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

Date of decision: 2nd April, 2019

+ W.P.(C) 8619/2018

SHREYA TULI

..... Petitioner

Through: Mr. Abhinav Dang, Adv. with
Ms. Kanika Jain, Adv.

versus

NATIONAL INSTITUTE OF FASHION

TECHNOLOGY, DELHI AND ORS.

..... Respondents

Through: Mr. Swetank Shantanu,
Mr. Pratap Shanker and
Ms. Shilpi Shrivastava, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

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J U D G M E N T (O R A L)

1. The petitioner, who was pursuing the final semester of her bachelor's degree course in fashion and lifestyle accessory design with the National Institute of Fashion Technology, Delhi (hereinafter referred to as "the NIFT"), was required to work off-campus on a project under the guidance of the NIFT faculty and submit the project for appraisal as part of the prescribed curriculum. Guidelines for the internship, to be undertaken by the candidates, including the petitioner, were contained in an undated circular, issued by the Department of Fashion and Lifestyle Accessory Design, of the NIFT, annexed as Annexure P-2 to the writ petition.

2. In accordance with the above requirement, the petitioner applied to various design studios in India and abroad for her project and undertaking internship. She was accepted as an intern by the Bihain Design and Architecture Studio in Belgium (hereinafter referred to as “Bihain”), and by M/s Dolphin Creations Limited, in India (hereinafter referred to as “Dolphin”). The Bihain being a prestigious Design and Architecture Studio in Belgium, the petitioner decided to intern with it and intimated the NIFT, accordingly, *vide* e-mail, dated 4th October, 2017. As the acquiring of a Visa for travelling to Belgium, to undertake the afore-said internship with Bihain, was taking time, the petitioner, purportedly “by way of abundant Caution and to make use the period in India” joined Dolphin, in India, on 11th December, 2017, and commenced work on her project.

3. The writ petition avers that the petitioner was unable to secure a Visa for travelling to Belgium in order to take up internship with Bihain, and that, on this fact been brought to the notice of a course coordinator in the NIFT, she was informed that, as she had intimated the NIFT that she would be undertaking internship with Bihain, she could not change her internship to Dolphin midway.

4. The petitioner submits that this created a sense of panic in her, as it meant that she would not be able to graduate, or submit her project under internship with Dolphin, which would result in her losing the academic year as well as opportunities for further admissions to the colleges to which she had been selected. This, according to the petitioner, resulted in her misrepresenting, to the

NIFT, on 9th March, 2018, that she was interning with Bihain in Belgium, whereas she was actually interning with Dolphin in India.

5. Smelling a rat, as it were, the jury of the NIFT required the petitioner to provide details of her travel including her tickets, a copy of her passport and a copy of her Visa, to the jury, consequent on her return to Belgium, and also required the petitioner to submit her graduation project confirmation, along with the e-mail id of her mentor. She was asked to report, to the AD Department of the NIFT on 27th March, 2018, with all original papers.

6. At this stage, the petitioner addressed an e-mail, to the NIFT, apologizing for having misrepresented the fact that she was interning with Dolphin, and making it appear that she was interning with Bihain in Belgium.

7. The matter was, apparently, put up before the Local Advisory Standing Committee (LASC) in the NIFT on 27th March, 2018, which examined the matter in the context of Rule D2.10 and D2.12 of the students' Rule Book and, *vide* letter, dated 2nd May, 2018, conveyed, to the petitioner, its decision to permanently expel her from the NIFT.

8. The NIFT also refused to accept the graduation project of the petitioner, submitting under internship with Dolphin.

9. An appeal was preferred, by the petitioner, against the afore-

mentioned decision, dated 2nd May, 2018, of the LASC, under Rule D5.5 of the NIFT Rules, before the Directorate of General, NIFT. *Vide* order dated 19th July, 2018, the Directorate of General, NIFT rejected the said appeal. The said decision was communicated to the petitioner by the Head of Academic Affairs of the NIFT *vide* the impugned communication, dated 19th July, 2018.

10. In view of the fact that the petitioner has acknowledged the lapse, committed by her, in the pleadings in the writ petition, there is, obviously no scope for any interference with the impugned decisions, insofar as the findings of facts, therein, are concerned.

