



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Reserved on: August 01, 2023***
Pronounced on: August 04, 2023
+ LPA 563/2023 & CM APPLs. 37179/2023, 37180/2023,
37181/2023

VIVEKANANDA INSTITUTE OF PROFESSIONAL
STUDIES Appellant

Through: Mr. Manoj Goel & Mr. Mohit
Mathur, Senior Advocates with
Mr.Nishant Anand, Ms. Gunjan
Bansal, Mr. Sachin Sharma &
Mr. Gyanendra Rathour, Advocates

Versus

GOVERNMENT OF NCT OF DELHI & ANR.Respondents

Through: Mr. S.K. Tripathi, Standing
Counsel, GNCTD, Mr. Anuj
Aggarwal, ASC, GNCTD &
Mr.Aakash Dahiya, Advocate for
respondents No.1 & 2
Ms. Anita Sahani & Ms. Neelam
Rani, Advocates for respondent
No.3

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

JUDGMENT

SURESH KUMAR KAIT, J

1. The present appeal under Clause 10 of Letters Patent Appeal has



been filed by the appellant against the judgment dated 17.05.2023 passed by learned Single Judge in W.P.(C) 14677/2022 titled as “*Vivekananda Institute of Professional Studies – Technical Campus vs. Govt. Of NCT of Delhi & Ors.*”.

2. According to appellant, vide aforesaid writ petition being W.P.(C) 14677/2022, a writ of mandamus was sought against the respondents to declare Circular No. DHE 4(4)/GGSIPU/2019/4674-76 dated 22.09.2022 without jurisdiction and further Circular bearing No. GGSIPU/ADMISSION/2819 dated 27.09.2022 & Circular bearing No. IPU7/Online Counselling/2022/2902 dated 14.10.2022 issued in continuation of Circular dated 22.09.2022 being violative of Article 19 (1)(g) of the Constitution of India. Thereby the appellant had prayed for quashing of the afore-noted Circulars dated 22.09.2022, 27.09.2022 and 14.10.2022 issued by respondent No.3-Guru Gobind Singh Indraprastha University being *ultra vires* of Articles 14 and 19 (1)(g) of the Constitution of India and violative of the provisions of the Act and Rules, 2007.

3. The brief facts spelt out in the present appeal are that Admission Branch of respondent No.3-GGSIP University issued a Circular on 01.09.2022 regarding strict compliance of the provisions of the Act and Rules for filling up the Management Quota seats for Academic session 2022-2023. It was notified that all the un-aided institutions shall admit students in the Management Quota during Academic session 2022-2023 in accordance with the provisions of the Act, particularly Sections 12 and 13 of the Act and Rules notified on 14.06.2007.



4. The appellant in terms of aforesaid Rules issued notice and advertisement on 03.09.2022 for filling-up Management Quota seats in different streams of education and the last date for submission of form was notified as 22.09.2022. Respondent No.3-University vide letter dated 19.09.2022 was duly informed by the appellant about the details of the aforesaid advertisement. List of candidates who applied for admission under the Management Quota seats was notified on 26.09.2022 and counselling whereof was to commence on 27.09.2022. According to appellant, when Circular dated 27.09.2022 issued by respondent No.3-University was issued and received by the appellant, the admission process for nearly 90% courses in respect of Management Quota seats was duly complete. The list of successful candidates under Management Quota was put on the website of appellant-institute and thus, the admission process under the Management Quota was complete and due information in this regard was sent to respondent-University on 28.09.2022.

5. According to appellant, in contravention of Circular dated 01.09.2022 issued by respondent No.3-University, respondent No.2 issued a Circular dated 22.09.2022 in respect of Management Quota seats in private institutions affiliated to respondent No.3-University. The Circular was not issued by respondent No.1-Government of NCT of Delhi. It was not communicated to any of the institutions and was only addressed to the Vice Chancellor of the respondent No.3-University. The Circular laid a totally different procedure from the one as mentioned in the Act, the Rules, the Admission Brochure and the Circular dated 01.09.2022. It



required the University to make an online portal to display the branch-wise, college-wise seats available under manager Quota; prospective students can apply online against available seats under Management Quota; and the merit list college-wise shall be published online.

