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

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Reserved on: 05.09.2024
Pronounced on: 06.09.2024

+ **W.P.(C) 11695/2024**

HARGUN SINGH AHLUWALIA & ORS.Petitioners

Through: Mr. Rishi Malhotra, Senior Advocate with Mr. Ravinder Singh, Ms. Raveesha Gupta, Ms. Ansuiya, Mr. Ritvik Bhardwaj and Mr. Shivansh Maini, Advocates

versus

DELHI UNIVERSITY & ORS.Respondents

Through: Mr. Mohinder J.S. Rupal and Mr. Hardik Rupal, Advocates for R-1/DU

Mr. Sanjay Khanna, Standing Counsel, Ms. Pragya Bhushan, Mr. Karandeep Singh and Mr. Tarandeep Singh, Advocates for NTA/R-2

Mr. Romy Chacko and Mr. A. Mariarputham, Senior Advocates with Ms. Himani Sharma and Mr. Akshat Singh Advocates for R-3



+ W.P.(C) 11837/2024 & CM APPL. 49302/2024

VANYA MALIK

.....Petitioner

Through: Mr. Rishi Malhotra, Sr. Advocate with Mr. Ravinder Singh, Ms. Raveesha Gupta, Ms. Ansuiya, Mr. Ritvik Bhardwaj & Mr. Shivansh Maini, Advs

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Mr. Romy Chacko and Mr. A. Mariarputham, Senior Advocates with Mr. Varun Mudgal, Mr. Kartik Venu, Mr. Himani Sharma, Adv Akshat Singh, Adv Sachin Singh Dalal, Advocates for R-3

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

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SWARANA KANTA SHARMA, J.

THE BEGINNING

1. The Stressful Faces of the candidates before this Court revealed more than the written letters of the petition before it. The case reveals the cliff hanging situation of the candidates, who are the main characters of this case alongwith a college they aspire to study in and a University which allocated them the college to fulfill their dreams. It is unfortunate that the candidates, who have just crossed the threshold of their school education, before stepping in their dream college had to step in the Court premises with a plea that their legitimate claim of admission to the college, having successfully cleared all the eligibility criterias and despite being meritorious, is being denied to them, though there is no fault on their part and due to a seat matrix dispute between the Delhi University and St. Stephens College. The Delhi University supports the petitioners, whereas St. Stephens College defends its stand of not being in a position to grant them admission due to their grievance of allotment of more candidates than permitted under policy of Delhi University.

2. In this background, these writ petitions filed under Articles 226 and 227 of the Constitution of India, on behalf of the petitioners, seek the following identical reliefs:

“(a) writ of mandamus or any other appropriate writ for directing the respondent no.3 to provide one seat to the petitioner for the courses in which they has qualified and accepted by the respondent college;

(b) direct the respondent no 1 to accommodate the petitioner in their next choice of college as per the list of colleges selected by the petitioner in the interim period in view of



academic session commencing from 29.08.2024 to protect their career;

(c) Writ of Mandamus commanding the Respondents to pay the costs of this petition to the Petitioner;

(d) A writ of mandamus commanding the Respondents to pay just and appropriate compensation for the mental trauma inflicted upon the Petitioner...”

3. The respondents arrayed before this Court are as follows: *Delhi University*, through its Registrar, as respondent no. 1; *National Testing Agency* as respondent no. 2; and *St. Stephen’s College, Delhi* as respondent no. 3.

4. This judgment shall govern disposal of both the aforesaid writ petitions, preferred by similarly placed petitioners, which raise similar issues for adjudication of this Court.

FACTUAL BACKGROUND

5. The factual matrix of the case, as outlined by the petitioners, is that the Common University Entrance Test (‘*CUET*’) applications had been made available through respondent no. 2 from 27.02.2024 to 05.04.2024, during which the petitioners had duly applied. In accordance with this, the *CUET* exams were conducted between 15.05.2024 and 24.05.2024, with one rescheduled test held on 29.05.2024 due to certain issues. Following this, the Common Seat Allocation System (‘*CSAS*’) Phase I, for document upload and registration, took place from 01.06.2024 to 07.08.2024. On 28.07.2024, respondent no. 2 had declared the *CUET* results.



