



2024:DHC:7935



\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Reserved on: 07.10.2024***Pronounced on: 14.10.2024***

+

**W.P.(C) 12933/2024 & CM APPL. 53978/2024, CM
APPL. 55373/2024****ST. STEPHEN'S COLLEGE**

.....Petitioner

Through: Mr. Romy Chacko, Senior
Advocate with Mr.
Karthik Venu and Mr. Akshat
Singh, Advocates

versus

UNIVERSITY OF DELHI

.....Respondent

Through: Mr. Mohinder J.S. Rupal and
Mr. Hardik Rupal, Advocates
for Delhi University.
Mr. Anup Kumar, Ms. Neha
Jaiswal and Ms. Shruti Singh,
Advocates for the
applicants.

CORAM:**HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****Index To The Judgment****FACTUAL BACKGROUND..... 2****SUBMISSIONS BEFORE THIS COURT 5****Submissions on Behalf of the College 5**



2024:DHC:7935



Submissions on Behalf of the University	6
Rejoinder Submissions on Behalf of the College	7
Additional Counter-Affidavit on behalf of the University.....	9
ANALYSIS & FINDINGS	11
THE DECISION	30

SWARANA KANTA SHARMA, J.

1. The present petition under Article 226 of the Constitution of India has been preferred by the St. Stephen's College [hereafter '*the College*'], *inter alia* seeking directions to the respondent i.e. University of Delhi ['hereafter '*the University*'] to immediately approve and upload the list of Christian minority students forwarded by the petitioner on the Common Seat Allocation System – Undergraduate [hereafter '*CSAS-UG*'] admissions portal, and to open the fee payment portal for these students to complete their admission formalities.

FACTUAL BACKGROUND

2. The case set out by the petitioner is that it is a minority institution with an established admission procedure, which was recognized by the Hon'ble Supreme Court in *St. Stephen's College v. University of Delhi*, (1992) 1 SCC 558, which allowed the petitioner to give 85% weightage to academic marks and 15% to interviews for admissions under its Christian minority quota. This practice continued until the University adopted the Common University Entrance Test [hereafter '*CUET*'] in 2022, leading to changes in the



2024:DHC:7935



admission process.

3. In 2022, litigation arose between the College and the University regarding the imposition of CUET as the sole criterion for admission. This Court, in *W.P.(C) 8814/2022*, ruled that for the College, 50% of the seats would be filled based on CUET scores alone, while for the remaining 50% earmarked for Christian students, 85% weightage could be given to CUET scores and 15% to the College's interview process. This policy was followed for the Academic Year 2023-24 as well, which was reaffirmed by a Division Bench of this Court on 21.07.2023 in *W.P. (C) 5426/2023*. However, the underlying dispute between the College and the University remains pending before the Hon'ble Supreme Court in C.A. Nos. 7636-7637/2022.

4. It is stated that for the Academic Session 2024-25, the University released a 'Bulletin of Information – Undergraduate Admissions' on 28.02.2024, detailing a College-wise seat matrix. This matrix, however, did not reflect the admissions under the petitioner's Christian quota, which constitutes approximately 50% of its intake. This omission was followed by the release of CSAS Guidelines on 28.05.2024, establishing that all admissions, including those to minority institutions like the petitioner, would be processed through the University's CSAS Portal.

5. In May-June 2024, Phase I of the CSAS process began, during which students submitted documents and preferences. The results of CUET (UG) were declared on 29.07.2024, and Phase II of CSAS



2024:DHC:7935



commenced, allowing students to select their preferred courses and colleges. The first round of seat allocations was published on 16.08.2024, followed by the acceptance of seats and verification by the respective colleges.

6. On 24.08.2024, the College submitted the list of its selected Christian minority students to the University, requesting their names be uploaded on the CSAS portal and the fee payment portal be opened. Despite a reminder on 26.08.2024 and swift responses to the University's request for further information on 27.08.2024, it is the petitioner's case that the University failed to take timely action. Classes for the undergraduate courses commenced on 29.08.2024, but 50% of the students i.e. those selected under the Christian quota remained unadmitted.

7. A series of communications followed between the College and the University. On 30.08.2024, the College was compelled to issue a public notice, clarifying the lack of response from the University. Further clarifications were promptly provided by the College on 31.08.2024, addressing all queries raised by the University, including adjustments made within the Christian quota and corrections to minor data discrepancies.

8. Despite these efforts, the University issued a public notice on 02.09.2024, raising some concerns, which were factually incorrect as per College, thereby delaying the admissions further. Even after subsequent communication on 06.09.2024 and 09.09.2024, wherein the College provided all necessary clarifications, the University



2024:DHC:7935



processed only a portion of the admissions, leaving Christian minority students without seats.

9. Faced with the imminent closure of admissions, the College approached this Court, leading to some admissions being processed. However, the inaction regarding the remaining 19 Christian students persists, and thus the petitioner seeks relief from this Court to ensure that the admissions of the Christian minority students are finalized without further delay.