11. Having said that, however, clause D5.2 of the Rules and Regulations applicable to the NIFT, which deals with the penalties for major disciplinary violations, and admittedly under which the petitioner has been permanently expelled from the NIFT, reads thus:

**“D.5.2 PENALTIES FOR MAJOR DISCIPLINARY
VIOLATION:**

Where the violation is considered to be major by the Competent Authority the following penalties may be imposed for the major disciplinary violations:

- a) Suspension / debarment from the Institute where the student will be declared 'persona-non-grata' and will be debarred from entering the premises, facilities and from attending the classes.
- b) Permanent expulsion from the institute
- c) Any other course of action which may be reasonable in the circumstances”

12. Even in cases of major disciplinary violations, therefore, permanent expulsion from the NIFT is not an inevitable sequitur. Rather, the competent authority is granted practically unlimited discretion to decide on the punishment to be imposed on the delinquent student, which could range from suspension/debarment from the institute, to declaring the student *persona non grata* to permanent expulsion, or “any other course of action which may be reasonable in these circumstances”.

13. The learned counsel for the petitioner has contended that his client was not given an opportunity of hearing, either by the LASC, before passing of the order, dated 2nd May, 2018 or by the DG, NIFT, before passing of the order dated 19th July, 2018.

14. Learned counsel for the respondent fairly submits that, from the record, before this Court as well as instructions obtained from his client, this appears to be the correct position, inasmuch as the records clearly disclose that the petitioner was not heard by the DG, NIFT, before passing of the order, dated 19th July, 2018, and insofar as the order dated 2nd May, 2018, is concerned, all that is forthcoming on record, is that the petitioner was present in person with her father, before the course coordinator of the NIFT on 27th March, 2018, whereafter the file put up/presented before the LASC. The recital, therein, in the impugned appellate order, dated 19th July, 2018, merits reproduction thus:

“9. Appellant along with her father reported to NIFT on 27th March. 2018 and confessed in writing that she

lied about her GP, and created email id for communication. She has also tendered her apology to Mr. Michael Bihain via email dated 27.03.2018. That the case was placed before LASC held on 27th March, 2018 which was examined under rule D.2.10 and D.2.12 of Student Rule Book which deals with conduct which constitutes a criminal offence.

10. The NIFT Academic Manual, provision 5.5 for 'Penalties for major Disciplinary Violation' provides that "Where the violation is considered to be major by the Competent Authority the following penalties may be imposed for the major disciplinary violation:

i) Suspension/debarment from the Institute where the student will be declared 'persona-non-grata' and will be debarred from entering the premises, facilities and from attending the classes.

ii) Permanent expulsion from the institute.

iii) Any other course of action which may be reasonable in the circumstances."

11. Taking into consideration the gross misconduct and criminal offence committed by the Appellant, the LASC unanimously opined and recommended that major penalty of "Permanent expulsion" from the Institute may be imposed. Accordingly, with the approval of the Competent Authority, a penalty of permanent expulsion was imposed on the Appellant, Ms. Shreya Tuli."

15. It goes without saying that the authority which took decision, to the prejudice of the petitioner, ought to have heard her prior thereto. Such hearing, needless to say, would have to be limited to the issue of quantum of punishment, as there can be no question of the petitioner being permitted to reopen the entire issue on facts, given the candid

admission, by her, even in the pleadings before this Court. The petitioner would, however, be undoubtedly entitled to try and convince the concerned authorities to award her a lesser punishment than the punishment of permanent expulsion from the NIFT, which stands awarded to her.

16. Learned counsel for the petitioner requests that the petitioner be permitted an audience before the LASC in the NIFT, so that she is able to put up a plea for reduction of punishment.

17. Without intending this order to be an expression of opinion, in any manner, one way or the other, regarding the said plea, or the legitimacy thereof, I am of the opinion, that in the interests of justice, the petitioner deserves to be granted an opportunity to present herself before the LASC, and advance submissions for reduction of punishment.

18. Needless, to say, such submissions, if advanced, would be considered by the LASC on its own merits, and nothing contained in this order would influence the LASC in that regard.

19. In the event of the decision being adverse to the interests of the petitioner, the subsequent rights of the petitioner, by way of further appeal, against the said decision, needless to say, would stand reserved.

20. For this purpose, the petitioner is directed to present herself

before the LASC on 10th April, 2019, on any other date as would be communicated by the NIFT, on the petitioner's e-mail id, being shreyatuli@hotmail.com, as submitted by the learned counsel for the petitioner in Court today.

21. With the above observations, this writ petition stands disposed of with no orders as to costs.

Dasti.

C. HARI SHANKAR, J

APRIL 02, 2019

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