

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

+ **W.P.(C) 3454/2020**

Date of decision: 29.06.2020

IN THE MATTER OF:

BALVINDER SANGWAN & ORS. Petitioners
Through: Mr. Neeraj Kishan Kaul, Senior
Advocate with Mr. Nipun Saxena and Mr. Akash
Lamba, Advocates

versus

STATE (GNCT) OF DELHI THROUGH CHIEF SECRETARY &
ORS. Respondents

Through: Mr. Ramesh Singh, Standing Counsel,
with Ms. Tara Narula, Ms. Bhawna Kataria and
Ms. Nupur Agrawal, Advs. for R-1/GNCTD.
Mr. Sanjay Vashishtha and Mr. S. D. Sharma,
Advocates for R-3/NLU.
Mr. Naman Joshi, Advocate for the applicant in
CM APPL. 13470/2020, newly impleaded as a
co-respondent.

AND

+ **W.P.(C) 3170/2020**

PIA SINGH Petitioner
Through: Mr. Nishant Khatri, Advocate

versus

NATIONAL LAW UNIVERSITY DELHI Respondent
Through: Mr. Sanjay Vashishtha and Mr. S. D.
Sharma, Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUSTICE SUBRAMONIUM PRASAD, J.

CM APPL. 12255/2020 in W.P.(C) 3454/2020 and CM APPL.11026/2020 in W.P.(C) 3170/2020 (by the petitioners for stay)

1. Writ Petition No.3454/2020 challenges the Admission Notification dated 14.01.2020 and the Admission Guidelines issued by the National Law University, Delhi for admitting students to the BA LL.B (Five Year Programme) and LL.M (One Year Programme), providing therein 50% horizontal reservation to candidates who have passed the qualifying examination from a recognized school/college/institute located within the NCT of Delhi as being void and *ultra vires* of the National Law University Act, 2007 (in short, 'NLU Act') and in violation of Article 14 of the Constitution of India.
2. The petitioners have further prayed that it be declared that the Government of NCT of Delhi or the Directorate of Higher Education are not empowered or authorised to interfere in the administrative and functional autonomy of the National Law University, Delhi. They have also prayed for a direction to be issued to the National Law University, Delhi to bring in a fresh/revised Admission Notification in conformity with the previous Admission Notification, for making admission in the academic year 2020-21.
3. Writ Petition No.3170/2020 challenges the prospectus released on 15.01.2020 by the National Law University, Delhi for admitting students to

the LLM One Year Programme for the Academic Session 2020-2021 in so far as it provides for 50% reservation for candidates passing the qualifying examination from a recognized school/college/institute situated within the National Capital Territory of Delhi. The petitioner also prays for declaring as unconstitutional, the provision of reservation of 22% seats for OBC and 10% seats for the EWS sections in LLM in the National Law University, Delhi without increasing the overall seats for the academic year 2020-21 as per the guidelines of the Ministry of Human Resources, Delhi.

4. By this order, we propose to dispose of the interim applications for stay of the Admission Notifications dated 14.01.2020, 15.01.2020 and the Admission Guidelines dated 14.01.2020 in so far as they provide for reservation of 50% seats for candidates passing the qualifying examination from a recognized school/college/institute located within the National Capital Territory of Delhi. For the sake of convenience, the pleas taken in W.P.(C) 3454/2020 are being taken into consideration as with the consent of the parties, it was directed that the said petition shall be treated as the lead matter.

5. In exercise of its powers under Entry 25 of List III of the Constitution of India, the respondent No.1, Legislative Assembly of the National Capital Territory of Delhi passed the National Law University Act, 2007 (Delhi Act No. I of 2008) for establishing the National Law University, Delhi.

6. The NLU Act received the assent of the Lt. Governor, Delhi on 16.01.2008. The Preamble of the Act states that a Committee appointed by the Chief Justice's Conference on Legal Education Training (1993)

recommended the establishment of an institution in each State on the model of National Law Research Institute of India, University at Bangalore. The preamble states that in furtherance of this object, NCT of Delhi and the Delhi High Court have taken unto themselves the complete project of developing an integrated complex and running the National Law School at Delhi as a National level educational institute of excellence in the field of legal research in the NCT of Delhi.

