

Vishal vs.joint Seat Allocation Authority & Ors.

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SooperKanoon Citation : sooperkanoon.com/1216365

Court : Delhi

Decided On : Jul-23-2018

Appellant : Vishal

Respondent : Joint Seat Allocation Authority & Ors.

Advocate for Pet/Ap. : Mr. Sankhla

Judgement :

#92 IN THE HIGH COURT OF DELHI AT NEW DELHI Judgment delivered on:

23. 07.2018

... Petitioner

..

... RESPONDENTS

W.P.(C) 7297/2018 VISHAL JOINT SEAT ALLOCATION AUTHORITY & ORS.
versus Advocates who appeared in this case: For the

... Petitioner

For the

... RESPONDENTS

: Mr.Kapil Sankhla, Advocate. : Mr. Arjun Mitra, Advocate. CORAM: HON'BLE MR.
JUSTICE SIDDHARTH MRIDUL

JUDGMENT

SIDDHARTH MRIDUL, J (ORAL) 1. The present writ petition under Article 226 of the Constitution of India, prays as follows:-

"a) Issue a writ of Mandamus or any other appropriate Writ, directing the Respondent No.1 allocate a seat to the petitioner on his merits; and/or b) Issue a writ of Mandamus or any other appropriate Writ, further directing the

... RESPONDENTS

to allow the

... Petitioner

to appear/sit for the subsequent rounds of counseling; c) Issue a writ of Mandamus, or any other appropriate Writ a further

... RESPONDENTS

reserve directing the to W.P.(C)No.7297/2018 Page1of9 seat/admission for the

... Petitioner

in the institute and stream that the petitioner deserved on the basis of merit; the

... Petitioner

s d) Pass an ad-interim stay in favour of thereby directing the Respondent to stay the process of Counseling. 2. The facts as are necessary for the adjudication of the present proceedings are briefly adumbrated as follows:-

"a) The petitioner passed 12th Standard through Central Board of Secondary Education (hereinafter referred to as CBSE), in the Non- Medical stream and secured 93% marks. The petitioner is stated to have filled the requisite forms for JEE (Main) examination and received his admit card from the respondent No.1, in this behalf. b) Subsequent upon qualifying the JEE (Main) 2018 examination successfully, the petitioner filled the application form for JEE (Advanced) 2018 examination, to be held on 20th May, 2018. c) Upon declaration of the results of the JEE (Advanced) 2018 examination on 10th June, 2018, the petitioner was informed that he had cleared the examination and had further secured 903rd rank

in the SC category. W.P.(C)No.7297/2018 Page2of9 d) The petitioner is stated to have duly filled his preferences and choice of institutes and courses offered by the institutes, in terms of the guidelines and schedule, published by the respondent No.1. e) In terms of the prescribed schedule, the petitioner participated online in the mock trials and rounds of counseling, conducted by the respondent No.1. f) In terms of the result of the Mock Allotment Round 1, the petitioner was allotted IIT BHU, Mechanical Engineering (5 yrs.) and IIT Roorkee, Chemical Engineering, in the Mock Allotment Round II. g) It is an admitted position that, neither did the petitioner deposit the seat acceptance fee in the amount of Rs.15,000/- for candidates belonging to the SC category, nor did he participate in the first round of counseling of seat allocation and admission conducted between 28th June, 2018 to 2nd July, 2018.

3. It is, however, the petitioners case that, he was unable to participate in the first round of counseling at the designated Centre, owing to the circumstance that, he was suffering from diarrhea, gastroenteritis and pyrexia and was advised strict bed rest for a week. It is observed in this W.P.(C)No.7297/2018 Page3of9 regard that, no intimation in relation to his inability to appear at the designated Centre for the first round of counseling was ever sent to the official respondent.

4. It is the petitioners case that he tried to appear in the second round of counseling conducted on 3rd July, 2018, at the IIT Delhi, but was denied participation. It is further the petitioners assertion that he made several phone calls and visited the officials of IIT Delhi, but to no avail.

5. Eventually, the petitioner addressed a communication dated 4th July, 2018, to the Chairman (Jo SAA), which he admittedly dispatched on 9th July, 2018, but to no avail.

6. Predicated on the above facts and circumstance, Mr. Kapil Sankhla, learned counsel appearing on behalf of the petitioner, would forcefully urge that, admissions to prestigious courses must be based on merit alone and therefore, regardless of his inability to participate in the counseling, as predicated; in view of the circumstance alone that he has secured 903rd rank in the SC category, the petitioner should be granted admission to IIT Roorkee. W.P.(C)No.7297/2018

Page4of9 7. Mr. Sankhla, learned counsel for the petitioner would canvass the following decisions in support of his submission: i) ii) iii) Dolly Chhanda vs. Chairman, JEE and Others, (2005) 9 SCC779 Ashu Tosh Kumar Malick vs. Union of India and Others; 2015 SCC Online HP1187 Asha vs. Pt. B.D. Sharma University of Health Sciences and Others, (2012) 7 SCC389 2012 SCC OnLine SC509 8. On the contrary, Mr. Arjun Mitra, learned counsel appearing on behalf of the official respondents, would invite the Courts attention to the Business Rules for Joint Seat Allocation for the Academic Programs offered by, inter alia, the IITs to urge that, a candidate who does not remit the seat acceptance fee, in terms thereof, and does not report at the reporting centre for counseling at the designated time, is considered to have rejected their offer for seat allotment. In other words, if a candidate, pursuant to a provisional offer of seat allotment, fails to deposit Rs.15,000/-, in the case of SC category or does not produce the relevant documents for verification during the stipulated period, his claim for admission stands extinguished.

