

Mahua Bindal And Ors vs Guru Gobind Singh Indraprastha ... on 29 April, 2020

Author: Navin Chawla

Bench: Navin Chawla

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 2941/2020 & CM APPL. 10481/2020

MAHUA BINDAL AND ORS.

Through:

..... Petitioner
Mr.Samar Bansal,
Mr.Sachin Mishra &
Ms.Devahuti Pathak, Advs.

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY AND
ORS.

..... Respondents

Through: Mr.Krishnan Venugopal, Sr.
Adv. with Mr.Shivendra
Singh, Adv. for R-7 to R-12.
Mr.T.Singhdev
&Ms.Michelle B Das, Advs.
For R-3.
Mr.Ramesh Singh, Standing
Counsel with Ms.Tara
Narula, Adv. for R-2
Mr.Apoorv Kurup &
Ms.Nidhi Mittal, Advs. For
R-5.
Mr.Ajay Digpaul, CGSC for
R-6.
Mr.Vinayak Mehrotra, Adv.
for proposed respondents R-
13 to R-20.
Ms.Anita Sahani, Adv. For
R-1 (GGSIPU)

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% 29.04.2020 This petition is heard by video conferencing.

CM APPL. 10481/2020 in WP (C) 2941/2020 The learned counsel for the applicant prays for leave to withdraw the present application with liberty to file an independent petition if so advised. The

application is dismissed as withdrawn with liberty as prayed for.

WP (C) 2941/2020 The learned senior counsel for the respondent nos. 7 to 12 and the learned counsel for the respondent no. 1 submit that the present petition is liable to be dismissed on the ground of there being a misstatement of facts in the petition. He submits that the petition is premised on a submission that all the petitioners have cleared the NEET examination for the year 2020-21 and are therefore eligible for admission in the Post Graduate Medical Course. He submits that this statement, to the knowledge of the petitioners, is incorrect, as only the petitioner no. 1 has cleared the NEET examination, while petitioner nos. 2 to 7 are not even eligible for the said examination in the current year.

The learned senior counsel for the respondent nos. 7 to 12 as also the learned counsel for the respondent no. 1 further submit that there is a considerable delay in filing of the present petition inasmuch as the policy of reservation is known to all well in advance and the petitioners have chosen to file the present petition belatedly, only when the counselling process was about to begin. They submit that the present petition therefore be dismissed on the ground of delay and laches.

On the other hand, the learned counsel for the petitioner submits that the statement that petitioner nos. 2 to 7 have also cleared the NEET examination and are eligible for admission to Post Graduate Medical Course was made by a bona fide error. The petition also prays for formation of a policy/guidelines by the State for admission into the 50% State quota in the Post Graduate Medical Courses within the State of NCT of Delhi. He submits that the petitioner nos. 2 to 7 were joined in the petition only because of this prayer, however, inadvertently the distinction between the petitioner no. 1, who had cleared the NEET examination for the current year, and the petitioner nos. 2 to 7 who had joined the petition only for the prayer with respect to the policy that would operate in future, was not brought out in the petition. He submits that even the petitioner no. 1 alone could have maintained such petition and therefore, had nothing to gain by making such mis-statements.

As far as the submission of delay is concerned, the learned counsel for the petitioner submits that the cause of action for filing of the present petition arose only with the publication of the brochure by the respondent no. 1 on 27.02.2020 announcing the 100% reservation for the students of its university. He submits that the petition was filed immediately thereafter and therefore there is no delay in filing of the present petition.

I have heard the learned counsels for the parties. It is not disputed by the learned counsel for the petitioner that the petitioners have made an incorrect statement of all of them being eligible for securing admission in the Post Graduate Medical Course in the current year. It is for this reason that the petitioners did not press the present petition for the petitioner nos. 2 to 7 as recorded in the order dated 22.04.2020 of this Court. At the same time, it is also not disputed that the petitioner no. 1 alone could have maintained the present petition as she was eligible for seeking admission in the Post Graduate Medical Course in the current year as well. In my view, this would be an important factor to be considered while adjudicating on the maintainability of the present petition. While the petitioner no. 1 should have been more vigilant in the pleadings of the petition, at the same time, in my opinion, cannot be denied an opportunity of presenting her case for such error.

As far as the question of delay in filing of the present petition is concerned, in my opinion, the same is to be considered at the time of grant of an interim relief or the final relief in the present petition. The Court can always mould the relief taking a view on this submission at that stage. This submission, however, would not affect the maintainability of the petition at this stage.

In view of the above, I reject the submission of the respondent no. 1 and respondent nos. 7 to 12 on the maintainability of the present petition.

As recorded in the order dated 22.04.2020, this petition has been pressed only on behalf of petitioner no. 1. Petitioner no. 2 to 7 are therefore, deleted from the array of parties. The petitioner (petitioner no.

1) shall file an amended memo of parties within one week. The petitioner shall also pay costs of Rs. 10,000/- to be deposited with the PM CARES Fund within a period of one week from today.

The learned counsel for the respondent no. 1 prays for clarification of the order dated 20.03.2020 of this Court. This court by its order dated 20.03.2020 had directed that the result of the counselling scheduled by the Medical Counselling Committee of respondent no. 7 with respect to the respondent no. 1, shall be subject to the outcome of the present petition. She submits that this order be confined only to the seats reserved by institutional preference and not for the entire strength of seats of respondent no. 1. In my view, the order is clear, but in view of the submission made, it is clarified that the order dated 20.03.2020 shall operate only against the seats covered by the institutional preference.

The petitioner shall file a brief synopsis of its arguments alongwith supporting judgments within a period of two days after supplying a copy thereof to the counsels appearing for the respondents. The respondents may file their written synopsis alongwith supporting judgments within a period of one week thereafter. The same be supplied to the counsel for the petitioner as also the other respondents at the time of filing.

List for hearing on 19th May, 2020.

This order shall be uploaded on the website of the Delhi High Court and also supplied to respective counsels.

NAVIN CHAWLA, J APRIL 29, 2020/rv