

HIGH COURT OF DELHI

Bench: JUSTICE RAJIV SHAKDHER and JUSTICE AMIT BANSAL

Date of Decision: 13.02.2024

LPA 797/2023 & CM APPL. 63514/2023, CM APPL. 63515/2023

MAAHI NEIL JAIPAL Appellant

Versus

UNIVERSITY OF DELHI & ORS. Respondents

Legislation: None.

Subject: Appeal challenging the decision of the learned Single Judge dismissing a writ petition for admission of the appellant, a foreign national, into the five-year integrated law programmes at the University of Delhi.

Headnotes:

Appeal Against Single Judge's Order – Appeal impugns the order of the learned Single Judge dismissing the writ petition for admission into the five-year integrated law programmes at the University of Delhi – Appellant, a foreign national, contends his right to admission based on a 10% supernumerary quota for foreign nationals in each course offered by the University. [Paras 1, 7]

Facts of the Case – Appellant registered for undergraduate courses in April 2023 – University announced the introduction of integrated five-year law programmes in August 2023 – No quota for foreign nationals was provided in the academic year 2023-2024 for these programmes – Appellant's inability to register for these programmes due to the absence of a foreign nationals' quota – Filed writ petition seeking mandamus for admission. [Paras 2.1-2.6]

University's Policy Decision and Academic Council Resolution – Single Judge noted the University's policy decision not to admit foreign nationals in the quota for 2023-2024 academic year for the new law programmes – Decision based on a 10% ceiling quota for foreign nationals – No right for the appellant to seek admission in the absence of a designated quota. [Paras 6, 11, 18]

Contentions of Appellant and Respondents – Appellant argued for a mandatory 10% supernumerary quota for foreign nationals in all programmes, including new law courses – Respondents contended the delay in admission

process and lack of requisite approvals precluded foreign nationals' quota in the new law programmes for 2023-2024. [Paras 7-10]

Court's Analysis and Decision – No merit in the appeal – No provision for foreign national quota in the academic year 2023-2024 for the specific programmes – No vested right for the appellant to seek admission under the foreign nationals' quota for that academic year – Appeal dismissed, but appellant free to apply for the academic year 2024-2025 under the foreign nationals' quota. [Paras 13-20]

Referred Cases: None.

Representing Advocates:

Appellant: Ms Raminder Kaur, Mr Tara Shankar, Ms Priti Agarwal, Mr Sumit Suri and Mr Keshav P.S. Shekhawat

Respondents: Mr Mohinder J.S. Rupal and Mr Hardik Rupal

AMIT BANSAL, J.:

1. By way of the present appeal, the appellant, who was the petitioner in the writ action, impugns the order dated 29th November, 2023 passed by the learned Single Judge, whereby the writ petition filed on behalf of the appellant has been dismissed.
2. Brief facts giving rise to the present appeal are as under:
 - 2.1. On 16th April, 2023, the appellant registered himself for admission to undergraduate courses for the academic year 2023-2024 with the respondent no.3/Foreign Students' Registry, University of Delhi, through its web portal. At the time of registration, the respondents University of Delhi/Faculty of Law offered law only as a three-year programme at the postgraduate level and not as an integrated five-year programme at the undergraduate level.
 - 2.2. Accordingly, the appellant took admission in B.A.(Hons.) programme on 1st August, 2023 at Hindu College, which he is still pursuing.
 - 2.3. On 4th August, 2023, after receiving approval from the Bar Council of India, the respondent no.2/Faculty of Law, University of Delhi issued a notification announcing that the Faculty of Law wants to offer integrated five-year law programme in the form of B.A.LL.B.(Hons.) and BBA.LL.B.(Hons.). The admission in the aforesaid programmes would be on the basis of Common Law Admission Test (CLAT).
 - 2.4. A public interest litigation being W.P.(C)10737/2023 titled **Prince Singh v. Faculty of Law** was filed, wherein a contention was raised that admission for the aforesaid integrated five-year law programmes should be

on the basis of Common University Entrance Test (CUET). In the said writ petition, an interim order dated 18th September, 2023 was passed by a Division Bench of this Court, whereby the respondent therein was permitted to admit students on the basis of CLAT.

2.5. On 26th September, 2023, the respondent no.2/Faculty of Law released the Bulletin of Information (BOI) in respect of the five-year integrated B.A.LL.B.(Hons.) and BBA.LL.B.(Hons.) programmes. However, no provisions were made by the BOI with respect to any quota for foreign nationals.

2.6. The appellant tried to register himself as a foreign national for the aforesaid programmes on the web portal mentioned in the BOI, but could not do so. Subsequently, the appellant tried to register for the aforesaid programmes on the Foreign Students Portal, however, there was no option available for registration to the aforesaid programmes. Various representations were made by the appellant to the University, however, there was no response.

3. Aggrieved by the aforesaid, the appellant filed the writ petition W.P.(C)13022/2023, seeking a writ of mandamus against the respondents to make provision for admission of foreign students in accordance with the Foreign Students' Registry (FSR) guidelines issued by the respondent University.
4. In the aforesaid writ petition, the appellant also filed an application for interim relief seeking provisional admission to the B.A.LL.B.(Hons.) programme for the academic year 2023-2024.
5. The learned Single Judge dismissed the application for interim relief *vide* order dated 9th October, 2023. The appellant preferred an appeal against the said order before the Division Bench, however, the said appeal was dismissed as withdrawn on 16th October, 2023.
6. Ultimately, *vide* the impugned judgment dated 29th November, 2023, the learned Single Judge dismissed the aforesaid writ petition. The learned Single Judge observed that the resolution passed by the Academic Council of the University only provides for a ceiling of 10% quota for foreign nationals and it does not create a right in favour of the appellant to seek admission. The learned Single Judge also took note of the submission of the respondent/University that it had taken a policy decision not to grant admissions in the quota for foreign nationals for the academic year 20232024 for the five-year integrated law programmes.

