

(1998) 12 DEL CK 0033

Delhi High Court

Case No: CW No. 4760/98

Sushma Shukla Pandey

APPELLANT

Vs

Jamia Millia Islamia

RESPONDENT

Date of Decision: Dec. 11, 1998**Citation:** (1999) 1 AD 37 : (1999) 77 DLT 833 : (1999) 49 DRJ 95**Hon'ble Judges:** Cyriac Joseph, J**Bench:** Single Bench**Advocate:** Mr. Yatish Mohan, for the Appellant; Mr. B.B. Sawhney, for the Respondent

Judgement

Cyriac Joseph, J.

The petitioner applied for admission to Bachelor of Fine Arts (Art Education) course in Jamia Millia Islamia. She participated in the written tests and interview and she was placed at Serial No. 7 in the merit list. However, the petitioner was denied admission to the course. Assuming that admission was denied on the ground of break in the continuity of her education, the petitioner got a legal notice issued to the respondent Jamia Millia Islamia on 7-8-1998. The respondent replied to the legal notice and informed the petitioner that she was denied admission on the ground of overage. In the reply dated 21-8-1998 the respondent also pointed out that as per paragraph 6.3.3 of the Prospectus of the Faculty of Education for the Academic year 1998-99 candidates applying for Bachelor of Fine Arts (Art Education) course should not be more than 23 years of age on 1-10-1998. It was also pointed out that as per the application form submitted by the petitioner, the date of birth of -1971 meaning thereby that the petitioner was overaged for the course. There is no dispute about the date of birth of the petitioner and also about the fact that the petitioner was overaged as per the provisions in the Prospectus. However, the petitioner contends that the prescription of the maximum age of 23 years is arbitrary and that it has no nexus whatsoever with the purpose of the course and, Therefore, the same is violative of Article 14 of the Constitution of India. According to the petitioner the prescription of a very low age i.e. even below 35 years as the maximum age for

admission to a professional course is an unreasonable restriction on the right to practice any profession and to carry on any trade. The prayer in the writ petition is for striking down the maximum age of 23 years for admission to Bachelor of Fine Arts (Art Education) course in Jamia Millia Islamia. There is also a prayer for direction to the respondent to grant admission to the petitioner in the Bachelor of Fine Arts (Art Education) course in the session 1998-99.

2. In the reply filed by the respondent it is admitted that the petitioner's name was included in the merit list but at Serial No. 9 and not at Serial No. 7 as stated in the writ petition. According to the respondent the published Prospectus of the Faculty of Education carried at the very outset a notice advising candidates to read the Prospectus care-fully before filling the application form. The respondent University assumed that the candidates who submitted the application would have filled the application form after having gone through the eligibility criteria and the entrance examination was held on that basis. It was on the basis of the performance in the written test that the list of candidates for interview was prepared. The candidates were asked to bring the original certificates and attested copies thereof. The list published after the interview was provisional and subject to confirmation after verification of documents and decision of the Admission Review Committee. On scrutiny it was found that the petitioner was overaged by four years and, Therefore, not eligible for admission. It is contended that prescribing eligibility criteria for admission is a matter of academic policy which should be left to the wisdom of the University authorities. It is stated that the Prospectus in question was duly examined and approved by the highest academic authority, namely, the Academic Council of the University at its meeting held on 28-4-1998. It is also stated that the University considers that the provision of a maximum age limit is desirable so as to provide reasonable compatibility and attitudinal balance in a learning group. It is stated further that more often than not, candidates above a certain age do not have continuity of education. In the light of the the limited number of seats, the University as a matter of policy prefers to grant admission to candidates with continuity of education. On behalf of the respondent University an additional affidavit also has been filed by Professor Anisur Rahman, Officiating Registrar, Jamia Millia Islamia. It is stated in the said additional affidavit that the criteria of the maximum prescribed age of 23 years for admission to Bachelor of Fine Arts course was approved after meaningful deliberations in the Academic Council which comprised of some 42 eminent academicians including the Vice-Chancellor, the Registrar, the Deans of Faculties, the Head of the various Departments, the Chairman of the Prospectus Committee and and the Controller of Examinations. Section 20(1) of the Jamaia Millia Islamia Act, 1988 empowers the Academic Council to act as the principal academic body of the University and authorised it to exercise general supervision over the academic policy of the University. Statute 16 expressly provides that the Academic Council can give any directions for the improvement in academic standards. It is clarified in the said additional affidavit that the experts felt

that the poison of maximum age limit was desirable so as to provide reasonable compatibility and attitudinal balance in a learning group. Even with the impugned maximum age limit a candidate can ordinarily seek admission to the B.F.A. course for a period of five years after passing the S.S.C. examination. According to the respondent each course and stream of academic discipline nurtures and develops in its own peculiar circumstances which depends upon various factors like avenues of advancement, levels of research and market requirements. Hence, according to the respondent University reliance cannot be placed on comparison with age prescribed for another course. It is further stated that all the above aspects were carefully examined by the academic experts in the light of their past experience. Continuity of education is stated to be a primary concern to Universities like the Jamia Millia Islamia which are different from open schools/universities. Since the seats are limited the preference is favor of a student who is continuing his/her education rather than one who is slumber and then seeks re-entry into the academic stream after a break.

3. Having considered the averments in the writ petition and in the reply and additional affidavit of the respondent and also the submissions made by the learned counsel for the parties I have come to the conclusion that no interference is called for in this case under Article 226 of the Constitution of India. Whether a maximum age limit and/or a minimum age limit should be prescribed for candidates seeking admission to a particular course is basically an academic question which should be left to be decided by the academicians, experts and educationists as they are better equipped to decide such matters in view of their expertise and experience which cannot be possessed by the Judges. Unless the decision of the academicians, experts and educationists is patently illegal or arbitrary or perverse or mala fide the Court Will not interfere with such decision. There is nothing to show that the impugned decision is illegal .In view of the facts stated in the reply and the additional affidavit of the respondent one cannot say that the decision of the Academic Council to prescribe a maximum age limit of 23 years for admission to B.F.A. course is arbitrary or perverse. Even if the maximum age limit for admission to B.F.A. course remains to be 23 years, a candidate ordinarily gets a period of five years after passing the S.S.C. examination. The University is of the view that there should not be an unduly long break of continuity of education. The said view is not without any reason. The petitioner has not alleged that the fixation of maximum age limit was mala fide. In this case there is no violation of the petitioner's fundamental right under Articles 14, 19(1)(g) or 21 of the Constitution of India.

4. Hence the writ petition is devoid of merit and it is accordingly dismissed. There will be no order as to costs.