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

+ **Date of Decision: 27.01.2025**

% **LPA 60/2025 & C.M. No. 4735/2025**

EX. SGT MANOJ KUMAR & ANR Petitioner

Through: **Mr. Ajai Kumar, Mr. Rishpreet Singh
and Mr. A.R. Pandey, Advs.**

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY & ORS

.....Respondent

Through: **Ms. Anita Sahani, Adv. for R-1 and
R-2.
Mr. Sandeep Kumar Mahapatra,
CGSC with Mr. Tribhuvan, Adv. for
R-5 & R-6.
Mr. Anuj Aggarwal, ASC with Mr.
Yash Upadhyay, Mr. Siddhant Dutt
and Ms. Ishita Panday, Advs. For R-7
and R-8/GNCTD.**

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

DEVENDRA KUMAR UPADHYAYA, C.J. (ORAL)

1. This intra-court appeal seeks to challenge the judgment dated 11th November, 2024, passed by the learned Single Judge whereby the writ petition filed by the appellant/ petitioner being W.P.(C) No. 11942/2024 has been dismissed.



2. Instituting the writ petition, the appellant/ petitioner had challenged the validity of inclusion of wards/ widows of Para-Military Personnel and/ or Police Personnel within the quota meant for providing reservation in admission to various courses by Guru Gobind Singh Indraprastha University (hereinafter referred to as 'the University') under Priority (I) to Priority (V) for Defence Category as provided in the Admission Brochure 2024-25 published by the University.

3. Further prayer made in the writ petition was for issuance of a direction to the respondents to publish the list of eligible candidates under Defence Category excluding the wards/ widows of Para-Military Personnel and/ or Police Personnel for admission to various courses in medicine for the academic session 2024-25 under the State quota and, accordingly, make allotment of seats without giving benefit of the reservation under the Defence category to the wards/ widows of Para-Military Personnel and/ or Police Personnel.

4. Negating the claim of the appellant/ petitioner made in the writ petition, the learned Single Judge, by passing the impugned judgment, has held that providing reservation to the wards/ widows of Para-Military Personnel and/ or Police Personnel primarily lies in the realm of policy making and in absence of any arbitrariness or unreasonableness or manifest illegality, no interference in such policy decisions is permissible. The learned Single Judge has further held that challenge by the appellant/ petitioner to the impugned condition of the Admission Brochure could not be entertained at a belated stage keeping in view the fact that the petitioner without challenging the same had participated in the admission process and opted to challenge the same only at the final stages of the process.



5. Impeaching the validity of the impugned judgment and order passed by the learned Single Judge, it has been argued on behalf of the appellant/ petitioner that inclusion of wards/ widows of Para-Military Personnel and/ or Police Personnel, who received gallantry awards, under the Defence quota is arbitrary and illegal for the reason that such inclusion dilutes the core intent behind Defence category quota which was initially introduced to benefit wards/ widows of Defence Personnel exclusively. It has further been argued that the reservation for the wards/ widows of Para-Military Personnel and/ or Police Personnel has been provided by the respondent/ university in utter disregard to various letters/ circulars issued by the Ministry of Defence, Union of India.

6. It has also been argued by the learned counsel representing the appellant/ petitioner that Government of National Capital Territory of Delhi (hereinafter referred to as 'the GNCTD') directed the universities to adopt the reservation in the Defence Category on the basis of the letter dated 21.05.2018 issued by the Ministry of Defence where reservation was restricted exclusively to the wards/ widows of Defence Personnel and such wards and widows of Para-Military and Police Personnel were excluded from the same and, therefore, merely on the basis of a letter issued by the Ministry of Home Affairs, Government of India, by inclusion of the wards and widows of Para-Military and Police Personnel, the mandate of the Defence Ministry for providing the reservation in the Defence category has been diluted, which is impermissible.

7. It has thus been contended by learned counsel representing the appellant/ petitioner that the learned Single Judge has erred in law in not appreciating the aforesaid arguments and has thus erroneously held that the



inclusion of the wards/ widows of Para-Military Personnel and Police Personnel in the Defence category for providing reservation in the admission to various courses in medicine does not suffer from any illegality.

8. Per contra, learned counsel representing the respondent university has submitted that inclusion of particular category of candidates for providing reservation in the matter of admission to various courses in medicine by the university is a policy decision where no interference is permissible unless such a policy decision is found to be manifestly illegal or arbitrary. It has further been argued on behalf of the university that the appellant/ petitioner has utterly failed to point out any illegality or arbitrariness in such a policy decision and, therefore, the impugned judgment and order rendered by the learned Single Judge does not warrant any interference by this Court in the instant appeal.