SUBMISSIONS BEFORE THIS COURT

Submissions on Behalf of the College

10. Learned Senior Counsel appearing on behalf of the College contends that despite the College having completed interviews and forwarded its list of Christian minority students to the University on 24.08.2024, the University has failed to upload the names of 19 selected students or open the fee payment portal on the CSAS platform. It is submitted that this delay is causing undue prejudice to the meritorious students, who are unable to complete their admission process despite being duly selected. It is argued that the University's actions violate the College's fundamental right under Article 30 of the Constitution of India to establish and administer minority educational institutions, including the right to select students for admission, which is a core aspect of administration as recognized by the Hon'ble Supreme Court in case of *St. Stephen's College [1992]* (*supra*).

11. It is further submitted that the College, being a Christian



2024:DHC:7935



minority institution, is entitled to protection under Article 30, and the University's interference with its admission process amounts to a violation of this right. It is highlighted in this regard that this Court had previously upheld the College's right to administer its admissions for Christian students by giving 85% weightage to CUET marks and 15% to interviews. It is argued that despite the pending dispute before the Hon'ble Supreme Court, the University is continuing its attempts to override the College's established admission process. It is thus argued that under Article 30 of the Constitution, the College has the right not only to administer the institution but also to select students for admission.

12. It is further contended that for the current Academic Year 2024-25, the University has not adhered to the agreed method of allotting seats. Instead of maintaining the agreed 5% excess allotment limit, the University has exceeded this figure in certain courses, while leaving the Christian minority seats underfilled.

13. Additionally, it is submitted that the University's argument about CUET allocations in courses such as B.Sc. (Hons.) Chemistry and B.Sc. (Hons.) Physics being incomplete is factually incorrect and irrelevant to the admission of Christian quota students in other programs.

Submissions on Behalf of the University

14. The University filed its counter-affidavit on 20.09.2024. Learned counsel appearing on behalf of the University argues that the College is attempting to make adjustments to the seat matrix after the



2024:DHC:7935



admission process has already commenced, which is impermissible. It is contended that the College had agreed to a fixed seat matrix, as reflected in the University's Bulletin of Information, and any post-hoc changes to this matrix violate the established rules of admission. It is submitted that allowing such deviations would set a detrimental precedent and disrupt the integrity of the University's admission system.

15. It is stated that the College has been inconsistent in its stance regarding excess allotments. Initially, the College objected to the University's decision to allocate 5% extra seats, but is now advocating for more than 5% extra seats in certain courses, thereby exceeding the agreed limits. It is argued that in courses such as B.A. Program (English + Economics) and B.A. Program (English + History), the College has shortlisted Christian students far beyond the 5% excess limit, while in other courses, such as B.A. (Hons.) Sanskrit and B.Sc. Program (Physical Science with Chemistry), no Christian students were shortlisted at all. It is argued that the College's attempt to selectively advocate for excess allotments in some courses while leaving others underfilled is detrimental to the University's admission system as a whole. For these reasons, it is submitted that the present writ petition is devoid of merit and deserves to be dismissed.

Rejoinder Submissions on Behalf of the College

16. In response to the counter-affidavit filed by the University, the College asserts that the University does not dispute that these



2024:DHC:7935



students were selected within the permissible intake of 22 students under the Christian quota for the B.A. Program and that the College's admissions are based on merit, following the established practice of combining 85% of the CUET score with 15% of the interview marks.

17. Learned Senior Counsel appearing for the College submits that the University has misconstrued the nature of the B.A. Program, treating it as 13 separate programs instead of a single multi-disciplinary course. It is stated that while subject combinations were offered this year based on the University's insistence, this does not transform the subject combinations into independent B.A. Programs. It is submitted in this regard that the interpretation of the B.A. Program as a single course was also accepted by a Division Bench of this Court in the order dated 10.09.2024 in *LPA No. 916/2024*, whereby the Division Bench had stayed all further allocations by the University unless vacancies were confirmed by the College, thereby supporting the petitioner's argument. It is further pointed out that the University's own Bulletin of Information contains disclaimers stating that the seat matrix provided is provisional and subject to updates from individual colleges.

18. Regarding the admission of Christian students, it is reiterated on behalf of the College that the vacant seats in certain B.A. Program combinations were filled by meritorious students from the common pool, ensuring that no seats were left unfilled. It is stated that the University's claim of excess admissions in certain combinations of the B.A. Program is erroneous, as it wrongly treats subject



2024:DHC:7935



combinations as separate programs rather than parts of a single B.A. Program. In fact, out of the 19 students who were denied admission, the University's objections, if any, apply to only 04 students, and there is no valid reason for withholding admission for the remaining 15 students.

19. For the 04 students whose admissions were questioned, the College has attempted to clarify the allocation process, detailing how they were admitted based on their merit and subject preferences. It is also submitted that these details were already communicated to the University *via* email on 09.09.2024, which is part of the record.

20. It is also contended that the University has raised irrelevant issues in an attempt to distract the Court from the core dispute inasmuch as the references to excess allocations in other courses and programs, as well as objections to prior actions of the College, are immaterial to the present case. Therefore, it is prayed that the present petition be allowed.