6. The petitioners in *W.P.(C) 11695/2024* had obtained the following marks:

Names	Marks Scored
Hargun Singh Ahulwalia	776/800
Aleena Imran	754/800
Gursanjan Singh Natt	770/800
Alok Ranjan Singh	770/800
Nishika Sahoo	740/800
Prisha Tayal	742/800

7. The petitioner in *W.P.(C) 11837/2024* had scored 748 marks out of 800.

8. Thereafter, the Delhi University had issued a press release regarding the Allocation-cum-Admission schedule for Undergraduate admissions, for the Academic Session 2024-25. Further, CSAS Phase-II had commenced from 01.08.2024 to 07.08.2024, requiring students to select their preferred colleges, which the petitioners had duly complied with, by filling in the necessary details of their preferred courses and colleges. The preferences filled by the petitioners in *W.P.(C) 11695/2024* are follows:

Names	Course/ College
Hargun Singh Ahulwalia	B.A Program (History + Philosophy) St Stephen's College
Aleena Imran	B.A (Hons) Economics/ St Stephen's College
Gursanjan Singh Natt	B.A Program (economics + Philosophy) St Stephen's College
Alok Ranjan Singh	B.A Program (English + History) St Stephen's College
Nishika Sahoo	B.A Program (English + Economics) St Stephen's College
Prisha Tayal	B.A Program (economics + Philosophy) St Stephen's College



9. The petitioner in *W.P.(C) 11837/2024* had filled her preference as B.A. Program (English + Political Science).

10. On 16.08.2024, the first list of CSAS allocations was declared, and the petitioners were successfully allocated seats. As per the admission schedule, candidates were required to accept their allocated seats between 16.08.2024 and 18.08.2024, which the petitioners promptly did. Following this, respondent no. 3 i.e. St. Stephens College was to verify and approve the petitioners' online applications between 16.08.2024 and 20.08.2024, with the payment of online fees scheduled for 21.08.2024 by 4:59 PM.

11. However, respondent no. 3 neither approved nor rejected the petitioners' online applications, despite all necessary documents and compliances being duly completed. As a result, the petitioners were unable to pay the online fees and secure their seats at their desired college i.e. respondent no. 3. Furthermore, due to the failure on part of respondent no. 3 to process their applications, the petitioners were also unable to opt for their next preferred college, despite being qualified for the same.

12. Aggrieved by the aforesaid series of events, and fearing that they may lose an entire academic year due to no fault on their part, the petitioners have been compelled to approach this Court by way of these petitions.

Interim order passed by this Court in *W.P.(C) 11695/2024*

13. On 23.08.2024, this Court, after hearing arguments on behalf of the parties, had directed in the interregnum, as follows:



“17. In this Court’s opinion, the petitioners herein were allocated the respondent no. 3 College as college of their preference and choice, as per policy of respondent no. 1 University, after clearing the CUET exam and further clearing all the formalities. They had duly received communication in this regard. While the counselling has commenced and will conclude by 25.08.2024, the online applications of the petitioners has neither been rejected nor accepted by respondent no. 3 till date and their applications are still being reflected as ‘under process’ on the admission portal of respondent no. 1 University.

18. In these peculiar circumstances, without there being any fault on the part of the present petitioners and despite them being meritorious and having cleared all the formalities and tests, are being kept under suspense regarding the fate of their admission. Such circumstances, where their future prospects of studying in the college of their choice are being compromised due to the policy related disputes of respondent no. 1 and respondent no. 3, it will require judicial intervention, in the interest of the petitioners.

19. In view thereof, this Court directs that the petitioners herein will be granted provisional admission in respondent no. 3 College, as per allocation by respondent no. 1 University.

20. Further, also keeping in mind the fact that in case the petitioners do not succeed in this petition, they may lose the prospects of securing admission in the second preference for a college, in case they are not able to deposit the fee as required under the relevant rules, this Court orders that the respondent no. 1 i.e. University of Delhi will open its portal for depositing fee, only for the petitioners herein, tomorrow morning between 10:00 AM to 4:00 PM.

21. This is an interim arrangement to ensure that the petitioners do not lose their chance of securing admission in another college of their choice, in case they do not succeed in the present petition.

22. It is also clarified that this order was passed in the presence of the learned counsels for all the parties for their information.

23. In above terms, the interim application is disposed of.”

Order of the Division Bench passed in LPA 846/2024



14. The order extracted hereinabove was assailed by the respondent no. 3 i.e. St. Stephens College before the Division Bench of this Court, wherein it was directed as follows *vide* order dated 29.08.2024:

“14. Keeping in view the fact that the matter is listed for final hearing before the learned Single Judge, this Court disposes of the present appeal by directing the Respondents to file their counter affidavit/rejoinder affidavit within three working days. The date of hearing before the learned Single Judge is preponed to 4th September, 2024.

15. Till further orders, the Respondents no.1 to 6 shall be at liberty to take admission in their second preference colleges if they so desire in terms of paras 20 and 21 of the impugned order. The Delhi University will facilitate the Respondents no.1 to 6 in this process, if they so desire.