7. The Object of the University established under the NLU Act amongst others, is to fulfil and impart comprehensive legal education including distant and continuing legal education at all levels, to achieve excellence, to organise advanced studies in the field of law, promote research in all branches of law, to disseminate legal knowledge and legal processes and play a role in national development by organising lectures, seminars, symposia, workshops and conferences.

8. The Chancellor of the University is the Chief Justice of the High Court of Delhi. The Chief Justice of India or his nominee who is a Judge of the Supreme Court is the Visitor of the University. The Visitor of the University presides over the convocations of the University and the meetings of the Governing Council. The Governing Council is the Supreme Authority of the University comprising of the Chancellor (the Chief Justice of the Delhi High Court), the Vice-Chancellor, who is appointed under the NLU Act, two sitting Judges of the High Court of Delhi, nominated by the Chief Justice of the Delhi High Court, a former Judge of the Delhi High Court, nominated by the Chief Justice of the Delhi High Court, Chairman of the Bar Council of India or his nominee from amongst the members of the

Bar Council of India, Chairman, Bar Council of Delhi or his nominee from amongst the members of the Bar Council of Delhi, two pre-eminent persons in the disciplines of Social Sciences and Humanities nominated by the Chancellor, two pre-eminent person in the legal and educational fields nominated by the Chancellor, the Chief Secretary, Government of National Capital Territory of Delhi, the Principal Secretary, Finance, Government of National Capital Territory of Delhi, The Secretary, Higher Education, Government of National Capital Territory of Delhi and the Principal Secretary, Law, Justice and Legislative Affairs, Government of National Capital Territory of Delhi. The Governing Council is the plenary authority in the University which formulates and reviews from time to time, the broad policies and programmes of University and devises measures of improvement and development of the University.

9. Apart from the Governing Council, there is an Executive Council comprising of the Vice-Chancellor of the University, the Chairman of the Bar Council of India, or his nominee from amongst the members, the Chairman, Bar Council of Delhi, or his nominee from amongst its members, the Principal Secretary, Finance, Government of National Capital Territory of Delhi, the Principal Secretary, Higher Education, Government of National Capital Territory of Delhi, the Principal Secretary, Law, Justice and Legislative Affairs, Government of National Capital Territory of Delhi, three Professors of Law outside the University nominated by the Chancellor, two teachers of the University to be nominated by the Vice-Chancellors, of whom one shall be among the Professors and one shall be among the associate professors of the University by rotation for a period of one year.

10. The Executive Council is the chief executive authority of the University and has all the powers necessary to administer the University subject to the provisions of the NLU Act and the Regulations. The Executive Council is empowered to manage and regulate finances, accounts, investments, properties, business and all other administrative affairs of the University and for which purpose, it constitutes committees and delegates the powers to officers of the University as it may deem fit. The Executive Council takes important decisions that affects the functioning of the University and also include admission of students. Apart from the Governing Council and Executive Council, the Respondent No. 3/ NLU has an Academic Council which functions under the overall supervision of the Executive Council. It manages the academic affairs of the university. The other authorities of the Respondent No. 3/NLU are the Dispute Redressal Committee and the Finance Committee. The Dispute Redressal Committee has been constituted to redress the dispute that may arise between management and staff, management and students, teachers and students and teachers and management. The Finance Committee examines and scrutinizes the annual budget of the Respondent No. 3 and it makes recommendations on the financial matters to the Executive Council.

11. Prior to the academic year 2020-21, there was no reservation of seats for students of Delhi. The respondent No.3/NLU changed its reservation policy and introduced horizontal reservation of 50% for the Delhi based candidates, who have cleared their qualifying examinations from a recognized school/college/institute situated within the NCT of Delhi. It is

this change in the reservation policy which has been challenged in the instant writ petitions.