6. Pursuant to the aforesaid Circular dated 22.09.2022, respondent No.3-University issued a Circular dated 27.09.2022 regarding on line registration for Management Quota admissions on the GGSIP University portal and display of merit list on the portal. It inter alia required that the University shall make an online portal to display the branch-wise, college-wise seats available under the Management Quota; prospective students to apply online against the available seats under Management Quota and all the merit list college-wise to be published online; and the schedule of Management Quota counselling to be provided by the institution to be incorporated in the online portal of the University.

7. The appellant claims to have written to the respondent No.3-University against the aforesaid Circular dated 27.09.2022 intimating that appellant has been following a procedure laid down in the Act and the Rules. However, respondent No.3-University vide Circular dated 14.10.2022 issued a schedule in respect of online registration of University portal for admission under the Management Quota seats be uploaded on University website on 17.10.2022. Further without any foundation and reasonable basis, the Respondent No.3-GGISP University has issued a circular dated 14.10.2022 regarding schedule for online registration on University portal for admission in Management seats, which shall be uploaded on University website on 17.10.2022. Further,



the Circular stated that the tentative date for commencement of online registration on University portal for admission in Management seats for B. Tech (Code 131) shall be 19.10.2022.

8. Being aggrieved, the appellant preferred the W.P.(C) 14677/2022 against the Circular dated 22.09.2022 issued by respondent No.2; Circulars dated 27.09.2022 and dated 14.10.2022 issued by respondent No.3. In the said petition, the appellant averred that respondent No.3-University vide Circular dated 11.07.2022 had notified the Academic calendar for session 2022-23 which was governed by Ordinance 11 and thereafter, various Circulars dated 05.08.2022, 12.08.2022, 31.08.2022 and 15.09.2022 were issued by respondent No.3-University. When the aforesaid writ petition came up for hearing before the learned Single Judge on 17.10.2022, on the even date, the respondent No.3-University issued Circular No. F. No.IPU-07/Online Counselling/2022/2905 dated 17.10.2022 regarding online registration for Management seats admissions on the University portal Academic session 2022-23. The said Circular was in continuation to University's earlier Circular dated 14.10.2022. Thereafter, again on 18.10.2022, respondent issued another Circular bearing No.F. No.IPU-7/Online Counselling/2022/2909 laying down detailed schedule of online registration, submission of 'Registration-cum-Enrolment for Management Quota Fee' and 'Management Quota Counselling Fee' for B.Tech programme for the Academic session 2022-23.

9. The appellant preferred an application under Order 6 Rule 17 CPC for amendment of the said writ petition and stay of the fresh Circulars



dated 17.10.2022 and 18.10.2022 preferred by respondent No.3-University. However, the application for stay was dismissed by the learned Single Judge.

10. Being aggrieved, the appellant preferred LPA bearing No.614/2022 tilted as “*Vivekananda Institute of Professional Studies - Technical Campus vs. Govt. of NCT of Delhi & Ors.*” which was disposed of by a Co-ordinate Bench of this Court vide order dated 31.10.2022 with the observation that the learned Single Judge shall decide the writ petition being, i.e. W.P.(C) No.14766/2022 expeditiously. However, respondent No.3 issued another Circular dated 28.10.2022 and 31.10.2022 forwarding the schedule of counselling for Management Quota seats for the session 2022-23.

11. Since liberty was granted to the appellant in LPA 614/2022, an application for stay of various Circulars issued by the respondents including Circular dated 28.10.2022 and 31.10.2022 was made before the learned Single Judge. The learned Single Judge vide impugned judgment dated 17.05.2023 decided the appellant’s petition along with other batch of petitions *inter alia* observing as under:

“127. Having analyzed all three Clauses of the Circular dated 22.09.2022, it is seen that the Clauses stipulated in the Circular dated 22.09.2022 rather than imposing any restriction on the institutions' right to admit students against 10% Management Quota Seats, is in actuality supplementary in nature. As held earlier, the Circular dated 22.09.2022, does not cast any restriction on the right of the Management to admit 10% students under Management Quota. The said Circular only supplements the provisions of the Act 2007 and the Rules made



thereunder, particularly the proviso to Section 13 of the 2007 Act which provides that the Management Quota Seats have to be filled in a transparent manner based on merit in the qualifying examination.

