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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 9th November, 2012.

Pronounced on: 30th November, 2012

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LPA No. 688/2012

HAMIDUR REHMAN

..... Appellant

Through: Mr. Sitab Ali Choudhary, Adv.

Versus

JAMIA MILLIA ISLAMIA & ORS.

..... Respondents

Through: Mr. Raju Ramachandran, Sr. Adv. with
Mr.M.A. Siddiqui, Advocate.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

D. MURUGESAN, CHIEF JUSTICE

1. The present Letters Patent Appeal is directed against the order dismissing the writ petition filed by the appellant. The appellant applied for admission on 7.5.2012 to MA (Persian) Course in the respondent Jamia Millia Islamia University (hereinafter referred to as 'the respondent university') for the academic session 2012-2014. He secured 85 marks in written examination and 15 marks in the interview. As against 30 seats, the respondent university received 35 applications including that of the appellant. The appellant, on the basis of the marks, was placed in 21st rank. Going by the ranking, he was entitled to be admitted to the said course. However, he was not selected and only 20 applicants were selected leaving 10 seats vacant.

As against the denial of admission, the appellant approached this Court by filing a writ petition on the ground that the said denial was most illegal, arbitrary, mala fide, discriminatory, unjust, unwarranted and uncalled for. The learned Judge dismissed the writ petition finding no merit therein. The learned Judge, while dismissing the writ petition, noticed that denial of admission was only as a measure of prevention on account of the appellant having committed troublesome and painful acts of indiscipline in the past in the same University and with a view to maintain peace, tranquility and discipline in the respondent university.

2. It is the grievance of the appellant that he was denied admission only for the reason that he had filed a public interest litigation bearing Writ Petition No. 917/2012 (*Hamidur Rehman v. Jamia Millia Islamia University & Ors.*) against the respondent university for seeking restoration of democracy by way of holding elections suspended in 2006 in the respondent University. It is his further grievance that the denial was because of his further refusal to withdraw the said writ petition even when he was pressurized by the authorities of the respondent university.
3. The submission of Mr. Sitab Ali Chaudhary, learned counsel appearing for the appellant is that except the fact that the appellant had earlier approached this Court against the management of the respondent university by filing a public interest litigation and refused to withdraw the same when he was asked and pressurised, there was no ground for denial of admission. The story of indiscipline on the

part of the appellant in the past while he was a student of the same university was only an afterthought and in view of the same, the denial is bad and the respondent university should be directed to admit the student in view of the marks secured by him and the availability of the seats.

4. On the other hand, it is the contention of Mr. Raju Ramachandran, learned senior counsel appearing for the respondent university that the denial of admission is not on the ground that the appellant had earlier approached this Court by filing a public interest litigation. The learned senior counsel would further submit that at no point of time the authorities of the respondent university either asked or pressurised the appellant to withdraw the said writ petition and because the appellant refused to withdraw, he was denied admission. The appellant in fact applied for different courses in the same university and the Vice Chancellor of the university received reports from heads of each of the departments stating that the appellant was offensive and aggressive against the university and he was made his remarks against the Proctor of the university saying that a single person had been in the past since long and there has been no change. He had also made scathing remarks on the management as if the management was indulging in malpractices. Only based on those reports and having noticed the past conduct and the aggressive nature of the appellant, the Vice Chancellor was compelled to decide not to admit the appellant to the course in the interest of the students of the institution and the decision was only in order to maintain the discipline in the university.

Learned senior counsel would also submit that in any case, the right to

admit a student vests in the management and no student can claim such admission as a matter of right. He would also submit that when the question of discipline is put in issue, statute 31 of the statutes framed under the Jamia Millia Islamia Act empowers the Vice Chancellor to deny such admissions.

5. We have given our anxious consideration to the above submissions. The right of an educational institution to either admit or deny admission is beyond dispute and no student has got a right to compel an institution that he should be admitted. However, both the right of the institute to either admit or deny admission and the right of the student to get himself admitted have certain limitations. In so far as the educational institute is concerned, though it has got a right to admit the student which includes the right to deny such admission, a student who comes within the zone of consideration and selection would be entitled to be admitted and for that reason, he cannot be denied admission. The educational institution cannot deny admission to such of those students who would be entitled to be admitted on the basis of ranking provided the seats are also available for such students. To this extent, correspondingly the student is also entitled to seek for admission. On the other hand, the paramount responsibility of an educational institution is to not only impart good education to the students but also to impart and inculcate discipline. It is the further responsibility of the institute to ensure that no student indulges in indiscipline as such conduct of the student will hamper the quality in education to other students. While making admission, the institute

should also look into the past conduct of the students undergoing the courses.

