

Ashish Sharma And Ors. vs University Of Delhi And Ors. on 20 November, 1985

Equivalent citations: 1985(2)SCALE1079, (1986)1SCC1, AIRONLINE 1985 SC 3, 1986 (1) SCC 1, 1987 SCC (CRI) 666, 1987 SCC (SUPP) 148, 2011 (15) SCC 227, (2013) 1 SCALE 527

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Bench: R.S. Pathak, Sabyasachi Mukharji, V.D. Tulzapurkar

ORDER

V.D. Tulzapurkar, J.

1. In the above writ petitions, the three petitioners have complained about the denial of admission to the First year of the M.B.B.S. course for the academic year, 1985-86 in any of the three Medical Colleges affiliated to the University of Delhi on the ground that though they have passed the qualifying examination (12th standard examination) from the recognised schools situated in the Union Territory of Delhi they have not done the last two years' of their education in Delhi. It is this latter requirement of doing last two years education in Delhi, introduced by the University for the first time in April 1985, for the academic year 1985-86 that is challenged on several grounds including the ground that the same is discriminatory and violative of Article 14 of the Constitution and the submission is that if this requirement is held to be bad in law the petitioners would be entitled to get admission to the M.B.B.S. Course. However, in view of the facts that have transpired during the hearing it is unnecessary to go into the question and determine the legality and/or validity of the said requirement.

2. As regards the Writ Petition No. 11746/85, in which a seat has been kept vacant under orders of this Court, counsel for the petitioner Ashish Sharma fairly informed us that his client has secured admission for the M.B.B.S. course in some other college for the academic year 1985-86 and as such he is no longer interested in pressing the relief sought in the petition. The petition therefore, becomes infructuous.

3. In Writ Petition No. 11763/85, Counsel for the respondents has, after ascertaining the position, made a statement before the Court that even if the impugned requirement is held to be bad in law the petitioner Rajeev Agarwal does not stand any chance to get admission in the seat kept reserved for Ashish Sharma in Writ Petition No. 11746/85 in as much as on that basis another candidate one Shri Khunger who is superior to him on merits, would have to be offered that seat. This position was not contested by the Counsel for the petitioner. Further, though on that basis (i.e. two years' rule

being held bad) Shri Rajeev Agarwal may be entitled to get admission because candidates inferior to him on merits have been given admission, it will not be possible to give him admission as it will amount to displacement of candidates lower in merit without hearing them since they have not been impleaded as party-respondents to the petition. Counsel for the petitioner fairly stated that his client would not like to displace any of those who have already secured admission. In this view of the matter it is not necessary to decide upon the validity or otherwise of the impugned requirement. We would however, like to observe that if Shri Khunger for any reason does not join the course Rajeev Agarwal should be given that seat. Further, if any other vacancy arises or even otherwise if possible Shri Rajeev Agarwal may be accommodated by the University for this year.

4. So far as the Writ Petition No. 12033/85 is concerned the University has offered admission to Miss Anita Lal to the M.B.B.S. course under the Scheduled Caste quota and has given time to her up to 23rd of this Month to join. Counsel for the University has assured us that Miss Anita Lal would be given admission to M.B.B.S. course pursuant to this offer.

5. We may mention that apart from challenging the impugned requirement several other contentions were argued before us but we do not express any opinion one way or the other on any of them.

6. In view of the above and subject to observation made by us the first two writ petitions are dismissed and there will be no order on the third. No costs.