Additional Counter-Affidavit on behalf of the University

21. In its additional counter-affidavit, filed in response to the rejoinder filed by the College, the University contends that the College seems to be unfamiliar with the Undergraduate Curriculum Framework 2022 [hereafter '*UGCF-2022*'], which is based on the National Education Policy, 2020, and applicable since the 2022 academic session. It is stated that the B.A. Program under UGCF-2022 consists of two disciplines (Discipline A + Discipline B), and this format has been followed by all colleges affiliated to the



2024:DHC:7935



University since 2022. Even the petitioner College had realised its mistake and agreed to follow the said format from this academic year. It is asserted that the College's lack of knowledge does not absolve it of responsibility and that it cannot now blame the University for its misunderstanding.

22. Regarding disclaimers in the Bulletin of Information, it is argued that the seat matrix is the input given by each college and the same reproduced directly in the Bulletin by the University. It is emphasized that the Disclaimers are only meant for correcting inadvertent mistakes, which also requires changes to be made after proper communication and through a corrigendum approved by the University. It is stated that College has failed to notify any such errors/corrections and thus, it cannot unilaterally modify the seat matrix as per its whims and fancies.

23. The University also disputes the College's interpretation of order passed in LPA No. 916/2024, clarifying that the Division Bench of this Court has not accepted that the B.A. Program is a single course, and the appeal is still pending.

24. It is also argued that the list provided by the College, as annexure P-15 in the petition, is also misleading since it does not disclose the actual CUET (85%) and interview (15%) scores. It is submitted that the College must follow the published seat matrix for all B.A. Programs, and the University has no objection to allocating the 14 students, who are also before this Court, provided the process aligns with the correct matrix. However, the University opposes the



2024:DHC:7935



request for a 5% extra allocation, contending that this policy was only applicable during the initial allocation phase, whereas the admission process is nearly complete as of now.

25. Learned counsel for the University also argues that the College's reliance on Article 30 of the Constitution is misplaced since the College cannot selectively advocate for certain students while disregarding others, and as a fully aided institution, it remains under the regulatory control of the University and state authorities, and cannot arbitrarily modify the seat matrix. In this regard, reliance is also placed on decisions in *T.M.A. Pai Foundation v. State of Karnataka*, (2002) 8 SCC 481, and *P.A. Inamdar v. State of Maharashtra*, (2005) 6 SCC 537.

26. This Court has **heard** arguments addressed by learned Senior Counsel appearing for the College and learned Counsel appearing for the University, and has perused the material placed on record by the parties.

ANALYSIS & FINDINGS

27. The St. Stephen's College and 19 students belonging to Christian minority category are before this Court, aggrieved by the alleged inaction of the University in processing their admissions despite the College's repeated submissions of the list of selected students. All these students are seeking admission in B.A. Program offered by the College.

28. For the academic session i.e. 2024-25, the College had



2024:DHC:7935



introduced different B.A. Program combinations. The details of these Programs, including the manner in which they were offered, are contained in the Bulletin of Information for UG Admissions 2024-25. The relevant portion of this document, providing the seat matrix for B.A. Program, is set out below:

St. Stephen's College										
B.A. Program Combination	UR	DBC NCL	SC	ST	EWS	SIKH	CHRISTIAN	CW	PWD	KN
1 B.A Program (English + Economics)	1	0	0	0	0	0	1	0	0	0
2 B.A Program (English + History)	1	0	0	0	0	0	1	0	0	0
3 B.A Program (English + Political Science)	1	0	0	1	0	0	2	0	0	0
4 B.A Program (English + Philosophy)	0	0	0	0	0	0	1	0	0	0
5 B.A Program (Economics + History)	2	0	1	0	0	0	3	0	0	0
6 B.A Program (Economics + Political Science)	4	0	1	0	0	0	5	0	0	0
7 B.A Program (Economics + Philosophy)	1	0	0	0	0	0	0	0	0	0
8 B.A Program (Economics + Urdu)	1	0	0	0	0	0	0	0	0	0
9 B.A Program (History + Political Science)	6	0	1	0	0	0	7	0	0	0
10 B.A Program (History + Philosophy)	1	0	0	0	0	0	1	0	0	0
11 B.A Program (History + Urdu)	2	0	0	0	0	0	0	0	0	0
12 B.A Program (Political Science + Philosophy)	1	0	0	0	0	0	1	0	0	0
13 B.A Program (Political Science + Urdu)	3	0	0	0	0	0	0	0	0	0
TOTAL	24	0	3	1	0	0	22	0	0	0

29. The issue whether these thirteen B.A. Programs offered by the College are to be treated as distinct and separate programs, or as a single unified B.A. Program for the purpose of seat allocation and admissions under the Unreserved category as well as Christian Minority category, was decided by this Bench recently in case of *Hargun Singh Ahluwalia & Ors. v. Delhi University & Ors.* W.P.(C) 11695/2024 wherein it was held as under:

“58. In this Court’s opinion, the seat matrix offered by the College clearly indicates that St. Stephen’s College **had offered thirteen different B.A. programs, each with its own specific allocation of seats for various categories of students. Moreover, the College has assigned different sanctioned seats for each of these**



2024:DHC:7935



programs, both for Christian minority students as well as unreserved/non-minority students.

