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

+ W.P. (C) 3411/2020, C.M. Nos.12111/2020

NATIONAL FEDERATION OF THE BLINDPetitioner

Through: Mr. S.K. Rungta, Senior Advocate
in person

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Vivek Goyal, CGSC, for
respondents No. 1 and 4
Mr. Mohinder Rupal, Mr. Sumit
Paral, Advocates for respondent
No.2-University of Delhi
Mr. Apoorv Kurup and Ms. Nidhi
Mittal, Advocates for respondent
No.3-UGC
Prof. Vinay Gupta, Dean
(Examination)

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **17.06.2020**

[VIA VIDEO CONFERENCING]

W.P. (C) 3411/2020 & C.M. No.12111/2020 (for stay and directions)

1. This order is in continuation of the orders dated 9th June, 2020, 12th June, 2020 and 15th June 2020.
2. The senior counsel for the petitioner, appearing in person, at the

outset states that after 12th June, 2020, no attempt even has been made by the respondent No. 2 Delhi University (DU) to address the various issues facing the visually impaired students. He thus states that the petition be heard finally today itself.

3. The petition otherwise seeks the reliefs of, (i) impugning the Notifications dated 30th May, 2020 and 1st June, 2020 of DU notifying the conduct of open book examination for final semester/term/year students of all UG and PG programmes respectively, for the academic session 2019-2020; (ii) mandamus to DU to assess the performance of visually impaired and other students with disabilities, of final semester/term/year for academic session 2019-2020, on the basis of their performance in the previous semester as well as internal assessment, on the same basis as has been decided to be done for other intermediate semester students; (iii) mandamus to DU to permit visually impaired and other students with disabilities of final semester/term/year of both UG and PG programmes, to appear in the entrance test for the course/programmes of their choice and grant them admission provisionally for academic session 2020-2021, if their results are not declared by the time the admission process is commenced.

4. We have enquired from the senior counsel for the petitioner, whether not, for considering the grant of the aforesaid reliefs claimed in the petition, it is essential to call for the counter affidavit of the respondents.

5. Though the senior counsel for the petitioner contends that there is

possibly nothing which the respondents can say in their counter affidavit, but we do not agree. The reliefs as claimed cannot be considered without granting an opportunity to file counter affidavit.

6. As far as the last of the reliefs claimed in the petition is concerned, DU has already stated, as recorded in the order dated 9th June, 2020, that the visually impaired students would be permitted to appear in the entrance tests for various programmes for the academic session 2020-2021, subject to declaration of the result of final semester/year/term examination. Even otherwise, we are informed that the admission process for such programmes is not likely to commence before 27th July, 2020 and before which date, we are hopeful that the petition will be disposed of.

7. We have already, in order dated 9th June, 2020 confined this petition to visually impaired students and again clarify that the reliefs claimed in this petition and the orders made herein, including today, are only with respect to visually impaired students of DU.

8. Counsel for DU, controverting the senior counsel for the petitioner, has contended that nearly all the issues have been resolved.

9. We have enquired from the senior counsel for the petitioner, the approximate cost which will be entailed if the visually impaired students were to themselves, or through the petitioner, make arrangement for the missing text books in accessible form and missing assistive devices. The said question has been asked, to assess, whether we can bind the DU to reimburse to the petitioner or to the students the costs, if any incurred for

procuring text books in accessible form and assistive devices on their own.

10. The senior counsel for the petitioner states that the costs of acquiring text books in accessible form and assistive devices for the visually impaired students of final semester/term/year and who are without the same, will not be more than Rs. 2 lakhs.

11. Considering the amount involved, we are able to confidently assure the senior counsel for the petitioner that costs upto Rs.2 lakhs incurred in making arrangements for devices and textbooks on own would be certainly reimbursed.

12. In the facts and circumstances, as have evolved since 9th June, 2020 when this petition had come up first, we today proceed to pass the following order:

- i. The respondents to file counter affidavit within two weeks of today. It is made clear that no extension of time for filing the counter affidavit shall be granted to any of the respondents, considering the urgency of the matter.
- ii. On such counter affidavit being filed, the petitioner may file rejoinder thereto before the next date of hearing.
- iii. The visually impaired students of final semester/term/year of UG and PG programmes of DU, if able to, even if with difficulties, to endeavour to participate in the open book examination announced by the Delhi University and

commencing from 2nd July, 2020 and if such students procure any text books in accessible form and/or assistive devices, as aforesaid, costs upto total of Rs.2 lakhs shall be reimbursed to them.

- iv. As and when a second round of open book examination is held, which as per the University is to be held in September 2020, the visually impaired students, even if have participated in the open book examination commencing from 2nd July, 2020, would be again entitled to appear in such examination, including to improve their score in the said examination.
- v. The visually impaired students may approach their respective institutes/colleges for any assistance required, including provision of reading material/text books in accessible form and assistive devices. Upon any student so approaching the Institute/College of DU, the said Institute and/or College is directed to supply the reading material/ text books in accessible form and the assistive devices.
- vi. If any student approaches the respondent No. 2 DU for assistance in arranging a scribe, to enable the visually impaired student to take their examination, DU to also make best efforts for arranging for such scribe/scribes.
- vii. Merely because the visually impaired student/s participate in the open book examination scheduled to commence from 2nd

July, 2020, would not disentitle them to the relief if ultimately granted in this petition, as claimed therein, i.e. of assessment on the basis of performance in the earlier semester and /or on the basis of internal assessment.

- viii. The respondent No. 2 DU and all its affiliate institutes/colleges are directed to, notwithstanding the aforesaid, as and when approached by any visually impaired student/s for any assistance, to render all such assistance and in the event of any such assistance being denied, such visually impaired student/s may contact Prof. Vinay Gupta, Dean (Examination) of DU in that respect.
- ix. DU shall remain bound by all the concessions given during the hearing of this petition on earlier dates as well as the concessions contained in the written submissions made by DU.
13. List on 13th July 2020.

RAJIV SAHAI ENDLAW, J.

ASHA MENON, J.

JUNE 17, 2020

pkb/s