12. W.P.(C) No.3454/2020 was initially filed by six persons, three of whom, namely, Balwinder Sangwan, Nida Doon and Shrutanjaya Bhardwaj, petitioners No.1 to 3 respectively, are alumnus of the NLU Delhi. Petitioners No.4 to 6 are current studying in NLU, Delhi. The petitioners state that they have an interest in the functioning of the Institute and therefore are entitled to maintain this petition.

13. On 16.06.2020, when the writ petition came for admission, Mr. Ramesh Singh, learned Standing Counsel (Civil) for the respondent No.1/GNCTD raised a preliminary objection that none of the petitioners have a *locus standi* to file the petition. It was pointed out by Mr. Nipun Saxena, learned counsel for the petitioners that petitioners No.1 to 3 are the alumni but the petitioners No.4 to 6 are students studying in the University and are entitled to pursue the litigation.

14. We had permitted learned counsel for the petitioners to delete the name of the petitioners No.1 to 3 from the array of parties and maintain the petition qua the remaining three petitioners who were directed to be re-numbered as petitioners No.1 to 3. We have been given to understand that the amended memo of parties has been filed.

15. When the matters were being heard on 25.06.2020, it was pointed out to us that one Akash Aryan, who is a candidate seeking admission to the BA LL.B (HONS.) programme in NLU, Delhi has filed an application for impleadment on the ground that he has a direct interest in the issued raised in the present petitions (CM. 13470/2020). The said application was duly

allowed.

16. Mr. N.K. Kaul, learned Senior Advocate appearing for the petitioners would contend that as NLU, Delhi is an Institute of excellence, such an institute cannot reserve seats on the basis of domicile/place of residence or the place from where a student has passed his qualifying examination, such a reservation would be violative of Article 14 of the Constitution of India. Learned counsel contended that the facts of the instant case are different from cases pertaining to admission to Medical Colleges. He would state that the Supreme Court has permitted the policy of reservation on the basis of place of residence framed by various States due to the peculiar circumstances in which the States were placed, like backwardness of the area etc. He would also contend that reservation was permitted because of Article 47 of the Constitution of India which mandates that it is the duty of the State to improve public health which cannot be made applicable to Universities imparting legal education. Mr. Kaul, Senior Advocate also pointed out that even in cases of reservation based on residence for admission to medical colleges, the Supreme Court has frowned upon such policies in the judgement in Jagdish Saran vs Union of India, **(1980) 2 SCC 768** and Dr. Pradeep Jain and Ors. vs Union of India, **(1984) 3 SCC 654** He would contend that for a cosmopolitan city like Delhi, this criteria would not work. He would submit that the decision to reserve seats for students passing the qualifying examination from a recognised school/college/institution situated within the NCT of Delhi for the BA LL.B (Hons.) programme has been taken without placing the same before the Governing Council or the Executive Council. It was his submission that

bypassing the Governing Council and the Executive Council before taking a decision to reserve seats for students who have passed their qualifying examinations from Delhi, is not in accordance with NLU Act.

17. Mr. Kaul, learned Senior Advocate argued that the decision was primarily taken on account of the arm-twisting tactic adopted by the Delhi Government as it had decided not to release funds till the respondent No.3/NLU, Delhi fell in line with the regional reservation policy of the Delhi Government. He would state that it is evident from the correspondence exchanged between the NLU Delhi and the Delhi Government that the latter has been insisting that there should be upto 85% reservation of seats for students who pass out from Delhi. It was canvassed that if 85% seats are reserved, only 7 seats would be left open for unreserved category of students from all over the country. This would result in dissuading brilliant students across the country from applying to NLU, Delhi for admission, thereby bringing down the standard, prestige and reputation of the University and compromising on the merit of deserving students.

