



2024:DHC:7569



\$~

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

%

Reserved on: 05.09.2024

Pronounced on: 01.10.2024

+ **W.P.(C) 12285/2024 & CM APPL. 51101/2024**

DHRUV JAIN AND ORS.

.....Petitioners

Through: Mr. Shashank Deo Sudhi,
Advocate

versus

GOVT. NCT OF DELHI AND ORS.

.....Respondents

Through: Ms. Anita Sahani, Advocate
for R-2/GGSIP University.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The instant writ petition, under Article 226 of the Constitution of India, has been filed on behalf of petitioners, *inter alia*, praying that the notification no. IPU- 7/Offline Counselling/2024/959, dated 29.08.2024 [*the impugned notification*] issued by the respondent no. 2 i.e. Guru Gobind Singh Indraprastha University, Delhi [*the University*] be quashed, inasmuch as the impugned notification, by way of merit rank capping of last round of online counseling, arbitrarily deprives the leftover meritorious and deserving aspirants



2024:DHC:7569



from taking admission in top ranking colleges affiliated with the GGSIP University in the special round offline counseling.

2. The petitioners further pray that the University be directed to re-notify the dates of special round offline counseling, after making amendments in the impugned notification. A prayer has also been made that the University be directed to first consider the meritorious and eligible aspirants of its own Common Entrance Test [‘CET’] for filling-up the vacant seats and thereafter consider the eligible aspirants from Central University Entrance Test [‘CUET’].

3. As discerned from the petition, the petitioners herein are the aspirants of different programmes to be conducted by the University, who have secured a place of merit in various entrance examinations. It is stated that subsequent to the publication of their results, the petitioners had registered their names for counseling with the University by payment of statutory fee towards the registration. However, the petitioners have been unsuccessful in securing admission in any institute till date. It is the case of the petitioners that the University, by virtue of the impugned notification, has barred all the meritorious aspirants, such as the petitioners, from taking admission in top ranking institutes affiliated to the University, under the garb of arbitrary merit capping, by directed the institutes to consider the merit of last admitted aspirants through online counseling, while granting admission even in the special round of offline counselling.

4. *Prima facie*, the principal grievance of the petitioners is against Clause 4 of the impugned notification, which provides as under:



2024:DHC:7569



“4. The conduct of the Special Round of OFFLINE Counselling is to facilitate those candidates only who have not been able to get admission for certain reasons in the Online Counselling Process held so far. During the special Round of OFFLINE Counselling, the University shall ensure that allotment of seats in respective programme in any USS/ College/ Institute is purely on merit basis and in accordance with CUT OFF rank determined through Online Counselling of the respective programme/stream of respective college to ensure NO rank violation with respect to admitted candidates...”

5. It is the petitioners' case that merit violation cannot arise at such stage of special round offline counselling or while filling-up the seat against stray vacancy, but the University has capped the merit ranking against each individual college, differently under self calculated formula, thereby depriving the meritorious aspirants like the petitioners from taking admission in the desired stream/branch of the institutes affiliated to the University.

6. Learned counsel appearing for the petitioners states that the impugned notification has imposed unreasonable restrictions, in the name of arbitrary merit capping of last admitted candidate through last round online counselling. It is argued that the University cannot deprive the meritorious students from taking admission in the better colleges and even assuming the object of the notification is to ensure that the lesser meritorious students should not get admission in the better colleges, the measure adopted by the University, in keeping the precious seats remain vacant, is disproportionate. It is stated that there is manifest arbitrariness/unreasonableness in the actions of the University, leading to the violation of fundamental rights of



2024:DHC:7569



meritorious aspirants as guaranteed under Constitution of India. Reliance is placed on the decision of Hon'ble Supreme Court in ***Modern Dental College and Research Centers & Ors. v. State Madhya Pradesh***, (2016) 7 SCC 353, to contend that there should be balance between Article 19(1) and Article 19(2) to 19(6), and the restrictions should not be arbitrary or excessive. It is also submitted that the impugned notification is *prima facie* violative of Article 14 of the Constitution of India.

7. Learned counsel appearing for the petitioners contends that numerous meritorious candidates from the CET/NLT merit list remain unadmitted due to the arbitrary imposition of rank capping during the special round of offline counselling. It is argued that despite their hard-earned ranks, these candidates are being unfairly denied admission to top-ranking institutes, while unfilled seats are being allotted to CUET candidates. It is also submitted that respondent no. 4 i.e. University Grants Commission ['UGC'] has recently issued a Standard Operating Procedure ['SOP'] through notification dated 04.10.2024 for filling vacant seats in central universities, noting that keeping seats vacant wastes resources and denies many students access to quality higher education. Therefore, it is argued that the University should be directed to adopt this SOP for filling seats in its affiliated institutes based on merit rankings, since without doing so, the purpose of conducting special round offline counselling will be defeated, and meritorious candidates like the petitioners will be denied their choice of institute despite their qualifications.



