sachin Gaur v. Punjab University*, 1996 (1) RSJ 1 : (AIR 1996 Punj. & Har. 109) took the view that there has to be a cut off date provided for admission and the same cannot be changed afterwards. These views expressed by earlier Full Benches have been followed in CWP No. 6756 of 1996 by the three of us constituting another Full Bench. Thus, it is settled law that the provisions contained in the information brochure for the Common Entrance Test 1997 have the force of law and have to be strictly complied with. No modification can be made by the court in exercise of powers under Article 226 of the Constitution of India. Whenever a notification calling for applications, fixes date and time within which applications are to be received whether sent through post or by any other mode that time schedule has to be complied with in letter and spirit. If the application has not reached the coordinator or the competent authority as the case may be the same cannot be considered as having been filed in terms of the provisions contained in the prospectus or Information Brochure. Applications filed in violation of the terms of the brochure have only to be rejected.”



11. The cumulative effect of the above well enunciated principles of law, is that the terms and conditions of the brochure where they used preemptory language cannot be held to be merely declaratory. They have to be and must necessarily to be treated as mandatory. Their compliance would be essential otherwise the basic principle of fairness in such highly competitive entrance examinations would stand frustrated. Vesting of discretion in an individual in such matters, to waive or dilute the stipulated conditions of the brochure would per se introduce the element of discrimination, arbitrariness and unfairness. Such unrestricted discretion in contravention to the terms of the brochure would decimate the very intent behind the terms and conditions of the brochure, more particularly, where the cut off date itself has been provided in the brochure. The brochure has the force of law. Submission of applications complete in all respects is a sine qua non to the valid acceptance and consideration of an application for allotment of seats in accordance with the terms prescribed in the brochure.

[Emphasis added]

16. We have referred to the aforesaid decisions only to highlight that the conditions stipulated in the prospectus are guidelines for all concerned and everyone is required to follow the same in letter and spirit and not act in transgression. The hopes and aspirations of the students, who came within the zone of merit, cannot be scuttled by changing the prospectus by way of introducing a corrigendum. A change in the conditions of the prospectus can be conceived of and allowed if such power is specifically reserved while making the prospectus public as in that case, no one can think of having a right. In that event, the same could be capable of change.”

5. Reference can be made to the decision of this Court in the case of **Hritik Rana v. Delhi Sports Council and Ors.**², wherein, the Court has held that the prospectus issued by the University is not only binding against the students but also against the University as well. The relevant paragraphs of the judgment read as under:-

"14. it is settled legal position that the terms of the brochure are binding upon a candidate. A candidate cannot after having participated in the selection process and after having been rejected for any reasons turn around and challenge the terms of the criteria of

² (2020) SCC OnLine DEL 1822.



the admission brochure. *In the present case, the petitioner has applied under the Bulletin of Information. He cannot after having participated in the selection process turn around and seek to challenge the terms of the stipulated in the selection process. In this context reference may be had to the judgment of a Coordinate Bench of this court in the case of Priyanka Chaudhary v. National Board of Examinations, 2016 SCC OnLine Del 5691 where this court held as follows:—*

“11. The petitioners were well aware of the rules laid down by the information bulletin and despite the same the petitioners participated in the counseling process without any demur. The petitioners have opted for confirmed seats and have taken admission. No doubt that the petitioners are meritorious, but on account of the application of the rules as laid down by the information bulletin, which is clear in terms of its application, the petitioners are clearly ineligible to participate in the second round of counseling commencing from 21st October, 2016.”

6. In the instant case, if the petitioner, had any grievance with respect to clause 5 of the brochure, the petitioner ought to have challenged the same at the relevant point of time. Having appeared at the concerned examination and having tendered the undertaking to abide by the eligibility conditions as stipulated in the brochure, the petitioner cannot be allowed to challenge the validity of clause 5 of the brochure at this belated stage.

7. Learned Counsel, appearing for the petitioner urges that he has filed a written submission and placed reliance on various decisions to content that the petitioner has a fundamental right to education and he can challenge the rules and regulations at any point in time. The aforesaid submission doesn't find favour for the reasons recorded in para 2 and 6 of this order.

8. Accordingly, the instant writ petition along with pending applications stands dismissed.

PURUSHAINDR KUMAR KAURAV, J

OCTOBER 14, 2024/MJ