18. Mr. Kaul, Senior Advocate particularly referred to the minutes of the minutes of the Governing Council held on 30.12.2019 wherein the issue pertaining to the matter regarding reservation in admission for the students of Delhi was placed before the Council for consideration. After deliberating at length and after taking into account the previous meeting of the General Body on 07.03.2018, the Governing Council resolved to constitute a committee presided over by Hon'ble Justice N V Ramana, Judge, Supreme Court of India to examine the issue. He would state that once a committee comprising of Hon'ble Justice N V Ramana, Chief Secretary of Government

of Delhi, Secretary, Higher Education, NCT Delhi and Registrar, NLU Delhi had been constituted by the Governing Council to look into the matter of reservation for students of Delhi and its recommendations had yet to be placed before the Governing Council for consideration, the respondent No.3/NLU, Delhi could not have bypassed the said Committee and proceeded to reserve seats for students passing qualifying examination from institutions in Delhi. He would state that such a decision is contrary to very spirit of the NLU Act and therefore deserves to be struck down.

19. Our attention has also been drawn to the minutes of the meeting of the Governing Council held on 17.03.2016 wherein the issue regarding increase in the number of sanctioned intake from 80 to 120 seats in BA LL.B (HONS.) and implementation of OBC reservation with effect from 2018, was considered. The Governing Council had decided to defer the matter till the infrastructure of the University was increased. Our attention was also drawn to the minutes of the meeting at the Governing Council held on 07.03.2018, wherein it was apprised of the delay on the part of the GNCTD in grant of budgetary provisions in respect of various pending projects in the University like construction of staff quarters, studio apartments on additional land that had been allotted to the University. The Governing Council noted that Hon'ble Mr. Justice Sanjeev Khanna, who was the then Chairman of the Building Committee had also apprised the Council about the lack of funds for starting the projects. The Governing Council resolved that the respondent No.1/Government of NCT should expeditiously make provisions for funds for construction to increase the infrastructure at the campus. Mr. Kaul, Senior Advocate pointed out that the

issue regarding reservation for economically weaker section of students had come up in various meetings of the Governing Council and the Executive Council and these decisions had been deferred till funds are infused for expanding the available infrastructure in the campus.

20. We have perused the record of discussion between the Vice-Chancellor NLU, Chief Secretary, GNCTD and the Secretary (Higher Education), GNCTD, held on 23.12.2019, wherein it was informed that till date, NLU, Delhi had not agreed to provide 85 per cent reservation to students of Delhi as is being done by all the other State Universities. The minutes also record that the University must finalise the proposals to provide reservation on priority since the matter has been pending for several years. We have also perused the letter dated 06.03.2020 sent by the Directorate of Higher Education, Government of NCT Delhi to the Respondent No. 3/NLU wherein it has been stated that almost all higher educational institutions of the Delhi Government are providing 85% reservation to students of Delhi and till the time the necessary reservation is provided by the NLU, Delhi Government would continue to provide grant for the basic maintenance and salary expenditure of the National Law University. The Respondent No. 1 and 2/GNCTD in Paragraph No. 8 (i) of its counter has specifically stated that it is not satisfied with Respondent No. 3/NLU providing only 50% reservation and will release the additional funds of Rs. 285 Crores only when the university provides 85% horizontal reservation for Delhi students and till then it will only continue to provide the basic maintenance and salary expenditure.

21. Mr. Kaul, learned Senior Advocate would state that the respondent No.1/GNCTD was persistently exerting pressure on the respondent No.3/NLU, Delhi to implement 85% reservation for students residing in Delhi without discharging the onus that lies on the State to make out a case which would satisfy such a reservation. It was his contention that many students who have completed a substantial portion of their education in Delhi but had to leave Delhi due to their parents being transferred out in the final year, would stand excluded on the basis of the criteria of reservation adopted by the respondents. Such students cannot be deprived of a seat in the respondent No.3/NLU just because a miniscule part of their schooling had to be completed outside Delhi for reasons beyond their control.