59. Furthermore, this Court's attention was drawn to the cut-off marks issued by St. Stephen's College itself for securing admissions in these programs. **Notably, the College has set separate cut-off marks for each of the thirteen B.A. programs, thereby reinforcing the notion that these programs are being treated as separate. It is not in dispute** that there is no single, consolidated cut-off marks list for the B.A. Program which is a practice followed by the colleges in case of single programs. The relevant extract of the cut-off marks/ranks, for these different B.A. Programs offered by the St. Stephen's College is extracted hereunder:

60. This Court also notes that, as submitted by Sh. Rupal on behalf of the respondent no. 1, no other college affiliated to the Delhi University, who are offering different B.A. Programs in a similar manner, including other minority colleges, has registered any grievance regarding the seat allocation.

61. Therefore, **this Court cannot accept** the argument of the respondent no. 3 College that these thirteen courses are merely different subject combinations, within one B.A. Program, and are not to be treated as separate B.A. Programs. Based on the conduct of St. Stephen's College in preparing a distinct seat matrix and setting separate cut-off marks for each of these B.A. programs, this Court finds that these thirteen B.A. programs must be considered as separate and distinct programs for the purpose of seat allocation and admissions under both the Christian Minority and Unreserved categories."

30. Thus, this Bench has already held that these B.A. Programs are thirteen distinct and separate programs, having different seat matrix. The said seat matrix is required to be followed *sans* any deviation by



2024:DHC:7935



both the College and the University.

31. To justify the stand of the College, in treating the thirteen B.A. Programs as one single unified B.A. Program and allocating students by changing the seat matrix, it was also argued on behalf of the College that the actions of the College would be covered under Article 30 of the Constitution of India which confers the fundamental right over the College to establish and administer minority educational institutions, including the right to select students for admission. These arguments were controverted on behalf of the University by placing reliance on several judgments to show that Article 30 does not confer absolute powers upon a minority educational institute.

32. Learned Senior Counsel appearing for the College could not point out any judicial authority or provision which gives unbridled powers to the minority educational institutions insofar as the admission process is concerned.

33. On the other hand, learned counsel appearing for the University drew this Court's attention to decision in case of *T.M.A. Pai Foundation* (*supra*), wherein it was held as under:

“107. The aforesaid decision does indicate that the right under Article 30(1) is not so absolute as to prevent the Government from making any regulation whatsoever. As already noted hereinabove, in SidhajbhaiSabhai case [(1963) 3 SCR 837 : AIR 1963 SC 540] it was laid down that regulations made in the true interests of efficiency of instruction, discipline, health, sanitation, morality and public order could be imposed. If this is so, it is difficult to



2024:DHC:7935



appreciate how the Government can be prevented from framing regulations that are in the national interest, as it seems to be indicated in the passage quoted hereinabove. Any regulation framed in the national interest must necessarily apply to all educational institutions, whether run by the majority or the minority. Such a limitation must necessarily be read into Article 30. The right under Article 30(1) cannot be such as to override the national interest or to prevent the Government from framing regulations in that behalf. It is, of course, true that government regulations cannot destroy the minority character of the institution or make the right to establish and administer a mere illusion; **but the right under Article 30 is not so absolute as to be above the law.** It will further be seen that in the Sidhajibhai Sabhai case [(1963) 3 SCR 837 : AIR 1963 SC 540] no reference was made to Article 29(2) of the Constitution. This decision, therefore, cannot be an authority for the proposition canvassed before us.

122. The learned Judge then observed that the right of the minorities to administer educational institutions did not prevent the making of reasonable regulations in respect of these institutions. **Recognizing that the right to administer educational institutions could not include the right to maladminister, it was held that regulations could be lawfully imposed, for the receiving of grants and recognition, while permitting the institution to retain its character as a minority institution.** The regulation —must satisfy a dual test — the test of reasonableness, and the test that it is regulative of the educational character of the institution and is conducive to making the institution an effective vehicle of education for the minority community or other persons who resort to it. (SCC p. 783, para 92) **It was permissible for the authorities to prescribe regulations, which must be complied with, before a minority institution could seek or retain affiliation and recognition.** But it was also



2024:DHC:7935



stated that the regulations made by the authority should not impinge upon the minority character of the institution. **Therefore, a balance has to be kept between the two objectives — that of ensuring the standard of excellence of the institution, and that of preserving the right of the minorities to establish and administer their educational institutions.** Regulations that embraced and reconciled the two objectives could be considered to be reasonable. **This, in our view, is the correct approach to the problem.**

135. We agree with the contention of the learned Solicitor-General that the Constitution in Part III does not contain or give any absolute right. All rights conferred in Part III of the Constitution are subject to at least other provisions of the said Part. It is difficult to comprehend that the framers of the Constitution would have given such an absolute right to the religious or linguistic minorities, which would enable them to establish and administer educational institutions in a manner so as to be in conflict with the other Parts of the Constitution. We find it difficult to accept that in the establishment and administration of educational institutions by the religious and linguistic minorities, no law of the land, even the Constitution, is to apply to them.