6. The appellant applied to the MA (Persian) course on 7.5.2012. After examination, he was called for viva-voce on 3.7.2012. There were 30 seats in all and there were only 35 applicants. There is no dispute that the appellant secured 85% marks in the examination and 15% marks in the interview. After viva-voce, 20 students were selected for 30 seats and 10 seats were kept vacant. Though the appellant was placed in 21st rank, he was not given a seat. In order to deny the admission, three reports, viz., letter dated 04.7.2012 of the Director, Dr. K.R. Narayanan Centre for Dalit and Minorities Studies; letter dated 06.7.2012 of the Honorary Secretary, Centre for the Study of Comparative Religions and Civilizations and letter dated 06.7.2012 of the Official Director, Nelson Mandela Centre for Peace & Conflict Resolution were relied on. It is seen that the appellant had applied for admission to the said Department in question and appeared for interview. The said report dated 04.7.2012 reads as under:

“The Vice Chancellor
Jamia Millia Islamia
New Delhi

Dear Sir,

I am writing to inform you that one candidate by the name of Hameedur Rehman, who appeared for an interview in our Centre today raised some very problematic issues when asked why he wanted to join this course.

According to him, the sole purpose in want to take admission in Jamilia Millia Islamia was so that he could fight a case against “Najeeb Jung” and get back at him for not allowing

students union elections. And, therefore he needed to be a student in Jamia or else his case in the Court would get dismissed and not be entertained. *“I can only fight a case for Students’ Union Elections if I am a student – so that’s why I want to be a student here.*

Besides this, he raised questions about the functioning of the University and passed highly offensive remarks about senior officials of the university. He was disparaging in his remarks against the Proctor of the university saying that a single person had been in the post since long and there had been no change. He even made allegations by saying *“Yahan par sab ulta sulta ho raha hai”*, *“upar se neeche tak corruption hai”* and *“We know what is happening in his regime”* referring to the Vice Chancellor. He also commented on the recent Faculty selection in the Political Science Department and the manner in which selections were made which he felt needed to be raised. Referring to some certificate he had been issued by Jamia he said if he wanted to be could have filed a defamation case against Jamia for rupees fifty lakhs.

In fact it was embarrassing to her an aspirant talk in this offensive and aggressive manner about the University, its functionaries and the Vice Chancellor. It also appeared strange that an aspirant was openly talking ill about an institution he wanted admission into. In face it almost seemed that he was waiting to be confronted by the interview board! The hostility in his tone was jarring, especially coming from a young person who had till recently been a student in Jamia.

Though the Interview Board continued taking the interview despite this improper behaviours as Chairperson of the Interview Board one is concerned about entertaining such a student in our University at all. More so in a situation where there are limited seats and a large number of aspirants wanting to pursue higher education in right earnest. Blocking a seat for a student, who is not committed to academics or the Course in which he is applying and is only taking admission with an ulterior motive in mind would be grossly unfair to all the other genuine students.

I thought it was important that this be brought to your notice.

With regards

Sd/-

(Prof. Azra Razzack)
Director”

Report dated 06.7.2012 by Hony. Director, Centre for the Study of Comparative Religious and Civilization to the Vice Chancellor of the University reads as under:

“The Vice Chancellor,
Jamia Millia Islamia

Sub: Confidential Report

Sir,

As requested by the Registrar, JMI, I place below a report on what transpired during the interview of Mr. Hamidur Rahman (Roll No.MAC60419) on the 4th July, 2012 (FN).

1. Mr. Rahman was interviewed by a Committee comprising myself, Prof. I.H. Azad Faruqi, Prof. M. Shafiq (Dean’s Nominee) and Mr. Ahmad Sohaib.
2. As I try to recall the events of the day, the point that comes to my mind foremost is the aggression and hostility that the candidate unduly displayed, almost from the very commencement of the interview. Without being probed on this aspect in any way, he made it quite clear that he was seeking admission to some course in Jamia so that he could continue to wage his battles with you and your ‘dictatorial’ attitude. To this I responded by saying that my Centre could not be made a battleground and that the task before the Committee was to evaluate a candidate’s interest and competence in the subject concerned purely on academic grounds. Rather than be discouraged or silenced by this intervention. Mr. Rahman continued to state how he had ample support to his cause and that he was confident of securing admission in some course, possibly even in the Department of Political Science of which he had been a student.

3. With some difficulty, I tried to get him to answer specific questions related to the subject. On this aspect though I have to admit that the candidate proved to be quite articulate and intelligent. He was able to at least partially respond to questions that an average candidate would have simply failed to answer.
4. Based on my experiences with interviews both at the Department of History and this Centre, I would like to conclude that we seriously need to evolve a mechanism for weeding out non-serious and below average students who, when admitted prove to be a distraction to other students and to the work-culture in variance Departments/Centres. Quite palpably, the present system of entrance tests needs to be revised. My own recommendation in the matter would be to insist on a minimum qualifying mark at the stage of the interview. More generally, we also need to raise the bar when it comes to determining a minimum pass percentage at the level of the written tests.

Sd/-
Yours sincerely,
Prof. Amiya P. Sen
Hony. Director”

A letter dated 06.7.2012 written by Official Director to the Vice Chancellor, Jamia Islamia, New Delhi – 110025 reads as under:

“The Vice Chancellor,
Jamia Millia Islamia,
New Delhi – 110025

Subject: Regarding Mr. Hamidur Rahman’s (Roll No. MAC 600419) interview for Entrance to the MA Course in Conflict Analysis and Peace Building.