22. *Per contra*, Mr. Sanjay Vashishta, learned counsel appearing for respondent No.3/NLU, Delhi submitted that Section 20 (7) (g) NLU Act empowers the Vice-Chancellor to take such action as he may deem fit in cases where emergency arises and report the same thereafter for confirmation in the next meeting of the authority. He would state that in exercise of this power, the Vice-Chancellor had taken the decision that reservation must be provided for candidates passing qualifying examinations from a recognised school, college/institute located within the NCT of Delhi and since not much time was left for finalising the admissions for the academic year 2020-21, a decision was taken on these lines. Therefore, it was submitted that the decision has been taken within four corners of the NLU Act and it cannot be said that the provisions of the Act have been violated in any manner.

23. Mr. Ramesh Singh, Standing Counsel (Civil) appearing for the respondent No.1/GNCTD strongly contested the maintainability of WP No. 3454/2020 on the ground that none of the petitioners have the locus standi to maintain the said petition for the reason that they are students studying in NLU and their admission is not being affected. He contended that Respondent No3 / NLU Delhi is not a Central institute of excellence and it is only a State University that came into existence on the basis of the Act enacted by the Delhi legislature. It was also contended that no student who intends to apply for admission in respondent No.3/NLU, Delhi has challenged the Notification or the admission prospectus and the reservation which is being extended to regional students will not prejudice the interests of the petitioners and, therefore, the said petition should be dismissed on the ground of maintainability.

24. It was argued on behalf of the GNCTD that none of the petitioners can challenge the increase in the number of seats within the available infrastructure for the reason that the already admitted students who are residing in the hostels have not been asked to leave the hostel. The only change is that the students, who are granted admission on the basis of 50% reservation would be treated as day scholars and not be extended the benefit of hostel facility. Learned counsel contended that the Supreme Court has upheld regional reservations in a number of cases.

25. Mr. Singh further argued that the State has adopted a policy to provide reservations for candidates passing the qualifying examination from recognised school, college/ institute situated within NCT Delhi and since the Government of Delhi is providing funds to the respondent No.3/NLU, Delhi,

it can certainly lay down the criteria for admissions. Reliance has been placed on Para 9 of Kumari Chitra Ghosh vs Union of India reported as **1969 2 SCC 228** and Para 17 of the judgement of the Supreme Court in Pradeep Jain vs Union of India, **1984 3 SCC 654** to urge that the Supreme Court has upheld the right of the Government which bears the financial burden to run an institution and lay down the criteria for eligibility for admission. He would state that the question of reservation on the basis of residence is essentially a question of policy and such a policy has been upheld by the Supreme Court in various decisions. The interest of the Government is in protecting its policy and it is for the respondent No.3/NLU Delhi to implement the said policy in accordance with law. Therefore, no interference is called for in the present case.

26. We have heard the arguments advanced by Mr. Neeraj Kaul, learned Senior Advocate appearing for the petitioners, Mr. Ramesh Singh, Standing Counsel (Civil) for the respondent No.1/GNCTD and Mr. Sanjay Vashishtha, learned counsel for the respondent No.3/NLU Delhi and given our thoughtful consideration to the issue raised.

27. We may clarify at the outset that at this juncture, since we propose to deal with the interim relief alone, we are not going into the issue as to whether reservation can be provided to students who have taken their qualifying examination from a recognised school, college/institute in Delhi and the extent to which the State Government can intrude into the autonomy of a University created with the object of achieving excellence in the field of legal education and research. These are issues that will be engage this court at the time of final arguments.

28. The petitioners in WP (C) No. 3454/2020 are students of NLU, Delhi and state that they interested in the reputation of the University. This Court can take judicial notice of the fact that the respondent No.3/NLU Delhi has been imparting quality education in the field of law for the past several years and it attracts meritorious students from all over the country. The petitioners cannot be treated as meddlesome interlopers and busy bodies who have nothing to do with the functioning of the University and its prestige. They are also concerned with the increase in the number of seats which is bound to affect the existing infrastructure of the University. In any event, Mr. Akash Aryan, who seeks admission in the University in the academic year 2020-21 has been impleaded as a party in the captioned petition. For the said reason, the preliminary objection taken by Mr. Ramesh Singh, Standing Counsel, GNCTD regarding locus of the petitioners to maintain the writ petition is rejected.