2024:DHC:7569



8. *Per contra*, learned counsel appearing for the respondent University states that the University functions within the framework of the GGSIP University Act, 1998 and Statutes, Rules & Regulations, Ordinances made thereunder and other relevant applicable laws. It is stated that there has neither been any violation of any of the provisions of the Delhi Professional colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non-exploitative Fee and Other Measures to Ensure Equity and Excellence) Act, 2007, nor of the GGSIP University Act or any Ordinance/Statute, etc., to adversely prejudice the petitioners herein. It is further stated that the University is responsible for admission in Self Financing Institutes affiliated to the University in accordance with the provisions of the Act of 2007, and as per Section 3(g) of the Act of 2007, the Government of NCT of Delhi has appointed the University as the designated agency for conduction counseling for admission in the Institutions affiliated to the University. It is further stated that Section 3 (d) of the said Act provides for merit based admission.

9. Learned counsel appearing for the University further argues that the University has been following the practice and procedure for admission to fill the vacant seats, *impugned in this petition*, every year. It is submitted that for the year 2022-23, the respondent no. 6 herein i.e. Maharaja Agrasen Institute of Technology [‘MAIT’] had filed W.P.(C) 16871/2022, titled as ***Maharaja Agrasen Institute of Technology v. Govt. of NCT of Delhi & Ors.***, challenging the similar notification of University and this Court was pleased to pass an



2024:DHC:7569



interim order dated 13.12.2022, and the writ petition was dismissed *vide* order dated 10.03.2023. It is further argued that *W.P. (C) 401/2023* was also filed for the same academic year and similar notification dated 21.12.2022 was challenged, and this Court *vide* order dated 20.04.2023 had dismissed the writ petition, and that MAIT was respondent no. 2 in the said writ petition. Learned counsel for the respondent no. 2 also submits that the respondent has no doubt that the present petition is an attempt by the MAIT, to indirectly make an attempt with a view to fill up its vacant seats by not complying with the merit based admissions as prescribed under law. It is stated that the stipulation that the “*admission process during Special Spot Offline Round of Counselling will be carried out to ensure that there is NO Rank violation with respect to admitted candidates*”, is as per law and in the interest of standard of admission in the affiliated institutes. Therefore, it is prayed that the present petition be dismissed.

10. This Court has heard arguments on behalf of the petitioners as well as the University, and has perused the material placed on record.

11. The petitioners herein are principally aggrieved by Clause 4 of the impugned notification, which provides that even during the special round of offline counselling, the University shall ensure that allotment of seats, in each programme in any college or institute, be purely on the basis of merit and in accordance with cut off rank determined through online counselling of the respective programme, of respective college, to ensure no rank violation with respect to admitted candidates. This merit rank capping and policy of no rank



2024:DHC:7569



violation has been termed as arbitrary and whimsical by the petitioners.

12. At the outset, this Court notes that a challenge was made to an identical clause, in a previous and similar notification issued by the University in the year 2022, in case of *Shreyansh Sharma v. Guru Gobind Singh Indraprastha University Through Registrar*, 2023:DHC:3126. The petitioner therein had also contended that the policy of 'no rank violation', at the time of special round of offline counselling, was arbitrary. However, the said writ petition was dismissed by the Coordinate Bench of this Court, by recording the following observations:

“1. The petitioner, in the present petition, seeks to challenge the notification dated 21.12.2022, in so far as the same relates to restriction for admission to the candidates in special spot offline counseling.

4. According to him, once the seats are vacant in the respective colleges and no more meritorious candidate is available then the right to admission to a professional educational institution ought not to have been denied to the petitioner on the ground of 'no rank violation' condition. Therefore, it is prayed that the petitioner be granted admission for the Academic Session 2022-23 in respondent No.2-Maharaja Agrasen Institute of Technology (hereinafter referred to as 'MAIT'), where, he participated in counseling in CSE

8. Clauses 7 and 8 of circular dated 21.12.2022 which is under challenge, reads as under:-

“7. Merely registration and participation by NLT/CET qualified candidates in Special Spot Offline Round of Counselling does not guarantee an admission to the such candidate in his / her choice of College or Stream as the allotment shall be purely on centralized merit basis of complete counselling held so far and in accordance with the CUT OFF rank determined through Online Counselling for the respective programme of respective



2024:DHC:7569



college to ensure NO rank violation with respect to admitted candidates.