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132. By way of the impugned Circular, neither the right of the

institutions to admit 10% seats under the Management Quota Seats is compromised nor is the procedure of admitting such students as prescribed under the 2007 Act and the Rules made thereunder adversely affected, or otherwise compromised, in any manner. The intake capacity remains intact. The criteria and procedure for admission under Management Quota also remains intact. What is being done by the impugned Circulars is to facilitate the students and the private institutions to allow fair and transparent participation. The same cannot be a ground to interfere with the Circular dated 22.09.2022. The impugned Circular does not infringe any of the fundamental rights of the private institutions.

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135. The Circulars dated 01.09.2022, 27.09.2022, 17.10.2022,

18.10.2022, 21.10.2022, 28.10.2022, 01.11.2022, 02.11.2022,

04.11.2022, 10.11.2022 and 12.11.2022 issued by the University nowhere compels the private institutions to admit a particular student. The said Circulars nowhere prescribe any other criteria for judging the merit than the one prescribed under applicable Rules or regulations. The Circulars, nowhere take away the right to admit the students up to sanctioned intake capacity or compel the private institutions to compromise with merit or excellence.

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12. In view of aforesaid observations, the learned Single Judge held as under:

“143. In view of the aforesaid discussion, this Court holds that the impugned Circular does not restrict or curtail any fundamental rights of the private institutions. The said Circular merely seeks to achieve the same object as is sought to be achieved specifically by proviso to Section 13 of the Act 2007 i.e to ensure filling up of Management Quota Seats in a transparent and non-exploitative manner. The impugned Circular, therefore, cannot be held to be violative of the fundamental right guaranteed under Article 19(1)(g) nor is the same contrary to the Act or the Rules made thereunder. The challenge to the validity of the impugned Circular, is therefore, declined.

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193. The petitions are accordingly disposed of in the following terms:-

(i) The petitions being W.P. (C) No.14677/2022, W.P. (C) No.14678/2022, W.P. (C) No.14679/2022 and W.P. (C) No.14680/2022 are dismissed. It is, however, clarified that the direction in the Circular dated 22.09.2022 with respect to the constitution of the MQAMC ceases to operate having been overtaken by statutory mechanism of constitution of the ARC.”

13. Learned senior counsel appearing on behalf of appellant submitted that 10% Management Quota seats of the Unaided Private Higher Educational Institutions has to be filled as per the Delhi Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of



Admission, Fixation of Non Exploitative Fee and Other Measures to Ensure Equity and Excellences) Act, 2007 [hereinafter referred as “2007 Act”] and the Delhi Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non Exploitative Fee and Other Measures to ensure Equity and Excellences) Rules, 2007 [hereinafter referred as the “2007 Rules”], which have been framed to give effect to fundamental rights of an Institute under Article 19(1)(g). It was submitted that the Government of Delhi by issuing the impugned Circulars has tried to curtail the fundamental rights of the institutions such like appellant herein and so, these Circulars deserve to be set aside.

14. Learned senior counsel for appellant submitted that the learned Single Judge has though considered that the impugned Circulars are not ‘law’ within the meaning of Article 19(6) of the Constitution yet the impugned circular dated 22.09.2022 has been only been struck down partially. Also, the learned Single Judge has held that the Circular dated 22.09.2022 cannot be said to have been issued under Section 17 of the Act but did not consider that this has been issued without any authority and so, could not have been given effect to.

15. Learned senior counsel next submitted that Section 3(m) of 2007 Act defines that the Management seats are to be filled by Management of the institution as may be prescribed by the Rules and so, the executive power of the State cannot be exercised contrary to the provisions of the Act and the statutory Rules framed thereunder. It was submitted that under Rule 8 of 2007 Rules prescribed an offline procedure for admission under the Management Quota seats and same could not have been



changed without amending the Rules. Further submitted that there is no provision under the Act enabling the Government of NCT of Delhi to issue such Circulars and the learned Single Judge while deciding the writ petition preferred by the appellant herein, along with other batch of petitions, considered various Circulars / orders in the case of *Shubham Jha* which is misplaced in law and on facts. Also submitted that the respondents have not been able to demonstrate any urgency behind issuance of such Circulars, which are in violation of Article 19(6) and since there is a direct conflict between the impugned Circulars and statutory Rules, these Circulars deserve to be set aside.