29. Respondent No.3/NLU, Delhi has been established by the National Law University Act. The purpose of bringing out the Act was to encourage establishment of a National level institute of excellence in the field of education and research in the NCT of Delhi. In furtherance to this object, the NCT of Delhi and Delhi High Court took upon themselves the task of completing the project of developing an integrated complex and established the National Law School at Delhi.

30. Section 4 of the NLU Act lays down the objects of the NLU Act. The Chancellor of the University is the Chief Justice of the High Court. A perusal of the Act shows that the Governing Council is the Supreme body which decides on the policies of the University. Section 11 lays down

composition of the members of the Governing Council which has been highlighted in the foregoing paras. Pertinently, the Chief Secretary, NCT of Delhi, Principal Secretary (Finance), Secretary (Higher Education) and the Principal Secretary (Law, Justice and Legislative Affairs) are members of the Governing Council. Section 12 of the NLU Act describes the powers, functions and meetings of the Governing Council. Section 12(1)(a) describes the powers of the Governing Council, which is the plenary authority in the University and formulates and reviews from time to time, the broad policies and programmes of the University and devises measures of improvement and development of the University.

31. The respondent No.1/NCT of Delhi provides funds for increasing the infrastructure of the respondent No.3/NLU. The records placed before us shows that the Governing Council has from time to time been apprised of the problems faced in expanding the infrastructure. The records also show that the issues regarding increase of seats and implementation of reservation of seats for OBCs and other weaker sections of the society was taken up from time to time by the Governing Council and the said issue was deferred due to lack of infrastructure. A perusal of the minutes of the meetings of the Governing Council placed before us indicates that the University was unable to increase the reservation for OBCs and other weaker sections of the society primarily due to paucity of funds required to build on the infrastructure. The minutes of the meeting indicate that the University has been requesting the Delhi Government for funds from time to time.

32. The issue regarding making provision for reservation for students of Delhi was placed before the Governing Council in its meeting dated

13.06.2019. Agenda no. 6 and the decision of the Governing Council reads as under:-

Minutes of the Governing Council 13.07.2019

<i>ItemNo.</i>	<i>Agenda Item(s)</i>	<i>Decision(s)</i>
6	<i>To consider the matter regarding reservation in admissions for students of Delhi</i>	The matter was deliberated at length by the Council including the decision of previous meeting held on 7th March, 2018. After detailed deliberation, the Governing Council resolved to constitute a Committee under the chairmanship of Hon'ble Mr. Justice N. V. Ramana to examine this whole issue with following members: Hon'ble Mr. Justice N.V. Ramana, Judge Supreme Court of India and Visitor, NLU Delhi Chief Secretary, Govt. of NCT of Delhi Secretary, (Higher Education) Govt of NCT of Delhi. Registrar, NLU Delhi. The recommendations of Committee may be placed before the Governing Council for consideration.

33. A perusal of the above meeting would show that the issue as to whether there should be reservation for students of Delhi was pending before the Governing Council. The Governing Council had constituted a Committee under the Chairmanship of Hon'ble Justice N.V. Ramana, Judge, Supreme Court, which included Chief Secretary, NCT Delhi, and Secretary, Higher Education, Government of Delhi and the Registrar, NLU, Delhi. The said Committee was to examine the entire issue and forward its

recommendations to the Governing Council. There is nothing placed on record to demonstrate that any recommendation was placed before the Governing Council, which is the only body constituted under the NLU Act to take decisions on all important matters relating to the University and its functioning. In this scenario, there was no justification for the respondent No.3/NLU, Delhi to have decided to bypass the Governing Council and proceed to reserve seats for candidates passing the qualifying examination from a recognised school/college/institute situated within NCT of Delhi on the strength of the decision of the Vice Chancellor of the Respondent No. 3/NLU which is purported to have been taken in exercise of the power conferred under Section 20(7) of the NLU Act. Section 20(7) of the NLU Act reads as under :