136. Decisions of this Court have held that the right to administer does not include the right to maladminister. It has also been held that the right to administer is not absolute, but must be subject to reasonable regulations for the benefit of the institutions as the vehicle of education, consistent with national interest. General laws of the land applicable to all persons have been held to be applicable to the minority institutions also — for example, laws relating to taxation, sanitation, social welfare, economic regulation, public order and morality.

137. It follows from the aforesaid decisions that even though the words of Article 30(1) are unqualified, this Court has held that at least certain other laws of the land pertaining to health, morality and standards of



2024:DHC:7935



education apply. **The right under Article 30(1) has, therefore, not been held to be absolute or above other provisions of the law, and we reiterate the same. By the same analogy, there is no reason why regulations or conditions concerning, generally, the welfare of students and teachers should not be made applicable in order to provide a proper academic atmosphere, as such provisions do not in any way interfere with the right of administration or management under Article 30(1)."**

152. At the same time, **the admissions to aided institutions, whether awarded to minority or non-minority students, cannot be at the absolute sweet will and pleasure of the management of minority educational institutions. As the regulations to promote academic excellence and standards do not encroach upon the guaranteed rights under Article 30, the aided minority educational institutions can be required to observe inter se merit amongst the eligible minority applicants and passage of common entrance test by the candidates, where there is one, with regard to admissions in professional and non-professional colleges. If there is no such test, a rational method of assessing comparative merit has to be evolved. As regards the non-minority segment, admission may be on the basis of the common entrance test and counselling by a State agency. In the courses for which such a test and counselling are not in vogue, admission can be on the basis of relevant criteria for the determination of merit. It would be open to the State authorities to insist on allocating a certain percentage of seats to those belonging to weaker sections of society, from amongst the non-minority seats."**

(Emphasis supplied)

34. Reliance on behalf of the University was also placed on the following observations of the Hon'ble Supreme Court in case of *P.A.*



2024:DHC:7935



Inamdar (supra):

“94. **Aid and affiliation or recognition, both by the State, bring in some amount of regulation as a condition of receiving grant or recognition.** The scope of such regulations, as spelt out by a six-Judge Bench decision in *Rev. Sidhajibhai case* [*Rev. Sidhajibhai Sabhai v. State of Gujarat*, (1963) 3 SCR 837 : AIR 1963 SC 540] and a nine-Judge Bench case in *St. Xavier's* [(1974) 1 SCC 717] must satisfy the following tests: **(a) the regulation is reasonable and rational; (b) it is regulative of the essential character of the institution and is conducive to making the institution an effective vehicle of education for the minority community or other persons who resort to it; (c) it is directed towards maintaining excellence of education and efficiency of administration so as to prevent it from falling in standards.** These tests have met the approval of *Pai Foundation* [(2002) 8 SCC 481] . However, *Rev. Sidhajibhai case* [*Rev. Sidhajibhai Sabhai v. State of Gujarat*, (1963) 3 SCR 837 : AIR 1963 SC 540] and *St. Xavier's* [(1974) 1 SCC 717] go on to say that no regulation can be cast in —the interest of the nation if it does not serve the interest of the minority as well. This proposition (except when it is read in the light of the opinion of Quadri, J.) stands overruled in *Pai Foundation* [(2002) 8 SCC 481] where Kirpal, C.J., speaking for the majority has ruled (vide SCC p. 563, para 107) — **Any regulation framed in the national interest must necessarily apply to all educational institutions, whether run by the majority or the minority. Such a limitation must necessarily be read into Article 30. The right under Article 30(1) cannot be such as to override the national interest or to prevent the Government from framing regulations in that behalf.** (Also see, paras 117 to 123 and para 138 of *Pai Foundation* [(2002) 8 SCC 481] where Kirpal, C.J. has dealt with *St. Xavier's* [(1974) 1 SCC 717] in detail.) No right can be absolute. **Whether a minority or a non-minority, no**



2024:DHC:7935



community can claim its interest to be above national interest.”

(Emphasis supplied)

35. Thus, a reading of the above judicial precedents clarify that in case any regulation is framed in national interest, the same has to be applied to all educational institutes, whether minority or non-minority, and the same cannot be held as violative of Article 30 of the Constitution of India. In this regard, the University also emphasized that its Under-Graduate Curriculum Framework, which provides for B.A. Programs as courses of two disciplines i.e. Discipline A + Discipline B, is based on the National Education Policy of 2020, and all the colleges affiliated to the University have been following the said policy since the year 2022. The learned counsel for the College could not point out anything to the contrary that the National Education Policy of 2020 has been the basis of formulation of Under-Graduate Curriculum Framework, which provides for B.A. Programs as courses of two disciplines i.e. Discipline A + Discipline B.

