

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH, JAIPUR

O R D E R

S.B. Civil writ Petition No.13736/2015
(Mahima Goutam v. Coordinator, BSTC Entrance
Examination-2015 & Anr.)

Date of Order: 31/10/2015

PRESENT
HON'BLE MR. JUSTICE KANWALJIT SINGH AHLUWALIA

Mr. Sandeep Kalwania, for the petitioner.
Mr. R.A. Katta, for the respondents.

Shri R.A. Katta appearing for the respondent University has relied upon the order dated 28.09.2015 passed by this court in S.B. Civil writ Petition No.11916/2015, Bal Krishan Sharma v. M.D.S. University & Anr. Order passed by this court in Bal Krishan Sharma's case (supra) reads as under:-

“Instant writ petition has been preferred under Article 226 of the Constitution of India praying interalia that writ in a nature of mandamus be issued and the respondents be directed to allot the College to the petitioner for undertaking course of B.S.T.C. (Sanskrit) as the petitioner has obtained higher marks and is in the merit list, being a successful candidate.

It is pleaded in the present writ petition that the petitioner passed Secondary examination in the year, 2015 with 1st Division. He had also obtained degree of “Varishtha Upadhyay” in the year, 2015 with 1st Division.

Petitioner applied for pre-B.S.T.C. - 2015 in General and Sanskrit subjects under General Category. Petitioner was assigned Roll No.584998.

As per averments made in the present petition, the petitioner had secured total 237.9388 marks and was allotted the counseling at serial number B.S.T.C. (General) 236303 and (Sanskrit) 905432. Petitioner deposited registration fee of Rs.2000/- through challan.

A grievance has been made in the present petition that one Mahesh Chandra Kalawat (Sharma) who had secured 232 marks and is lower in merit has been given admission in the College at Dholpur, whereas the present

petitioner who had secured more marks has been denied admission.

However, it is admitted case of the petitioner that the admission has not been granted to the petitioner on the ground that in Column No.24 of on-line application form, the petitioner had not mentioned "Varishtha Upadhyay" and instead thereof has written words "Senior Secondary". According to the petitioner, it is a case of a bonafide mistake of the computer operator who was manning 'e-mitra' centre.

Mr. Sanjay Mehla, the learned counsel appearing for the petitioner, has placed reliance upon order dated 30.07.2015 passed by Coordinate Bench in S.B. Civil Writ Petition No.9835/2015 titled as Ashish Vs. Maharshi Dayanand Saraswati University, Ajmer and another, wherein following observations were made :-

"Shri R.K. Paliwal, learned counsel appearing on behalf of Mr. R.A. Katta, learned counsel for respondents University, submits that first and second counseling have already taken place on 27.06.2015 and 10.07.2015, respectively. Writ petition has been filed on 14.07.2015 i.e. after second counseling took place. Now no more counseling is going to take place and therefore, petitioner is not entitled to admission. As regards less meritorious candidates, it is submitted that the aforesaid candidates filled up "Varishtha Upadhyay" in column NO.24 in terms of qualifying examination whereas the petitioner had filled up "Senior Secondary Passed" in terms of qualifying examination. Merit list of both, i.e. Senior Secondary and Varishtha Upadhyay have been prepared separately.

After making following observations, Coordinate Bench had given following directions to the respondents :-

"Having regard to facts of the case, writ petition is disposed of requiring petitioner to approach respondent No.2 - the Coordinator, Pre-BSTC-2015, Maharshi Dayanand Saraswati University, Ajmer, who shall consider his representation, and if any seat is still lying vacant in any of the BSTC Training Institutions, to allot such seat to petitioner subject to his fulfilling other conditions and his appearing in merit. The respondent No.2 shall decide the representation and pass appropriate order on such representation within ten days from the date of its making.

This also disposes of stay application."

Counsel appearing for the petitioner has submitted that similar order may be passed in favour of the petitioner.

Mr. R.A. Katta, the learned counsel appearing for the respondents/University, has contended that

academic session has already commenced on 01.07.2015. The students, who were admitted, have already undertaken teaching classes for a period of about three months and, therefore, University in order to adhere to the academic calendar cannot grant admission to the petitioner, especially when the Office of the Coordinator, Pre-B.S.T.C., M.D.S. University, Ajmer no longer exists, after admission process was over.

On behalf of the respondents/University, it is further contended by the learned counsel that from 3rd of October, 2015 onwards mid-semester examination shall be conducted and if the petitioner is given admission at this stage, he will be unable to complete his course. Furthermore, academic session/valuable year of the petitioner shall be lost due to insufficiency of the lectures.

Instant petition has been filed before this Court on 28.08.2015.

From perusal of order dated 30.07.2015(Annexure-7) in case of Ashish (supra) relied by the petitioner, it is evident that second counseling had taken place on 10.07.2015.

Petitioner has approached this Court at a highly belated stage. In the matter of admission, the petitioner ought to have been prompt and swift to agitate his claim for admission. In the mid session, due to delay and latches on the part of the petitioner, prayer made by the petitioner cannot be considered as time is essence in the matter of admission, hence, present petition cannot be entertained on the ground that the petitioner was not agile and vigilant to approach this Court for redressal of his grievance at the earliest.

Resultantly, the present writ petition stands **dismissed**, as not maintainable at this juncture.

Upon disposal of main petition, stay application, filed therewith does not survive and the same is also disposed of."

Learned counsel for the petitioner has failed to distinguish the order rendered by this court in Bal Krishan Sharma's case (supra). It is also not denied by the learned counsel for the petitioner that academic session has already commenced on 1.7.2015 and mid-semester papers have also been held.

Therefore, for the reasons propounded in the

4.

case of Bal Krishan Sharma (supra), present petition is also dismissed. Stay application also stands dismissed.

(KANWALJIT SINGH AHLUWALIA), J.

Govind/-

All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.

Govind Sharma, Sr.PA