16. Learned senior counsel next submitted that Section 3(m) of 2007 Act defines that the Management seats are to be filled by Management of the institution as may be prescribed by the Rules and so, the executive power of the State cannot be exercised contrary to the provisions of the Act and the statutory Rules framed thereunder. It was submitted that under Rule 8 of 2007 Rules prescribed an “offline” procedure for admission under the Management Quota seats and same could not have been changed without amending the Rules. Further submitted that there is no provision under the Act enabling the Government of NCT of Delhi to issue such Circulars and the learned Single Judge while deciding the writ petition preferred by the appellant herein, along with other batch of petitions, considered various Circulars / orders in the case of *Shubham Jha Vs. Guru Gobind Singh Indraprastha University & Ors., W.P.(C) 11906/2022*, which is misplaced in law and on facts. Also submitted that the respondents have not been able to demonstrate any urgency behind



issuance of such Circulars, which are in violation of Article 19(6) and since there is a direct conflict between the impugned Circulars and statutory Rules, these Circulars deserve to be set aside.

17. On the other hand, Mr. S.K. Tripathi, learned Standing Counsel appearing on behalf of respondents No.1 & 2, submitted that the language of the Circular dated 22.09.2022 does not in any manner restrict admission under 10% Management Quota and the circular dated 22.09.2022 does not in any manner violates Rules of 2007. Learned Standing Counsel submitted that to ensure fair opportunity to the meritorious candidates and maintain transparency, the mechanism for admission under 10% Management Quota has been formulated and issued vide impugned Circulars, which apparently shall be in force from prospective effects and since the Division Bench while deciding LPA bearing No.614/2022 (Supra) was not convinced with the pleas urged by the appellant, therefore, an opportunity of hearing and was therefore, not inclined to grant stay of impugned Circulars and directed expeditious disposal of W.P.(C) No.14766/2022. It was submitted that there have been violations of the provisions of the Act of 2007 and the Rules of 2007 as well as various Court Orders in respect of admissions under Management Quota and so, the impugned Circulars suffer from no infirmity and the judgment passed by the learned Single Judge calls for no interference by this Court.

18. Submissions heard.

19. Relevantly, the first circular dated 22.09.2022 challenged before this Court, issues directions with regard to admission under Management



Quota; the second circular dated 27.09.2022 provides for incorporating on the schedule of counselling on the web portal and the third circular dated 14.10.2022 stipulates for issuance of schedule for online registration on University's portal for admission in Management Quota Seats on 17.10.2022.

20. As per Notification No. F.14 (14) /LA-2007/Lj/07/3329 dated 29.05.2007 issued by the Government of National Capital Territory of Delhi, with the consent of Lieutenant Governor of Delhi, under the Delhi Professional Colleges or Institutions (Prohibition of Capitation Fee, Regulation of Admission, Fixation of Non Exploitative Fee and Other Measures to Ensure Equity and Excellences) Act, 2007 stipulated in Para-3(n) that “Management seats means a seat to be filled up by the Management of an institute, in the manner as may be prescribed.”

21. Further, the aforesaid Notification dated 29.05.2023 in Para-3(t) notifies “prescribed means prescribed by the Rules made under the Act.”

22. Section 17 of the aforesaid notification dated 29.05.2023 describes the Power of the Government to issue directions, which reads as under:-

“17. The Government or any other officer specially empowered in this behalf by the Government may, from time to time, by order, issue such directions, consistent with the provisions of this Act and the Rules made thereunder, to any institution, as in its opinion are necessary or expedient for carrying out the purpose of this Act or give effect to any of the provisions contained therein or in any Rules or orders made thereunder and the Management of the institution shall comply with every such direction.”

23. Further, Para-3(j) of the aforesaid Notification observes



“Government means the Lieutenant Governor of National Capital Territory of Delhi appointed by the President under Article 239 and designated as such under 239A of the constitution.”