8. The conduct of Special Spot Offline Round of Counselling is with the purpose to only facilitate those candidates who for certain reasons have not able to get admission in the Online Counselling Process held so far. During the Special Spot Offline Round of Counselling, the University shall ensure that allotment of seat in respective programme in a college is purely on merit basis and in accordance with the CUT OFF rank determined through Online Counselling for the respective programme of respective college to ensure NO rank violation with respect to admitted candidates. The Hon'ble High Court of Delhi in a Writ Petition has upheld the policy of the University for NO rank violation with respect to the admitted candidates.”

10. Clause 8 of the said circular further speaks about ensuring the 'no rank violation' principle. **The 'no rank violation' principle as explained by the University would mean that the candidate who is desirous of admission to any college or programme will not be considered if he/she obtains marks less than the marks obtained by the last admitted candidate in the concerned course/college.**

11. **This court finds that such a stipulation is necessary to ensure that merit is maintained and no less meritorious candidate obtains admission under the guise of a special spot offline round of counseling.**

14. The next question that arises for consideration is as to **whether respondent No.1-University can direct for observing the 'no rank violation' principle** as has been done in the instant case in terms of circular dated 21.12.2022.

15. The Hon'ble Supreme Court in the case of *T.M.A. Pai Foundation and others versus State of Karnataka and others*¹, *Islamic Academy of Education & Anr. Versus State of Karnataka and Ors.*² and *P.A. Inamdar and others versus State of Maharashtra and others*³ emphasized that admission to a professional educational institution should always be based on merit. In order to maintain excellence in higher education, merit plays an important role.

16. The proviso to Section 13 of the Act of 2007 further provides for the advertisement and filling up of seats from the



2024:DHC:7569



candidates who have qualified for the common entrance test by the institution in a transparent manner based on merit at the qualifying examination.

17. It is thus seen that **in order to honor the inter se merit, respondent No.1-University has issued the impugned circular prescribing that under the guise of a special spot offline round of counseling, no less meritorious candidate should be granted admission. Respondent No.1-University being a designated agency in terms of the provisions of the Act of 2007 and being an affiliating authority, is competent to issue necessary directions to ensure merit-based admission. The merit-based admission is inbuilt under Article 14 of the Constitution of India.**

18. It is also to be noted that the instant counseling i.e. special spot offline round of counseling is a special round of counseling and the same has been directed for the Academic Session 2022-23 under special circumstances. **If admissions are granted to candidates who are less meritorious than the candidates admitted in the earlier rounds of counseling, the same would cause prejudice and frustration in the minds of already admitted candidates.** The petitioner did participate in earlier rounds of counseling and was offered seats in three branches. The special spot offline round of counseling is envisaged for those candidates who could not, at all have participated, in earlier rounds of counseling for some genuine reasons.”

(Emphasis supplied)

13. Thus, the Coordinate Bench has already upheld the policy of the University laying down the same criteria which has been impugned in present petition also. It was held by the Coordinate Bench in its detailed judgment, that the actions of the University are meant to ensure that no less meritorious candidate is granted admission under the guise of a special spot offline round of counselling, and the respondent University, under the law, is empowered to add such stipulation in the notification to ensure that merit is maintained.



2024:DHC:7569



14. This Court finds no reasons to take a view, different than the one already taken by the Coordinate Bench in case of *Shreyansh Sharma* (*supra*).

15. Insofar as the reliance on the SOP dated 04.10.2023 issued by UGC is concerned, it is evident from a bare reading of the said SOP that the same has been circulated to all 'Central Universities', and the GGSIP University, being a State university, is not bound to follow the said SOP.

16. This Court is also of the view that the determination of norms and standards, for conducting admissions in its affiliated colleges, falls within the policy domain of the University. It is well-settled that policy decisions, especially in matters of academic admissions, are best left to the expertise and discretion of the Universities and policy makers, and judicial interference in such policy matters is warranted only in cases of palpable arbitrariness or illegality, neither of which is evident in the present case. Accordingly, this Court would refrain from venturing into the domain of the respondent University's admission policy.

17. Thus, for the reasons aforesaid, the present petition is dismissed. Pending application, if any, also stands disposed of as infructuous.

18. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

OCTOBER 1, 2024/zp