36. At this stage, it shall be apposite to take note of the observations of the Division Bench of this Court in *St. Stephen's College v. University of Delhi* 2022 SCC OnLine Del 2893, wherein it was held that Article 30(1) of the Constitution is not an absolute right and even the aided minority educational institutes affiliated to a University must follow the norms and procedures set by the concerned University. These observations read as under:



2024:DHC:7935



“69. In view of the above, this Court has arrived at the following conclusions:

i. The fundamental right under Article 30(1) accorded to a minority institution cannot be extended to non-minority members.

ii. **Article 30(1) is not absolute and the State has the right to formulate regulations concerning the administration of a minority institution to the extent that it is for the furtherance of the interest of the minority community and is in a bid to prevent maladministration of the minority institution. Aided minority educational institutions that are affiliated with a University must follow the norms and procedure of the said University.**

iii. Protection under Article 30(1) can be extended to the extent that it allows a minority institution to sub-classify the reservation accorded to the minority community...”

(Emphasis supplied)

37. Therefore, this Court is of the opinion that St. Stephen College, being an aided minority educational institute also, cannot claim to have absolute unbridled powers to exercise discretion against the policies framed by the University to which it is affiliated. Even otherwise, as already noted above, the issue as to whether these B.A. Programs have to be considered as separate programs or one single program has already been decided by this Bench in *Hargun Singh Ahluwalia (supra)*.

38. Thus, the contentions raised on behalf of the College that it can alter the seat matrix and allocate Christian students within these



2024:DHC:7935



thirteen B.A. Programs as per their choice, though at the time of allocation of seats and drawing of the seat matrix a different seat matrix had been posted by the College voluntarily on the website of the University, on the ground that these are only thirteen different combinations within one single program, and since they are minority institute, they can unilaterally deviate from seat matrix, have to be rejected.

39. In this background, and to cut short the controversy in the present case, this Court takes note of the fact that the University has already submitted in its additional counter-affidavit that 14 students, out of the 19 students before this Court, are eligible in the concerned B.A. Programs. The details of these 14 students are as follows:

S. No.	B.A. Program	Name of the Student(s)
1.	Economics + Political Science	1. Elena Ann Kurian 2. Zachariah Toms 3. Maria Jacob 4. Liya Sony Joseph 5. Nikhil J. Palakeel
2.	English + Economics	1. Jeff Joseph
3.	English + History	1. Sujoita Halder
4.	History + Political Science	1. Nathanya Eby Thomas 2. Laya Rose Laju 3. Sania Sunil 4. Rhea Ruth Subash 5. Shunthing Zimik 6. Christina Lalrempuii 7. Vanessa Sarah Samad



2024:DHC:7935



40. Concededly, these 14 students are entitled to get admission/ allocation in the aforesaid B.A. Programs since their allocation by the College is as per the above-noted seat matrix. The relevant details of the marks scored by these students in CUET and the Interview have also been shared by the College with the University. Therefore, there can be no impediment in granting admission to these 14 students.

41. Moving further, it is to be noted that in case of *Hargun Singh Ahluwalia (supra)*, this Bench, after holding that the B.A. Programs being offered by the College were thirteen distinct and separate programs, held that 5% excess allocation policy would be applicable to each of these thirteen programs, as agreed between the College and the University. It was also observed that this policy would be extended to Christian quota students too, since it was so agreed between the College and the University. The relevant observations of the decision are extracted hereunder:

“72. Thus, **this Court holds that** the CSAS, which is binding on all colleges affiliated to Delhi University, clearly mentions that the University may allocate extra students in the initial rounds in order to ensure that academic session commences on time. The aim of this policy is to ensure that since many students often do not take admission in colleges despite allocation, the crucial time of the colleges is not wasted in several rounds of counseling and that seats are filled up earlier, so that the classes start timely with optimal class strength.

73. **It is also noteworthy** that this policy, of the Delhi University, of allocation of extra students in the initial rounds is **not a new one**, and has been in place for the



2024:DHC:7935



last two years. **For the previous academic years**, this policy had been mentioned in the Bulletin of Information itself, and the respondent no. 3 herein had diligently followed the same by allowing extra intake in the initial rounds, not only for the Unreserved category students but for Christian minority students also.

74. A perusal of material placed on record also reveals that in the years 2022-23 and 2023-24, the Delhi University had followed the same policy of extra allocations in every College i.e. to the effect that 20% extra students were allocated in Unreserved, OBC and EWS categories and 30% extra students were allocated in SC, ST and PwBD categories.

75. This Court notes that pertinently, in the year 2022, the Principal of St. Stephen's College had expressed his willingness to admit 20% extra candidates in the unreserved category and the desire of extending the same provision to Christian candidates as well, in all programs, vide email dated 19.10.2022. The said email conversations between the College and the University read as under:

76. This Court further notes that in the year 2023, the St. Stephen's College had, vide email dated 02.08.2023, requested the Delhi University that these extra allocations be restricted to 10% in the unreserved/non-minority category, so that total percentage of increased allocation does not exceed 20%. In response to the same, the Delhi University vide email dated 03.08.2023 had informed the College that in line with the last years' policy, the University had allocated 20% extra students already. However, it was stated that the University may review this policy for next year. In support of this, the Delhi University has also placed on record, as Annexure R-6, the details of 20% extra allocations made in the academic years 2022-23 and 2023-24 in the St. Stephen's College. Therefore, it is not in dispute that in the previous



2024:DHC:7935



two years, the College itself had agreed to the policy of allocating 20% extra students in the initial rounds of counselling, and thereby increasing allocation for Christian students in a similar manner.