"20. The Vice-Chancellor:-

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(7) The Vice-Chancellor shall:-

- (a) ensure that the provisions of this Act, Statutes and Regulations are duly observed, and he shall have all powers as are necessary for that purpose;
- (b) convene the meetings of the Governing Council, the Executive Council, the Academic Council and shall perform all other acts, as may be necessary to give effect to the provisions of this Act;
- (c) preside over the meetings of the Governing Council in the absence of the Chancellor;
- (d) be the competent authority to appoint the teachers, librarians, finance officer and other officers in consultation with the Chancellor on the recommendations of the selection committee appointed by the Executive Council thereof for that purpose in accordance with the guidelines prescribed;
- (e) be the competent authority to take disciplinary action against the above officers in accordance with the procedure

prescribed;

(f) have all powers relating to the maintenance of proper discipline in the University.

(g) if, in his opinion, any emergency has arisen which requires that immediate action be taken, he shall take such action as he may deem fit and shall report the same for confirmation in the next meeting of the authority which, in the ordinary course, would have dealt with the matter."

On a reading of the aforesaid provision, we are prima facie of the opinion that Section 20(7) does not vest any power on the Vice Chancellor to side step issues which are pending before the Governing Council taking a unilateral decision .

34. The material on record and more particularly, the record of discussions held between the Vice-Chancellor, NLU Delhi with the Secretary GNCTD, Delhi dated 23.12.2019, the letter dated 06.03.2020 sent by the Directorate of Higher Education sent to the Vice Chancellor NLU Delhi and the stand of the Respondent No. 1 and 2 in their counter amply demonstrate that the State has been exerting pressure on the respondent No.3/NLU Delhi to provide reservation to the extent of 85 per cent for students of Delhi on the premise that the same was being done in all the State Universities in Delhi. Even the 50% horizontal reservation made by the respondent No.3/NLU, Delhi has not gone down well with the respondent No.1/GNCTD, who is insisting on 85% reservation for students of Delhi.

35. *Prima facie* it appears that the Governing Council which under the Act, is the authority empowered to formulate and review the broad policies of the University from time to time, has been completely bypassed. The

issue of providing reservation for students belonging to Delhi was pending before the Governing Council that had constituted a Committee headed by a high constitutional authority specifically for this purpose and the said Committee has not yet placed its recommendations before the Governing Council to enable it to take a decision as to whether reservation ought to be provided in such a case or not.

36. As stated earlier, the Chancellor of the University is the Chief Justice of High Court of Delhi and the Governing Council consists of two sitting Judges of the High Court of Delhi. The Committee which has been constituted by the Governing Council is headed by none other than a sitting Judge of the Supreme Court. Once the Governing Council had decided to constitute a Committee to look into the procedure that may be followed on the issue of providing reservation for candidates clearing the qualifying examination from institutes situated in Delhi, there was no occasion to side step the Committee and the Vice-Chancellor could not have decided the issue without approaching the Governing Council for appropriate sanctions. It appears that the respondent No.3/NLU, Delhi succumbed to the pressure that was being constantly exerted by the respondent No.1/GNCTD only to buy peace and without awaiting the recommendations of the Committee constituted by the Governing Council. When the Governing Council is the Supreme Body and the Statute vests powers on it to take all policy decisions relating to the University, it is incomprehensible as to how the Council could be side-stepped and the impugned Admission Notification dated 14.01.2020 and the Admission Guidelines be issued providing for horizontal reservation.

37. Even otherwise, this Court is of the opinion that there was no tearing hurry for the respondent No.3/NLU, Delhi to have reserved seats for the academic year 2020-21. The existing policy could have been continued till the Governing Council took a decision on the issue upon receiving the recommendations of the Committee constituted by it. *Prima facie*, the impugned decision in violation of the Act.