24. Relevantly, the respondent No.3- University vide notification No.F.No. GGSIPU /Incharge (Admissions)/MQ/2022/2687 dated 01.09.2022 directed strict compliance of the provisions of 2007 Act and Rules for filling up Management Quota seats for the Academic session 2022-23. However, vide Circular F. No. DHE.4(4)/GGSIPU/2019/4674-76 dated 22.09.2022, respondent No.2-the Directorate of Education, issued guidelines in respect of filling Management Quota seats for different streams and also directed constitution of Management Quota-admission monitoring committee (MQAMC). The aforesaid circular dated 22.09.2022 reads as under:-

*“DIRECTORATE OF HIGHER EDUCATION
GOVT. OF NCT OF DELHI
BTE BUILDING, MUNI MAYA RAM MARG,
PITAMPURA, DELHI-110034*

diehudu@gmail.com

F. No.DHE.4(4)/GGSIPU/2019/4674-76

Dated: 22.09.22

To,

The Vice-Chancellor

Guru Gobind Singh Indraprastha University

Sector 16 C, Dwarka,

New Delhi-110078

Sub: Admission against Management seats in private institutions affiliated to GGSIP University.

Sir,

In continuation of this Directorate’s letter no. 4(15)/2006-07/1546-1605 dated 14.06.2007 and



GGSIU Circular No. IPU-7/Admissions/MQ/2018-19/4091 dated 16.07.2018, the following directions are issued to bring transparency/clarity and efficiency in the admissions against Management Seats in private institutions affiliated to GGSIP University:-

- i) GGSIP University to make an online portal to display the branch-wise college wise seats available under Management Quota*
- ii) Prospective students can apply online against available seats under Management Quota*
- iii) All the merit list college wise shall be published online.*

Further, the following Management Quota admission monitoring committee (MQAMC) be constituted in each private institution affiliated with GGSIP University for grievance Redressal and suggestions for further improvement in the admission process against Management seats:-

- a) Nominee of the Vice Chancellor, GGSIPU*
- b) Nominee of the Director, Directorate of Higher Education*
- c) The Principal/Head of the concerned affiliated Institution*
- d) The admission in-charge of the concerned affiliated Institution*

Wide publicity be given about the above monitoring committee with details of the contact number for lodging complaints/grievances.”

25. Apparently, the aforesaid Circular dated 22.09.2022 was issued by respondent No.3 to the Vice Chancellor of respondent No.3- University in contravention of provisions of Section 17 of the Act which stipulates that the Government empowered to issue directions means Lieutenant Governor of National Capital Territory of Delhi. It is relevant to note observations of the learned Single Judge on this aspect in the impugned



judgment, which are as under:-

“68. It is to be noted that Section 17 of the Act of 2007 empowers the Government to issue directions, consistent with the provisions of the Act and the Rules made thereunder, to any institutions, as in the opinion of the State Government if such directions are necessary or expedient for carrying out the purpose of the Act or to give effect to any of its provisions. A perusal of the Circular dated 22.09.2022 clearly indicates that the same is not issued to institutions and is addressed to the University. Secondly, the same is not issued by the Government as defined in Section 3(j) of the Act of 2007. Therefore, the Circular dated 22.09.2022 cannot be considered to have been issued under Section 17 of the Act of 2007.

69. In view thereof, it is held that the Circular dated 22.9.2022, in the absence of being issued by the Government, as defined in Section 3(j) of the Act of 2007, cannot be considered to have been issued under Section 17 of the Act of 2007.”

26. The afore-noted Paras-68 & 69 of the impugned judgment makes it clear that the learned Single Judge is in agreement that the Circular dated 22.09.2022 is in contravention of provisions of Section 17 of the Act of 2007.

27. Further, as per Notification No. F.DHE.4(33)/2006-07 dated----, 2007 issued by Government of National Capital Territory of Delhi, the procedure for admission under the Management Quota was notified as under:-

“(2) (i) Management Quota. – (i) The Chairman or



Secretary of the highest Management body of the institution shall furnish an affidavit to the designated agency, mentioning therein that they have followed the procedure laid down in the Act and these Rules in a transparent manner and that they have done so without any prejudice or undue favour. Such an affidavit shall accompany the list of successful candidates under Management Quota to be lodged with the University in the manner laid down in sub-clause (viii).

