

Shefali Shukla vs University Of Delhi & Anr on 2 February, 2021

Author: Prateek Jalan

Bench: Prateek Jalan

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 1330/2021

SHEFALI SHUKLA

..... Petitioner

Through:

Mr.Sumit, Advocate with the
Petitioner in person.

versus

UNIVERSITY OF DELHI & ANR.

..... Respondents

Through: Mr.Ankur Chhibber &

Mr.Anshuman Mehrotra,

Advocates for R-1.

Mr.Ghyanshyam Mishra, Advocate

for R-2.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 02.02.2021 The proceedings in the matter have been conducted through video conferencing.

CM APPL. 3741/2021 (exemption) Exemption allowed, subject to all just exceptions. The application is disposed of.

W.P.(C) 1330/2021

1. Issue notice. Mr. Ankur Chhibber, learned counsel, accepts notice on behalf of respondent no. 1. Mr. Ghyanshyam Mishra, learned counsel, accepts notice on behalf of respondent no. 2. With the consent of learned counsel for the parties, the petition is taken up for disposal.

2. The petitioner sought admission to the University of Delhi [hereinafter, "the University"] in the LL.M. course in the academic session 2020-2021. She seeks an order directing the University to admit her, as several seats remain vacant even after the close of the admission procedure.

3. Mr. Sumit, learned counsel for the petitioner, submits that the petitioner was unable to secure admission in the four admission lists that were published by the University in the month of December, 2020. According to him, the University, all of a sudden, on 29.12.2020, declared that the

admission process would be closed on 31.12.2020, and did not call the other prospective students for counselling even though seats remained vacant in the course in question.

4. Mr. Ankur Chhibber, learned counsel for the University, who appears on advance notice, submits that the counselling for the LL.M. course commenced on 28.11.2020. Four admission lists were declared on 01.12.2020, 08.12.2020, 21.12.2020 and 29.12.2020. In the peculiar situation arising in the academic year 2020-2021, due to the Covid-19 pandemic, the University extended the schedule of admissions until 31.12.2020, but took a decision not to extend it further, and to close all admissions on the said date. He further submits that the vacancies referred to by the petitioner have arisen after the admission process was completed, due to some of the successful candidates not taking the seats allotted to them.

5. Mr. Chhibber submits that the petitioner cannot be permitted to take admission at this stage, when the classes for the LL.M. programme have already commenced. He cites the judgment of the Division Bench in Dr. Rajeev Kumar vs. Union of India & Ors. [W.P.(C)2275/2010, decided on 01.08.2014], which was rendered in the context of admission to Indian Institutes of Technology ("IITs"). The Division Bench, in the said judgment, held as follows:

"7. We have bestowed our thoughtful consideration to the matter. Though undoubtedly the issue flagged by the petitioner is of vital importance and it is in national interest that no seats in such premium educational institutions of the country as IITs are wasted but at the same time, it cannot be forgotten that for the sake of filling up the seats, the academic calendar devised by the professional experts at IITs, owing to whose efforts the said institutions have today reached the exalted position which they occupy, leading to the vacant seats therein being called a national waste, cannot be disturbed. The IITs are perceived to be better than NITs, perhaps for commencing their academic session well before the NITs, as is evident from the academic session of the IITs having already begun, while the process of admission in NITs is stated to go on till August, 2014. Thus, the filling up of vacant seats cannot be at the cost of maintaining standards of education and merit in IITs.

8. A Division Bench of this Court in M.I. Hussain Vs. N. Singh 125 (2005) DLT 223 held that seats remaining vacant is no reason to fill them up by admitting non-meritorious students. Another Division Bench in Maharaja Agrasen Institute of Technology Vs. Guru Gobind Singh Indraprastha University 116 (2005) DLT 290 held that once the dramatic performance starts, no one is allowed to enter - similarly counselling of seats must stop once the course of study commences. Again, in Sunint Kaur Vs. GGSIP University ILR (2005) Del 215, this Court held that even if seats are not filled, that cannot be a ground for making midsession admissions.

9. The Supreme Court also in Arvind Kumar Kankane Vs. State of U.P. (2001) 8 SCC 355 held that if counselling goes on continuously for a long time, it will upset the course of study. Similarly, in Neelu Arora Vs. Union of India (2003) 3 SCC 366 it was held that when a detailed scheme has been framed and the manner in which it has to

be worked out is indicated therein, merely because a certain number of seats are not filled up, is not a reason enough for adopting one more round of counselling, if there is no scope therefor under the scheme. It was held to be not advisable to go on altering the scheme as and when seats are found vacant."

6. The judgment of the Division Bench was followed by a Coordinate Bench in Saubhagya Dua vs. Union of India & Anr. [W.P.(C)8303/2019, decided on 13.08.2019], cited by Mr.Chhibber, in which also admissions after the cut-off date were declined.

7. In the light of the aforesaid judgment of the Division Bench, I am unable to accept the contention of the petitioner herein. Although the judgment was rendered in the context of admission to IITs, I do not find any distinction in principle between that and admission to a high level professional course such as the LL.M. Seats have unfortunately remained vacant even after the admission process, but to direct the University to fill up the seats which have become vacant due to candidates not taking up the seats after admission, would render the counselling and admission process entirely incapable of conclusion. The Division Bench has taken account of exactly such a situation, and cautioned against this approach.

8. In view of the aforesaid, the petitioner cannot be granted any relief in the present petition. The petition is therefore dismissed with all pending applications.

PRATEEK JALAN, J FEBRUARY 2, 2021/'hkaur'