9. It is further urged that, a candidate who has rejected an allocated seat by failing to deposit the requisite fee and report in person for seat acceptance W.P.(C)No.7297/2018 Page5of9 is not permitted to participate any more in Joint Seat Allocation for the relevant academic year.

10. The above submissions are predicted on the relevant rules, which are extracted hereinbelow for the sake of felicity: XVII PROVISIONAL OFFER OF SEAT AND ITS CONFIRMATION 42. A candidate who has been allocated a seat is allowed to download the Provisional Seat Allocation Letter and an e-challan for remittance of seat acceptance fee.

43. Admission fee varies across the Institutes/category of candidates. Hence, at seat acceptance, candidates have to remit only the seat acceptance fee. The seat acceptance fee will be adjusted against the admission fee by the admitting institute. the time of [Seat Acceptance Fee: Rs. 15,000 for candidates with the category tag SC, ST, GEN-PwD, OBC-NCL-PwD, SC-PwD or ST-PwD. For all other candidates Rs.35,000.

44. Candidates should (i) remit seat acceptance fee using the e-challan or using SBI Net Banking and (ii) report at a Reporting Center for document verification before the last date/time specified [see Annexure 3 for the timeline].. Failure to report in person for seat acceptance will be considered as if the candidate has rejected the offer. W.P.(C)No.7297/2018 Page6of9 Seat will be confirmed by the Reporting Centre after verification of the original documents and ensuring that the candidates meets all [see Annexures 7 to 9].. the eligibility norms the Seat will be cancelled if, at any time, any of documents/certificates is found to be invalid/fraudulent and/or the candidate does not meet all the eligibility norms.

45. Option to reject the allocated seat: Candidates who want to reject the allocated seat can do so as follows: (or not accept) (i) By NOT remitting the seat acceptance fee [and hence, not report at the reporting center]. (ii)If the seat acceptance fee has already been remitted, by not reporting at the Reporting Center. Seat acceptance fee will be refunded to such candidates.

46. Candidates who reject allocated seat cannot participate any more in Joint Seat Allocation for the ensuing academic year 2018-19. (emphasis supplied) 11. There can be no quarrel with the submission that, admission to an educational institution must be granted on merit alone. To disentitle a meritorious student based on a formalistic and actualistic approach is unjust and subversive for the purpose of the exercise. Be that as it may, it is equally well settled that, the procedure prescribed for regulating the grant of admissions to educational institutions cannot be emasculated or interfered W.P.(C)No.7297/2018 Page7of9 with, by the issuance of a writ of mandamus, unless the same has prejudiced a student for no fault on his/her part.

12. In the present case, it is observed that, not only is the counseling for the offered courses long since over, but so are admissions granted pursuant thereto. In that sense, the present proceedings have been rendered infructuous at the time of its institution, by events that have transpired strictly in consonance with the academic calendar published by the official respondents.

13. Furthermore, it is not the petitioners case that in terms of the prescribed Rule, he had deposited the seat acceptance fee of Rs.15,000/- with the respondent

No.1, as required. It is further not the case of the petitioner that, when he presented himself for counseling for the provisionally allotted seat, he was denied participation. It was the petitioners case that he was prevented by circumstances beyond his control from participating in the counseling conducted between 28th June, 2018 to 2nd July, 2018, because he was suffering from diarrhea, gastroenteritis and pyrexia and was advised strict bed rest. However, this Court does not find any substance in the justification provided by the petitioner for his non-participation, predominantly because, the latter relies on medical certificates issued by two W.P.(C)No.7297/2018 Page8of9 different medical hospitals in Faridabad and Rohtak, respectively, situated approximately 60 kilometers apart. Particularly when, at the time of his admission, he admittedly resided in District Mahendergarh.

14. Be that as it may, in view of the facts and circumstances of the present case, and without undermining the academic credentials of the petitioner, this Court is not persuaded to issue a mandamus to the official respondents to create a supernumerary seat for the petitioner, for the same would have the result of directing the official respondents to act contrary to its own regulations.

15. Even otherwise, it would be a travesty of justice to the student, who may have been allotted the seat, rejected by the petitioner, as a result of his failure to comply with the essential pre-conditions for seat acceptance, 16. In view of the facts and circumstance of the present case, albeit, with a heavy heart, the petition is dismissed. No order as to costs. JULY23 2018 RS W.P.(C)No.7297/2018 SIDDHARTH MRIDUL (JUDGE) Page9of9