9. Having heard learned counsel representing the respective parties and perused the record available before us on this appeal, we do not find any illegality in the provisions which were challenged by instituting the proceedings of the writ petition before the learned Single Judge relating to the provision providing for reservation to the wards/ widows of Para-Military Personnel and/ or police Personnel in the Defence category for admission to various courses by the University for the following reasons:

a) The University has been incorporated under a State enactment, namely Guru Gobind Singh Indraprastha University Act, 1998 (hereinafter referred to as 'the University Act'), affairs of which are governed by the said Act and the Statutes and Ordinances framed there under. The functions and powers of the University can be found in Section 5 of the University Act. One of the functions assigned to the University is to provide for instruction



in such branches of learning as the University may, from time to time, determine and to make provision for research and for the advancement and dissemination of knowledge and skills. Section 5(25) of the University Act empowers the University to determine standards for admission to the University which may include examination, evaluation or any other method of selection. Section 5(25) of the University Act is extracted herein below:

“5. Powers of the University

The University shall have the following powers, namely:-

(1) to provide for instruction in such branches of learning as the University may, from time to time, determine and to make provision for research and for the advancement and dissemination of knowledge and skills;

(2) to grant, subject to such conditions as the University may determine, diplomas and certificates to, and confer degrees and other academic distinctions on the basis of examinations, evaluation or any other method of testing on, persons;

X

X

X

(25) to determine standards for admission to the University which may include examination, evaluation or any other method of selection;”

b) As per the scheme of the University Act, the functions, duties and powers of the University are performed, discharged and exercised through various authorities/ officers of the University as defined under the University Act. University is, thus, is a body corporate and an autonomous institution, affairs of which are to be governed in terms of the provisions of the University Act.

c) Accordingly, in view of the scheme of the University Act, any provision relating to admission to various courses being run by the



University are to be governed by the provisions to be made by the University authorities/ officers. The letters written by either the Ministry of Defence or by the Ministry of Home Affairs or by the GNCTD can only be said to have been taken into consideration by the University while formulating the reservation policy permitting inclusion of the wards/ widows of the wards/ widows of Para-Military Personnel and/ or Police Personnel in the Defence Category for the purposes of providing reservation in admission, however, it is the University and not the Ministries of the Government of India which is empowered to formulate any such policy decision.

d) In view of the aforesaid, we are of the considered opinion that the letters written by the Ministry of Defence and Ministry of Home Affairs can be said to be only an initiating point, however, responsibility and authority for providing reservation in the matter of admission to various categories of candidate is that of the University.

e) In this view, the submission made on behalf of learned counsel representing the appellant/ petitioner that the contents of the letters on the basis of which initially reservation was provided only to the wards/ widows of the Defence Personnel are binding on the University, in our opinion, cannot be acceded to. Formulation of policy relating to admission and other ancillary matters such as providing reservation to various categories of candidates is the function of the University and not that of the Ministries and, accordingly, it was always open to the University to have deviated from what has been provided for in the letters written by the Ministry of Defence.

f) Moreover, we may also note that inclusion of the wards of Para-Military Personnel and Police Personnel in the Defence category for the



purposes of reservation in admission by the University appears to be based on the letter written by the Ministry of Home Affairs. The letters written by the Ministries/ GNCTD can at the most be termed to be a recommendation, however, final decision can be taken only by the concerned authority/officers of the University which, in the present case, was done while issuing the Information Brochure for admission for the academic session 2024-25.

g) Discussion made above in respect of autonomous character of the University and its powers and functions as defined in the University Act makes it abundantly clear that reliance placed by the learned counsel for the appellant/ petitioner on the letters of the Ministry of Defence is highly misplaced. It is, as already observed above, the University which has framed the policy independently in exercise of its powers and functions conferred upon it by the University Act, though it can be said that the recommendations made by the Ministry of Defence or for that matter by Ministry of Home Affairs, could have weighed with the University while formulating the impugned policy. However, merely on account of the letters of the Ministry of Defence which do not contain any recommendation for making any provision of reservation to the wards of Para-Military Personnel and Police Personnel, it cannot be said that the policy decision of the University providing for inclusion of wards and widows of Para-Military Personnel and Police Personnel suffers from any illegality.

h) We, thus, find ourselves in complete agreement with the finding recorded in this regard by the learned Single Judge in the impugned judgment and order.

i) There is yet another reason why we decline to interfere with the judgment and order passed by the learned Single Judge and the reason is that



the appellant/ petitioner having participated in the admission process could not be permitted to challenge the same only at the final stages of the process of admission. The learned Single Judge in this regard has recorded a finding based on a judgment of this Court in the case of ***Sonam Rawal v. University of Delhi***, 2023 SCC OnLine Del 375 wherein it has categorically been held that the terms of the brochure are binding upon a candidate and further that a candidate cannot after having participated in the selection process, and after having been rejected for any reason, turn around and challenge the terms or the criteria of Admission Brochure.

10. For the discussions made and reasons given above, we do not find any good ground to interfere with the impugned judgment and order passed by the learned Single Judge dismissing the writ petition filed by the appellant/ appellant.

11. Resultantly, the appeal fails which is hereby dismissed.

12. There shall be no order as to cost.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

JANUARY 27, 2025

N.Khanna