

**(2012) 08 DEL CK 0012**

**Delhi High Court**

**Case No:** Writ Petition (C) No. 4703 of 2012

Astha Jain

APPELLANT

Vs

Delhi Technological University  
and Another

RESPONDENT

**Date of Decision:** Aug. 24, 2012

**Hon'ble Judges:** Rajiv Sahai Endlaw, J; A.K. Sikri, J

**Bench:** Division Bench

**Advocate:** R.K. Saini, for the Appellant; Latika Chaudhary, for the Respondent

### **Judgement**

Rajiv Sahai Endlaw, J.

The petitioner, having obtained admission in the course of B. Tech. (Polymer Science & Chemical Technology) in the year 2011 in the respondent University and having topped in the first year (comprising of first and second semester) of the said course, has filed this writ petition impugning Note (v) under clause 3.2 of the Prospectus for the Academic Year 2011-12 of the respondent University prohibiting change of Branch/Stream after the commencement of the second semester, "even if some seats fall vacant in some of the Branches/Streams during the course of second semester". It is the plea of the petitioner that, a) a number of seats in various Branches/Streams/Disciplines including in Computer Engineering, Electronics & Communication Engineering, Electronics & Electrical Engineering, Software Engineering, Electrical Engineering, Informational Technology and Civil Engineering have fallen vacant during the course of the second semester; b) that though the said streams were higher in the choice of the petitioner, while seeking admission in the year 2011 but were not allotted to the petitioner as the seats therein were then occupied by those having a rank in All India Engineering Entrance Examination, 2011 (AIEEE), higher than that of the petitioner; c) that pursing B.Tech in the said streams will enhance the careers prospects of the petitioner and; d) that even though some seats in the said streams have now fallen vacant, the respondent University is denying such upgradation by migration/change to said streams to the petitioner. Reliance is placed on the Rules in this regard in other Universities and which are

stated to be permitting such change of Stream/Branch/Upgradation. It is contended that the prohibition aforesaid contained in the Prospectus is unreasonable and arbitrary in as much as the course content of the first two semesters (1st year) of all the Branches/Streams of B.Tech. is the same. Notice of the petition was issued. The respondent University has filed a counter affidavit, to which rejoinder has been filed by the petitioner.

2. The respondent University in its counter affidavit has pleaded, a) that the petitioner, even in the year 2011 was admitted on the spot round of admission and in her admission letter itself it was clearly mentioned that "Branch allotted is final and will not be upgraded in any circumstances"; b) that the admission system is based on AIEEE All India over all Rank and all upgradations till the stage permitted, are also done on the basis of AIEEE rank; c) that in the absence of any policy/procedure for upgradation, the petitioner has no right thereto; d) that the prevalent policy/procedure is being followed by the respondent University for the last number of years and without any hitch whatsoever; e) that the policy varies from one Institution to another and the policy applicable to another Institution cannot be made binding on the respondent University; f) that IITs instance, whereof is given, come under the Central University while the respondent is a State University; g) that the entrance examination pattern of the respondent University is different from the pattern prevalent in IITs; h) that while in IITs, upgradation is on the basis of the result of the first and second semester, upgradation in the respondent University even till when permitted is based on AIEEE result. It is also stated that in any case no vacant seat to permit change to the petitioner was available.

3. The petitioner filed rejoinder primarily on the aspect of the availability of vacant seats.

4. The counsel for the respondent today, during the hearing, has fairly admitted having received instructions as to availability of seats. She has further stated that the respondent University, for the next academic year onward, will examine the question as to whether such change, as prevalent in some of the other Universities/IITs and as claimed by the petitioner, should be permitted or not.

5. The counsel for the petitioner however states that since the petitioner is the topper in the first year, of the stream to which she was admitted and if change were to be permitted in the third semester she would definitely be eligible, she ought to be granted the relief of allowing change.

6. Though the submission aforesaid of the counsel for the petitioner appears attractive but the fact remains that the petitioner took admission with full knowledge and awareness that she, even if performs well in the first year of the B.Tech. course, would not be entitled to change of Stream/Branch within the respondent Institute. If we were to direct the respondent University to allow such a

change to the petitioner, it is bound to lead to a cascading reaction where other students also would similarly apply for other vacant seats in different streams. The academic year is already more than two months old; admittedly the course content of different Stream/Branches, at least, from the third semester onwards, is different. Considering all these facts and circumstances, we are not inclined to grant the relief claimed by the petitioner. The respondent Institute also has only agreed to consider the change. It still has to take a decision whether a student, who has not been able to secure admission in the Branch/Stream of his/her choice, admissions whereto stopped at a higher rank, is to be allowed to such upgradation for the mere reason of the seats having fallen vacant. The question, whether a student who was ineligible for admission initially, should be admitted to a more sought after Stream/Branch/Course, and of course at the cost of lowering the standards, is also to be considered by the respondent University. The respondent University, as aforesaid till now, though allowing upgradation till the closure of the first semester has been allowing the same, not on the basis of result/performance of the first semester but on the basis of the original rank in AIEEE examination on the basis whereof admissions were made. If the same system were to be followed, it is well nigh possible that a student of a higher rank than the petitioner may opt for the seats which have fallen vacant.

7. The Supreme Court recently in Sanchit Bansal and Another Vs. The Joint Admission Board (JAB) and Others, has reiterated that the process of selection of candidates for admission with reference to their performance, the process of achieving the objective of selecting candidates who will be better equipped to suit the specialized courses, are all technical matters in academic fields and Courts will not interfere in such processes except where the procedure adopted is arbitrary and capricious, i.e. illogical and whimsical, something without any reasonable explanation. The same view was echoed in State of Tamil Nadu and Others Vs. K. Shyam Sunder and Others, by observing that the Courts lack expertise especially in disputes relating to policies of pure academic educational matters and by relying on a host of earlier judgments including of Constitutional Bench in the The University of Mysore and Another Vs. C.D. Govinda Rao and Another. The prospective in this regard is elucidated in Maharashtra State Board of Secondary and Higher Secondary Education and Another Vs. Paritosh Bhupeshkumar Sheth and Others, by stating that it will be wholly wrong for the Court to make a pedantic and totally idealistic approach, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate therefrom and should avoid substituting its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise of working of educational institution. We therefore, though not granting any relief to the petitioner, dispose of this writ petition with a direction to the respondent University to, in a time bound manner and well before the commencement of the next academic session and for

reasons to be recorded in writing, take a decision on whether change of Stream/Branch/Course is to be permitted after conclusion of the second semester also and if so on what basis.

No costs.