7. Learned counsel appearing on behalf of the appellant assails the impugned judgment on the ground that in view of the resolution of the Academic Council, the respondent University is bound to provide 10% supernumerary quota for foreign nationals in each of the courses offered by the University, including the five-year integrated law programmes.
8. Counsel for the appellant has placed reliance on the BOI issued by the respondent no.1/University of Delhi for admissions to undergraduate programmes for the academic year 2023-2024 to contend that there was a provision for 10% supernumerary seats in each programme for foreign nationals. Reliance has also been placed on Clause 3.15 of the BOI issued by the respondent no.2/Faculty of Law to contend that there was a provision for supernumerary quotas.
9. *Per contra*, Mr. Rupal, learned standing counsel appearing on behalf of the respondents submits that due to the delay in the admission process to the integrated five-year law programmes, the respondents could not take the requisite approvals for providing quota for foreign nationals. Therefore, there was no quota for foreign nationals for the aforesaid programmes for the academic year 2023-2024. He states that in various other new courses introduced by the University in the current academic year including Bachelor of Technology (B.Tech.), there was no provision for any quota for foreign nationals.
10. It is further submitted that it is too late for the appellant to be granted admission at this stage as the first semester is substantially over and the admissions for the academic year 2023-2024 were closed on 12th December, 2023. Furthermore, exams for the first semester are scheduled in the month of March, 2024.
11. Mr. Rupal has handed over in Court the Minutes of the Meeting of the Academic Council of the University held on 30th November, 2023, whereby a decision has been taken that foreign nationals would be admitted under the supernumerary quota in the B.A.LL.B.(Hons.) and BBA.LL.B.(Hons.) programmes offered by the University with effect from academic year 2024-2025 onwards. The same is taken on record.
12. We have heard the counsels for the parties and perused the material on record.
13. The appellant has placed reliance on Clause 3.15 of the BOI issued by the respondent No.2/Faculty of Law for admissions to B.A.LL.B.(Hons.) and BBA.LL.B.(Hons.), which is set out below, for ease of convenience:

“Clause 3.15

Separate Allocation result/s will be declared for candidates seeking admission under Supernumerary quotas. Candidates must keep visiting the admission website for guidelines and schedules related to admissions under Supernumerary quotas. They must also regularly check their dashboard.

3.15.1: UoD Ward Quota

Admission to the wards of the University and its College employees, both teaching and non-teaching, will be done as per Academic Council resolution 9 a & b dated 27.11.2020 and subsequent amendments/ notifications thereof.

...

3.15.2: Orphans Quota

The University of Delhi will be admitting two candidates (one male and one female) in each program of study, both at the Undergraduate and Postgraduate level. These two seats will be supernumerary.

...”

14. A perusal of the aforesaid clause shows that there is no provision for a separate quota for foreign nationals in the five-year integrated law programmes for the academic year 2023-2024, unlike in academic year 2024-2025. In fact, there were only two quotas that were provided for under the supernumerary quota namely ‘*UoD Ward Quota*’ and ‘*Orphans Quota*’.
15. The counsel for the appellant has sought to read the aforesaid clause in conjunction with Clause 5 of the BOI for undergraduate admissions issued by the respondent no.1/University of Delhi relating to ‘*Registrations and Admissions to Undergraduate Programs*’ which is set out below:
“10% of Supernumerary seats in each program are reserved for Foreign Nationals. Candidates seeking admission under the Foreign Students’ category are required to apply for Foreign Students’ registry website.”
16. The aforesaid BOI issued by the respondent no.1/University of Delhi was published on 13th February, 2023 and was with respect to all undergraduate courses. Admittedly, at that point of time, the five-year integrated law programmes had not been launched by the University. The approval for the aforesaid programmes came only on 4th August, 2023 and the admission process began only after the interim order passed by the Division Bench on 18th September, 2023. Therefore, reliance placed by the appellant on the aforesaid clause is completely misplaced. Even if the word ‘*each*’ in Clause 5 of the BOI is read to mandatorily include quota for foreign nationals in every programme offered by the University, as canvassed by the appellant, it would not be applicable to the programmes in question as the same had not been introduced at the time.

17. Therefore, when the appellant applied through the link provided in the BOI issued by the respondent no.2/Faculty of Law and sought admission in the integrated five-year law programmes under the quota for foreign nationals, the following message popped up '*Admission for Foreign Nationals is done through Foreign Students Portal*'. Subsequently, when the appellant tried to register through the Foreign Students Portal, there was no option to register for the aforesaid programmes. Therefore, it is evident that the appellant could not register for the aforesaid programmes for the academic year 2023-2024 because there was no quota for foreign nationals prescribed by the University in respect of the aforesaid programmes.
18. It was only on 30th November, 2023 that the University had decided to introduce a quota for foreign nationals in the B.A.LL.B.(Hons.) and BBA.LL.B.(Hons.) programmes from the academic year 2024-2025, as resolved in the Minutes of the Meeting of the Academic Council held on 30th November, 2023. Therefore, no vested right accrued in favour of the appellant to seek admission in the aforesaid programmes under the quota for foreign nationals for the academic year 2023-2024.
19. In view of the discussion above, we do not find any merit in the aforesaid appeal and the same is dismissed.
20. Needless to state that the appellant would be free to apply for the integrated five-year law programmes under the quota for foreign nationals for the academic year 2024-2025.
21. The pending applications stand disposed of.

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