Dear Sir,

Today, Mr. Hamidur Rahman, Roll No.MAC 60419 (MO/MT category) appeared for his interview for Entrance to the MA

Course in Conflict Analysis and Peace Building for the semester July to December, 2012.

He was an applicant for four Centres for which Common Entrance Test was held on June 23, 2012. When the Interview Board asked him whether he would like to study outside Jamia, he turned hostile and aggressive and replied that he has also applied in Jawaharlal Nehru University for which the results have not been declared yet. He also said that he wishes to put an end to the irregularities in Jamia, for which he blamed the Vice Chancellor and the Proctor. He said that he would not be deterred and will continue his fight against the University. He appeared to be extremely non-serious about academics.

I deemed it necessary to report the matter to you.

Yours Sincerely,

Sd/-

Prof. Tasneem Meenai
(Officiating Director)”

7. The reports suggested as to the hostility in the tone of the appellant towards the University. These reports were placed before the Vice Chancellor who being the Authority to finalize admission and decided not to admit the appellant in any of the course in the University as a preventive measure in terms of Statute 31 of the Jamia Millia Islamia Act, 1988. The Vice Chancellor observed that it would not be in the interest of other students of the University admit the appellant.
8. We are notoblivious of the fact that Education plays a vital role in every individual's life today and every citizen has the right to education. Education tells men how to think, how to work properly, how to make decision. Through education only one can make separate identity. Education provides a student required knowledge, technique, skill and information and enables them to know their rights and duties

towards their family, their society and towards their motherland at large. Education is one of the important factors which formulate the persona of a person. Education is a productive and beneficial factor in a person's life. It is everyone's right to get education as it develops a meaningful outlook on life.

9. Equally, we are also not oblivious of the importance of discipline among students. Universities today have striven to ensure principled conduct for the admission of students and the transition to higher education. The code of conduct is amongst the necessary elements which are known today for admission of any student in schools or universities. The admission procedures in universities have become increasingly influenced by stringent rules of disciplinary code in universities. Schools, colleges and universities, as well as other institutions, organizations and individuals dedicated to the pursuit of higher education, should also believe in the dignity, worth and potential of each and every student. Regardless of the college's evaluation system on marks and merit, students should present a well-rounded picture of their skills, experience, personal traits that includes character, disciplinary recommendation by previous institution. Even though admission relies majorly on merit, yet disciplinary code of conduct plays its own important role in admission of a student. The objective of Universities to rely on a discipline code for admission of students in a course includes enforcing academic rules to promote a community atmosphere in which learning can best take place. Such an atmosphere can be maintained only so long as every student believes that his or her academic competence is being judged fairly and that he

or she will not be put at a disadvantage because of someone else's indiscipline. Discipline in schools and universities must be recognized as prioritized criteria for admission of a student in a particular course. The acceptance of a student's application can only be on pure basis of the character certificate issued by the prior institute where the student was receiving education. Discipline is an important step in any institution and especially a university which is considered to be the temple of education and where a student shall learn the basic ethics of professionalism coupled with discipline, once he enters into the market. Every university in India abides by their admission rules/policies which are set by members of a Committee who are expertise with admission norms for students according to their skills, personal traits, discipline and merit. Merit although being an important criteria for admission cannot alone stand as a factor for compulsory admission of a student. Discipline in all forms influences a student's personal image throughout their student-life. Every university now has special clauses and criteria for discipline amongst students so as to maintain the dignity, goodwill and reputation of that particular university. Therefore discipline plays an important role in any student's career and universities should make it a compulsion for every student to have a good character certificate to which they may be granted admission in another institute.

10. As already noted, a student who applied, attended interview and was selected for a particular discipline was entitled to be admitted on the basis of his rank. Equally, it is the solemn responsibility on the part of the University to consider the past conduct of the student even if such

11. In the case in hand, the decision of the Vice Chancellor in denying the admission to the appellant is on the basis of at least three reports of the Directors of three centers of the University. In this context, we may also refer to statute 31 (3) of the Jamia Milia Islamia University Statute which reads as under:-

(1) & (2) xxx xxx xxx

12. As per the above statute, the Vice Chancellor in the exercise of his powers, by order, can deny admission to any student in the interest of

maintaining discipline in the University. The reports indicate the past conduct of the appellant in question. Therefore, the Vice Chancellor had sufficient materials to deny the admission to the appellant to M.A. (Persian Course), though he was placed at 21st rank among available 30 seats. Merely because seats were vacant, that would not entitle the appellant to seek admission on the basis of rank in the event his past conduct is unsatisfactory or for that matter, the admission of such candidate would not be in the interest of other students. For that reason, it is apparent that denial of admission to the appellant was not on the ground of his filing writ petition against the University and his request to withdraw the same when he was asked by the University.

13. We find that the denial of admission of the appellant is not unjustified, unfair or arbitrary and for that reason, the appellant cannot seek admission as a matter of right. The reason adduced by the learned Judge for rejecting the challenge to the decision of the Vice-Chancellor in denying the admission to the appellant cannot be found fault with and consequently requires no interference. This appeal is accordingly dismissed.

CHIEF JUSTICE

**RAJIV SAHAI ENDLAW
(JUDGE)**

NOVEMBER 30, 2012

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