(ii) The institution shall advertise the admission notice for Management Quota seats in at least two leading daily newspapers, one in Hindi and the other in English in addition to displaying the same on the institution's website and the institution's notice board kept at a conspicuous place. The admission notice shall be displayed at least a fortnight before the last date for closing of admission for the concerned course in the University and shall include therein information necessary for the students seeking admission to Management Quota seats. The admission notice shall include therein the place from which admission forms will be available, the date, time and manner for submission of completed applications and the schedule for various admission processes and counseling. Prospective applicants shall be given a period of at least eighteen days to apply for seats under the Management Quota, in the aforementioned manner.

(iii) While calculating the Management seats, fraction less than 0.7 shall be ignored and above that converted into one full seat.

(iv) Based on the aggregate marks obtained by qualified applicants at the qualifying examination,



the institution concerned shall prepare and display the rank ordered merit list of such applicants on the institution's website and notice board kept at a conspicuous place of the institution within two days of the closing date for receipt of the Management Quota applications. The criteria for rank ordering of applicants with a be in the qualifying examination's aggregate marks shall be the same as those laid down in the admission brochure or as laid down by the designated authority.

(v) Based on the merit list so drawn up the institution concerned shall conduct admission counseling for allotment of branches/courses to qualified applicants within a period of three days of drawing up of the merit list of qualified Management Quota applicants. Such admission counseling will, however, be subject to the condition that there shall not be more than two rounds of counseling. The list of applicants who will be called for a given round of admission counseling shall be displayed on the institution's website and notice board, kept in a conspicuous place.

(vi) Following the conduct of admission counseling, the list of applicants admitted to the Management Quota seats made on the basis of the merit list drawn up in the afore-mentioned manner and the balance of the Management Quota seats in each course shall be published at the end of each round of counseling on the website of the institution as well as that of the designated agency. A copy of such list shall be displayed on the notice board of the designated agency as well as that of the institution kept at a conspicuous place for the information of the candidates and others. The list of the candidates being called for the first round of counseling shall be displayed in the afore-



mentioned manner along with the merit list, indicating therein the date, time and place at which the counseling will be held. The date, time and place of the second round of counseling will be displayed along with the list of candidates admitted in the first round of counseling. “

28. This Court has perused the copies of communication No. GGSIPU/Registrar/Misc/2018 dated 07.02.2019 and communication No. F.No.GGSIPU/ Registrar/ Misc./2019/323 dated 04.09.2019 placed on record, whereby respondent No.2-University had recommended to respondent No.2 that since a number of institutes are affiliated with the University and multiple programmes are offered, it was desirable that the Management Quota applications are filled in online mode only.

29. The learned Single Judge vide impugned judgment has observed that a delicate balance between Article 19(1)(g) and 19(6) of the Constitution of India has to be maintained. On this aspect, the learned Single Judge has observed as under:-

“In view of the aforesaid discussion, this Court holds that the impugned Circular does not restrict or curtail any fundamental rights of the private institutions. The said Circular merely seeks to achieve the same object as is sought to be achieved specifically by proviso to Section 13 of the Act 2007 i.e to ensure filling up of Management Quota Seats in a transparent and non-exploitative manner. The impugned Circular, therefore, cannot be held to be violative of the fundamental right guaranteed under Article 19(1) (g) nor is the same contrary to the Act or the Rules made there-under. The challenge to the validity of the impugned Circular, is therefore, declined.”



30. The stand of appellant before this Court is that the procedure to fill Management Quota vacancies through offline mode have been continuing for the last 25 years as stipulated in the 2007 Act and Rules. The procedure prescribed with regard to notification of availability of Management Quota vacant seats in the college and process of admission and intimation with regard to filling up of seats has always been given to the University as prescribed under Rule 8(2). During the course of hearing learned senior counsel appearing on behalf of appellant fairly submitted that there is no objection to filling up of Management Quota vacancies by online mode, however, as per applicable Act and Rules the direction has to be given by the Lieutenant Governor of Delhi and not by Government of NCT of Delhi.