38. It is well settled that when a statute provides for a thing to be done in a particular manner, it has to be done in that manner only. The Supreme Court in Deepak Babare Vs. State of Gujarat **2014 3 SCC 502** has observed as under:-

*“61. It is well settled that where the statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. This proposition of law laid down in **Taylor v. Taylor [(1875) LR 1 Ch D 426 at p. 431.]** was first adopted by the Judicial Committee in **Nazir Ahmad v. King Emperor [(1935-36) 63 IA 372 : (1936) 44 LW 583 : AIR 1936 PC 253]** and then followed by a Bench of three Judges of this Court in **Rao Shiv Bahadur Singh v. State of Vindhya Pradesh [AIR 1954 SC 322 : 1954 Cri LJ 910]**. This proposition was further explained in para 8 of **State of U.P. v. Singhara Singh [AIR 1964 SC 358 : (1964) 1 Cri LJ 263 (2)]** by a Bench of three Judges in the following words: (AIR p. 361)*

*“8. The rule adopted in **Taylor v. Taylor [(1875) LR 1 Ch D 426 at p. 431.]** is well recognised and is founded on sound principle. Its result is that if a statute has conferred a power to do an act and has laid down the method in which that power has to be exercised, it necessarily prohibits the doing of the act in any other manner than that which has been prescribed. The principle behind the rule is that if this were not so, the*

statutory provision might as well not have been enacted.”

*This proposition has been later on reiterated in **Chandra Kishore Jha v. Mahavir Prasad [(1999) 8 SCC 266]**, **Dhanajaya Reddy v. State of Karnataka [(2001) 4 SCC 9 : 2001 SCC (Cri) 652]** and **Gujarat Urja Vikas Nigam Ltd. v. Essar Power Ltd. [(2008) 4 SCC 755]**”*

39. In our opinion, the decision for providing horizontal reservation has been taken by the respondent No.3/NLU, Delhi in haste without acting in accordance with the NLU Act. We are of the opinion that if the impugned notification is not stayed, grave prejudice would be caused to the students who would be applying for admission in the respondent No.3/NLU, Delhi for the academic year 2020-21. In fact, staying the operation of the impugned notification insofar as horizontal reservation of seats for students belonging to Delhi has been provided for the academic year 2020-21, would result in inviting a larger section of students. In the course of submissions, it was brought to our notice that as against 24,000 applications for admission received by the respondent No.3/NLU, Delhi last year, this year, the number of applications have dwindled to 18,000 (approx.). This significant reduction in the number of applications received by the respondent No.3/NLU, Delhi, is a telling comment on the change made in the admission policy for the academic year 2020-21.

40. The petitioners have therefore been able to make out a *prima facie* case in their favour. The balance of convenience lies in staying the operation of the impugned notification insofar as it provides for horizontal reservation to the extent of 50% for candidates who have passed the qualifying

examination from a recognized school/college/institute situated within the NCT of Delhi. *Status quo ante* as of the previous academic year shall be maintained for making admissions to the BA LL.B (Five Year Programme) and LL.M (One Year Programme) in NLU, Delhi, for the academic year 2020-21. The respondent No.3/NLU is directed to issue a public notice on or before 02.07.2020, informing the public at large about the decision taken above and granting a further period of one week from the date of issuance of public notice to enable interested candidates to submit their applications for admission. The redrawn schedule will not interfere with the entrance examinations that are to take place in August 2020. The order passed shall also be uploaded on the website of the NLU, Delhi forthwith.

41. In the result, CM. No. 12255/2020 in WP (C) No. 3454/2020 and CM No. 11026/2020 in WP (C) No. 3170/2020 are allowed and disposed of in accordance with the orders passed above. We hasten to add that the view expressed in this order is *prima facie* in nature and is limited to the interim relief prayed for. The merits of the pleas taken by the parties on all other aspects shall be examined at the stage when arguments are addressed in the writ petitions.

42. This order be uploaded on the website of the High Court today itself.

SUBRAMONIUM PRASAD, J

HIMA KOHLI, J

JUNE 29, 2020

hsk/rkb