77. For the current academic year i.e. 2024-25, this Court notes that the Delhi University had agreed to allocate only 5% extra students to the St. Stephen's College, considering the previous requests made by the College. The fact that St. Stephen's College itself had agreed to follow this policy, is clear from the notice put up by the Principal of St. Stephen's College, which reads as follows:

78. The Delhi University, in its counter-affidavit, has also informed this Court that an online meeting was held on 07.08.2024 with all the Principals of Colleges where they were informed about the percentage of extra students to be allotted to their colleges. In the said meeting, the Principal of St. Stephen's College had remained present and agreed to the 5% extra students allocation policy.

79. **Furthermore**, the implementation of the 5% extra student allocation policy by St. Stephen's College, for the current academic session i.e. **2024-25**, including for Christian minority students, is further substantiated by an **email dated 31.08.2024, sent by the Principal of the College to the Dean of Admissions at Delhi University**. The relevant extract of this email reads as under:

“Dear Prof Gandhi,

Thank you for your email the queries/clarifications that you have raised. Please find the explanation to each of the three queries that you have raised. The College's responses have been indicated immediately below the query in blue colour.



2024:DHC:7935



We have followed the DU CSAS seat matrix with respect to the General Category; and Christian category. For the Christian category we have also followed the College's Admission policy with respect to the distribution of seats within the Christian categories;

We have also, like in the past years, adopted the same percentage of extra allotments for the Christian category as was done for the General category (5% this year).

I can categorically state that in all programmes offered from College we have NOT over allotted and have strictly kept to the logic of rounding off the fraction to the nearest round number **while calculating the 5% extra.**

We are resending the lists for all the programmes including the BA Programme files redone, combination-wise, after checking them all over again (and finding them in order) and request you to upload the names of the selected candidates in the CSAS portal to enable them to make the payment and join their classes at the earliest.

Thank you and with all good wishes..."

(Emphasis supplied)

80. Therefore, the contention raised on behalf of respondent no. 3 St. Stephen's College, that Delhi University's policy of allocating extra students in the initial round is impermissible in law and arbitrary, is bereft of any merit. This Court finds that the College itself has been consistently following this policy for the last three years, including in the present academic year, without raising any objection or challenging the same in a Court of law. **Having accepted and applied**



2024:DHC:7935



this policy, the College cannot now challenge its validity in these proceedings, particularly when the students have been allocated to the College as per the provisions of CSAS (UG)-2024.”

42. Further, this Bench also held in *Hargun Singh Ahluwalia* (*supra*) that for determining the 5% extra seat allocation, fractions below 0.5 should be rounded off to the higher side. It was also observed that while dealing with fractions like 1.2 or 1.3 or 1.4 in the context of seat allocations, the figure must be rounded up to 2, as humans cannot be divided into fractions, and rounding off to the lower numerical figure would undermine the spirit of the said policy.

43. This Court is of the considered view that the aforesaid observations and ratio laid down in case of *Hargun Singh Ahluwalia* (*supra*), arising out of same issues and contentions, ought to be applied in the present facts and circumstances too.

44. Thus, for the concerned B.A. Programs, the 5% excess allocation would lead to following number of seats:

B.A. Program	Seats under Christian Quota	Seats under Christian Quota after 5% excess allocation
Economics + Political Science	05	06
English + Economics	01	02
English + History	01	02
History + Political Science	07	08



2024:DHC:7935



45. Now, it is to be noted that the College has allocated one extra student each in the following B.A. Programs: English + Economics, English + History, and History + Political Science. The details of the same are as under:

S. No.	B.A. Program	Name of the Student(s)
1.	English + Economics	1. Krithika Mariam Koshy
2.	English + History	1. Sumaerra Banerjee
3.	History + Political Science	1. Matthew Malsawm

46. In this Court's view, these allocations would be in conformity with the 5% excess allocation policy. Thus, the allocation of these 03 students in the above-noted three B.A. Programs would be as per the agreed 5% excess allocation policy between the College and the University.

47. However, for B.A. Program (Economics + Political Science), the College has allocated 02 excess students, the details of which are as under:

S. No.	B.A. Program	Name of the Student(s)
1.	Economics + Political Science	1. Josh Shoji 2. Benjamin Thomas Varghese

48. In this Court's opinion, there is one allocation which is beyond the seat matrix as well as the 5% excess allocation policy, which is the 7th student in B.A. Program (Economics + Political Science). This is so, since the seat matrix for the said program permits 05



2024:DHC:7935



admissions and after applying the 5% excess allocation policy, the same would mean 06 admission/allocations.

49. Thus, though the 6th student (as per merit) would be entitled to seek admission/allocation in the College, the University cannot be compelled to approve the admission/allocation of the 7th student (as per merit) in B.A. Program (Economics + Political Science), who, as per the documents placed on record by the College, would be Benjamin Thomas Varghese.

