

\$~4 (Single Bench)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 17750/2022 and CM No. 56733/2022**

BHAVIKAA KESHWANI & ANR. (THROUGH THEIR
LEGAL GUARDIANS) Petitioners

Through: Mr. Paras Jain, Adv.

Versus

UNIVERSITY OF DELHI & ANR. Respondents

Through: Mr. Nikunj Arora, Adv. for Mr.
Ankur Chhibber, Adv. for R-1.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **26.12.2022**

CM No.56734/2022 (for exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 17750/2022

3. The petitioners have filed the present petition, *inter alia*, praying that the respondents be directed to allow the petitioners to change their course / seat mutually in the interest of justice. The petitioners also impugn the policy for allocation of seats – Common Seat Allocation System, 2022 (hereafter ‘the CSAS’) – as unconstitutional.

4. Respondent no.1, University of Delhi (hereafter ‘the DU’) has framed the policy for admitting students to the colleges affiliated to the DU through the Common University Entrance Test, 2022 (hereafter ‘the CUET-2022’). CUET-2022 was conducted during the period from 06.04.2022 to 26.06.2022 for admissions to various undergraduate courses in various colleges of the DU. The said test was conducted by the National Testing Agency (hereafter ‘the NTA’) and the results for CUET-2022 were declared

on 16.09.2022.

5. Thereafter, the online process for applying to the CSAS commenced on 12.10.2022. The candidates were required to give the preferences of their colleges and courses in combination. The candidates were entitled to choose and select a number of such preferences / combinations. The candidates also had the option to change their preference during the period 14.10.2022 to 16.10.2022.

6. The first list of CSAS (First Round) was declared on 18.10.2022. Both the petitioners are high-performing students. Petitioner No.1 had secured 800 out of the maximum of 800 marks, and Petitioner no.2 had secured 795 out of 800 marks in CUET-2022. Accordingly, the petitioners were allocated the seats as per their respective first preference.

7. On 21.10.2022, both the petitioners received identical automated e-mails, which is set out below:

“Dear Bhavikaa Keshwani,

Congratulations!

As per the Allocation Policy of University of Delhi's Common Seat Allocation System 2022, you have been allocated B.A Program (Any two disciplines out of these (Economics/English/History/Philosophy/Political Sc./Urdu))- St. Stephen's College

You must "Accept Allocation" under the User Action tab through your dashboard by 4:59PM, Friday, October 21, 2022.

Henceforth,

1. On receiving the "Approval from College Principal", proceed to pay the fee to confirm your admission.

2. Take a printout of the acknowledgement receipt.

You must also check the "Query" tab regularly and respond to it in case you have received a query from the concerned College.

To participate in Subsequent CSAS Rounds you must take the admission in this round. Only the candidates who are admitted to a Program in a College will be able to opt for upgradation in subsequent round/s.

Check the schedule and adhere to the deadlines.

Ignore this email if you have already taken an action.”

8. Both the petitioners had, as per their respective first preference, accepted their admission with respondent no.2 – St. Stephen’s College. Petitioner took admission to the course of BA Programme and Petitioner no.2 took admission in the course of BA (Hons) English.

9. The petitioners now feel that their first preference was incorrect and seek to alter the same. They are aggrieved as the DU has declined their request for such change.

10. The present petition has been filed to address the said grievance. According to the petitioners, their grievance can be addressed by interchanging the seats allocated to them.

11. The learned counsel appearing for the DU has stoutly contested the present petition. He submits that in terms of the impugned Policy, it is not permissible for a candidate to change the seat after the candidate has secured admission in the course and college of his / her first preference. He also drew the attention of this Court to Chapter-7 of the impugned Policy, which reads as under:

“CHAPTER-7 SUBSEQUENT ROUNDS OF ALLOCATION

Based on the availability of the seats that arise due to rejections, cancellations, and withdrawals, the University may announce multiple allocation rounds. The UoD will display the vacant seats on its admission website (admission.uoi.ac.in) before every allocation round.

All candidates who have applied for CSAS-2022 will be eligible for all allocation rounds, except those whose allocated seat / admission has been canceled for whatever reason.

All admitted candidates who opt for the “Upgrade” option in a particular round will be considered for respective CSAS-2022 allocation round, subject to the availability of seats.

Candidates who were allocated their first preference in any round will not be considered in subsequent rounds of allocation.”

12. It is apparent from the above that the fundamental premise on which the present petition is based – that is, a candidate, who has secured admission in a course and college of his / her first preference, is entitled to participate in the further rounds for allocation of seats, notwithstanding such admission – is contrary to the CSAS.

13. The reliance placed by the petitioners on the communication dated 21.10.2022 is also misplaced. A plain reading of the said communication indicates that the candidates were advised that they would require to take admissions, as offered, in the round but would be able to opt for upgradation in subsequent rounds. The use of the word ‘upgradation’ clearly indicates that such participation in further rounds would be available only to those

candidates who had not secured admission in accordance with their first preference. Clearly, those students who had secured the admission as per their first preference would have no scope of further 'upgradation'.

14. In terms of the CSAS, the change of seats as sought by the petitioners is not permissible.

15. The petitioners have also challenged the said policy (CSAS) on the ground that it violates Articles 14 and 21 of the Constitution of India. The said challenge is unsubstantial. There is no plausible reason to hold that CSAS is arbitrary, unreasonable and falls foul of Article 14 or Article 21 of the Constitution of India.

16. It is also trite law that the courts cannot interfere with policy matters unless it is found that the said policy offends any of the constitutional guarantees. In *Rachna & Ors. v. Union of India: (2021) 5 SCC 638* and in *National Board of Examinations v. G. Anand Ramamurthy & Ors.: (2006) 5 SCC 515*, the Supreme Court has held that courts should be slow in interfering with the policy matters.

17. It is also well settled that the remedy under Article 226 of the Constitution of India is available only where there is a legal right. This Court is not persuaded to accept that the petitioners have any right to insist on the change of their seats or to participate in fresh rounds for reallocation of the seats.

18. In view of the above, the present petition is liable to be dismissed.

19. Having stated the above, this Court is also of the view that if the right of other students is not adversely affected, the respondents (DU and St. Stephen's College) ought to consider the request made by the petitioners.

20. Petitioner no.1 – Bhavikaa Keshwani – has also addressed the Court

in person. She states that she had secured 800 out of 800 marks in CUET-2022. There is no dispute that she would otherwise be entitled to a seat of her first preference; be it BA(Hons) English or B.A Programme. She states that petitioner no.2, who had secured 795 out of 800 marks, would have secured the seat in either of the said courses as well, as other students who had secured marks much below 795 marks have been allotted seats in the course of BA Programme. She states that students who have scored less than 600 marks out of 800 marks had also secured admission in BA Programme with respondent no.2.

21. Thus, although this Court finds no ground to interfere with the CSAS, and as already held that the petitioners have no right to seek the relief as sought; considering that no prejudice would have been caused to any of the students, this Court considers it apposite to direct the respondents to consider this as a one-off case.

22. It is clarified that if the requests of the petitioners are entertained, it would not constitute a precedent.

23. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU
(VACATION JUDGE)

DECEMBER 26, 2022

‘gsr’