31. In the considered opinion of this Court, Rule 8(2)(a) elaborately sets out the entire procedure for admission under the Management Quota, including advertisement and preparation of pre-counselling merit list, process of counselling, preparation of merit list etc and it has not been disputed by the respondents that for the session 2022-23, the appellant had not followed the aforesaid procedure. The Act and Rules of 2007, which have been in operation with regard to filling of seats under the Management Quota, were formulated to protect the rights under Article 19(1)(g) of the Constitution of India. Further, the learned Single Judge, with regard to formation of MQAMC has observed that the Act of 2007 stipulates that an ARC has to be constituted. The observations of the learned Single Judge on this aspect are as under:-



“174. The fifth question raised by the Petitioner-institution is that there cannot be any committee in the name of MQAMC as has been constituted in Circular dated 22.09.2022. The Act of 2007 stipulates an ARC to be constituted as per Section 4 of the said Act.

175. A perusal of the provisions of Section 4 clearly indicates that wide powers have been conferred to this committee to ensure not only the conduct of a CET in a fair and transparent manner but also to regulate the procedure of admission to institutions. The same consists of a person retired from a post not less than the Secretary of the Government as the Chairperson; a doctor or an engineer of eminence; a person prominent in the field of education; one of the Vice Chancellors of a University or his representative; Secretary of Department of Technical Education; and Secretary of Department of Health, are the Members. The Secretary, Department of Higher Education would be the ex-officio member. There can be an additional person who can be notified by the Government to be the member. In terms of Section 4(13), the ARC can hear complaints against the institutions with respect to any contravention of guidelines suggested by the said Committee and adopted by the Government during the admission process. The Committee is also empowered to recommend the cancellation of any admission if, in the opinion of the Committee; the admission has been made in violation of any provisions of the Act or the guidelines suggested by it. The Committee is empowered with the power of a civil Court under the Code of Civil Procedure with respect to certain matters as envisaged under Section 4(13).

176. Section 14 of the Act further provides that any admission made in contravention of the provision of the Act or the Rules made thereunder, shall be void.



Sub-Clause (viii) of Rule 8(2)(a) also provides that all admissions made to the Management Quota Seats shall be provisional and will need ratification by the designated agency which will convey its decision within a day of being informed by the institution of the list of successful candidates and the basis of the selection as per the procedure mentioned therein. It is thus seen that there are sufficient mechanisms provided under the Act of 2007 and Rules framed thereunder to deal with a situation where a grievance is raised with respect to the unfair admission process or otherwise.”

32. In the light of aforesaid observations, in the considered opinion of this Court, by making the aforesaid observation, the learned Single Judge has appreciated that the Act of 2007 provide sufficient mechanism with regard to admission process and has therefore, therefore directed that no MQAMC was required to be constituted and its requirement envisaged under the impugned Circular dated 22.09.2022 shall cease to operate. In the considered opinion of this Court there is no infirmity in this opinion rendered by the learned Single Judge and it not even challenged before this Court. The appellant is aggrieved with the directions to display online the seats available under the Management Quota and admission on merit basis.

33. This Court is in concurrence with the appellant that the directions enshrined in the impugned circular are not by the competent authority i.e. the Lieutenant Governor of Delhi, however, we find that to ensure fair mechanism to fulfil the Management Quota seats available under different branches of private self funded institutions, affiliated to respondent No.3-



University, fair procedure has to be adopted.

34. We hereby dispose of the present appeal upholding the following directions notified in the circular dated 22.09.2022 with partial modification that besides online mode, the candidates shall also be eligible to apply in “offline mode” for Management Quota seats. The directions are as under:-

- “i) GGSIP University to make an online portal to display the branch-wise college wise seats available under Management Quota*
- ii) Prospective students can apply online as well as offline against available seats under Management Quota*
- iii) The college shall display the list of aspirant admission seekers on the online portal as well as on the notice board of the college*
- iv) The college shall prepare common merit wise list of candidates who have applied through online and offline mode*
- v) The merit list college wise shall be published online”*

35. In view of the above, the respondents are directed to issue necessary orders to comply the above directions within two weeks. It is made clear that these directions shall cease to follow for the session 2022-23 and the seats already filled till 2022-23 under the Management Quota by colleges for different branches shall not be disturbed.

36. It is also made clear that this Court has not touched upon the issue of formation of MQAMC which has not been challenged before this



Court and so, the opinion rendered by the learned Single Judge shall remain in force.

37. The appeal and pending applications are accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 04, 2023

rk/r