50. One of the contentions raised on behalf of the University is that the 5% excess allocation policy is meant only for initial allotments, and now the admission process has reached at final stages. In this regard, it is to be noted that the list of students, including the names of 19 students in this case, was submitted by the College at the initial stage of admission process only, and the allocation could not be made till date due to the pendency of present petition before this Court. The same however would not change the fact that this list of students pertains to the initial allotment made in respect of B.A. Programs, and there would be no fault on part of the College in following the 5% excess policy.

51. As far as contention raised on behalf of College regarding the order passed by the Division Bench in *LPA 914/2024* and *916/2024* is concerned, this Court is of the opinion that the Division Bench has only recorded the arguments of the learned Senior counsel appearing for the College and has not returned any finding on the same, since this Bench's judgment and the observations made therein was not



2024:DHC:7935



even referred to by the Division Bench. It was merely observed that the contentions raised on behalf of the College may need consideration, and for that, the matter has been adjourned to January, 2025. Moreover, the findings of this Bench have neither been stayed nor set aside by the Division Bench. The relevant observations of the Division Bench are as under:

“7. Keeping in view the aforesaid, this Court is of the opinion that the matter requires consideration. Issue notice.

8. Learned counsels appearing on behalf of the respondents accept notice. Reply affidavit be filed within four weeks. Rejoinder, if any, be filed before the next date of hearing.

9. The seven students who have approached this Court are permitted to attend the classes till further orders. They shall not claim any special equity and principle of *lis pendens* will apply. However, it is directed that the Delhi University shall not make any further allocation of seats in the appellant college till the latter intimates the Delhi University of any vacant seats.

10. List on 28th January, 2025.”

52. Learned Senior Counsel also states that since the Division Bench of this Court has only allowed seven admissions, that too as they had given no objection to the same, and no more, though this Court had held that the 5% excess allocation policy was not against the policy and was rather agreed to by the College. This Court was informed by the learned Senior Counsel Sh. Chacko that the College had given no objection to the order passed by this Court as far as the seven students, who had filed the writ petition was concerned and



2024:DHC:7935



therefore, those seven students were granted admission purely on the basis of no objection given by the College.

53. Sh. Chacko was also given a suggestion by this Court that he may seek a clarification from the Division Bench regarding whether the judgment of this Court in *Hargun Singh Ahluwalia (supra)* has been stayed or not, however, he stated that he did not want to do so, and this Court may decide this petition.

THE DECISION

54. In view of the foregoing discussion, this Court is of the opinion that 18 students, out of the 19 who are before this Court, are entitled to get admission/allocation in the St. Stephen's College as per their merit, for the reasons recorded in paragraph nos. 40, 46 and 49 of this judgment.

55. **This Court remains conscious** of the fact that St. Stephen's College did not agree with the findings authored by this Bench in case of *Hargun Singh Ahluwalia (supra)* and despite there being a categorical finding in the said decision regarding the B.A. Programs being 13 distinct programs, arguments to the contrary were addressed before this Court by the College, **but since this finding, though challenged has not been set aside yet, this Court remains bound in law and conscience, and holds that applying the same principles to Christian minority students, they will be entitled to admission/ allocation in the College, irrespective of the fact that the College did not grant admission to all the non-minority**



2024:DHC:7935



students on the basis of the same formula and principles on which this Court is granting admission to the Christian minority students now.

56. Further, in this Court's opinion, whether the litigation is by a few or all the affected students, in the eyes of law, they are just students, who are looking for a future for themselves in an educational institute, and whether they are minority or non-minority is of no value while applying the same formula to both. At the end of it all, they are the proud citizens of this proud country and the prestigious University and College they aspire to study in. Unfortunately, the mediation efforts to sort out the differences between the College and the University did not fructify, where for this year the College had been requested to accommodate the non-minority students under the same formula of 5% excess allocation for 13 distinct B.A. Programs.

57. Nevertheless, this Court is happy that once again, the 18 students out of 19, who have approached this Court by way of the present writ petition could find the solace that they will be attending their classes from tomorrow in the College of their choice.

58. To those who could not get admission in St. Stephen's College, though they aspired for it, must know that they must not judge or define themselves by merely studying in a particular college since each one of them, who has not been able to get admission in this College, is also brilliant and will be able to



2024:DHC:7935



fulfill his or her dreams, as what really matters is what is inside them and not always what one may try to find outside. This Court is constrained to make this observation for such students as the Dean (Admissions), University of Delhi appeared before this Court and informed that such students were discouraged and disappointed.

59. The case ends on a positive note that 18 out of 19 students in this case have got admission in the College of their choice, thus, for the one, who has not been able to secure admission in St. Stephen College, the observation made in preceding paragraph *qua* other students, who could not get admission in this College, the same advice holds good. **This Court wishes all the students the very best for their future whether they were able to secure admission in the College, they wanted to secure admission in or in another college of the prestigious Delhi University.**

60. In above terms, the present writ petition is disposed of. Pending application if any also stands disposed of as infructuous.

61. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

OCTOBER 14, 2024/A