16. Since the final hearing before the learned Single Judge has been expedited and with a view to balance the equities, this Court directs that till the disposal of the writ petition, the Respondents no.1 to 6 shall not attend the classes at the Appellant-college. This Court clarifies that the observations in this order are only for determination of the present appeal. The rights and contentions of all the parties are left open.”

SUBMISSIONS BEFORE THIS COURT

15. These matters were heard at length by this Court on 04.09.2024 and 05.09.2024. The arguments addressed and the contentions raised on behalf of the parties are summarized in the succeeding paragraphs.

Submissions on Behalf of the Petitioners

16. Mr. Rishi Malhotra, learned Senior Counsel appearing on behalf of the petitioners, vehemently argue that a perusal of the emails annexed with the petitions would make it evident that the



petitioners did not leave any stone unturned for ensuring that the respondent no. 3 either accepts or rejects the application of the petitioners. However, the action of respondent no. 3 in neither accepting nor rejecting the applications of the petitioners resulted in hardship and great misery to the petitioners. It is argued that respondent no. 3 neither approved nor rejected the online applications of the petitioners herein despite the same being duly uploaded; all the necessary compliances and approvals being done by the petitioners, as a result of which, the petitioners were unable to pay the online fee and thus, could not secure a seat in their desired college i.e. respondent no 3. It is further submitted that their misery did not come to an end here, as the petitioners could not even opt for their next desired college despite qualifying for the same.

17. It is contended that the stand taken by the respondent no. 3, in its Counter affidavit, is to give an impression that on the premise of increasing 5% seats, the Delhi University had increased intake in BA Program from 24 to 36, which is 50% and not 5%. It is however argued that as per the policy of Delhi University, there was to be a 5% increase in the intake for every program and the BA Program is further divided into 13 different programs, and thus, there will be a 5% increase of intake in each of these 13 separate programs. It is further submitted in this regard that the Single Girl Child quota is also then applicable in each of these 13 B.A. Programs.

18. It is also argued that as per policy of Delhi University, where the 5% increase is a number in fraction, the benefit is to be given to the students by rounding off the number to the next/greater number.



19. It is also submitted that the Bulletin of Information for Admission to UG Programs for Academic Session 2024-25 published by the Delhi University clearly states that once the college and program preference available to an applicant has been freezed by the applicant, the same can never be changed. Thus, the preference list, so selected by the petitioners, cannot be changed. For example, as B.A. (Hons.) Economics was the first choice of petitioner no. 2 in *W.P.(C) 11695/2024*, once the allocation for provisional admission was done by respondent no, 1, all other colleges and program preferences were automatically rendered non-available to her on the CSAS portal, leaving her with ‘no other choice’ whatsoever.

20. It is also contended that the seat allocations have been done by the Delhi University under the various categories strictly as per the seat matrix prepared by the University based on information furnished by respective colleges including that of the mutually agreed 5% excess allotment of seats, program wise. It is submitted that as each program consisting of different subject combinations have different cut off marks and students are awarded program specific degrees after successful completion of the course, every program is treated as a separate entity. Necessary calculations for 5% excess allotment of seats is, therefore, done program wise individually and not as a Single Bloc, which the respondent no. 3 is quoting for the B.A. Program. The same is the case for the ‘Single Girl Child’ category.

21. Therefore, on behalf of petitioners, Mr. Malhotra submits that they are fully entitled to get admission in the respondent no. 3 i.e. St.



Stephens College, and further that their rights should not be violated due to some disputes or miscommunications between respondent no. 1 and respondent no. 3.

Submissions on Behalf of the St. Stephen's College

22. Learned Senior Counsels Mr. Romy Chacko and Mr. A. Mariarputham, appearing on behalf of respondent no. 3 i.e. St. Stephen College, argue that respondent no. 3 College is a Minority Educational Institution established in 1881, administered by the Christian minority under the Church of Northern India. It is contended that the college is entitled to the protection of Fundamental Rights under Article 30 of the Constitution of India, a position recognized by the Hon'ble Supreme Court in case of *St. Stephen College v. University of Delhi (1992) 1 SCC 558*, and further upheld in several judgments of this Hon'ble Court. It is argued that Article 15(5) of the Constitution clearly provides that the State cannot impose its reservation policies on a Minority Educational Institution, even when it is aided. This position was also affirmed in the aforementioned case.

23. It is contended that until 2022, the College conducted admissions by allocating 85% weightage to a student's Class XII marks and 15% weightage to a personal interview. However, for the academic year 2022, the Delhi University adopted the CUET as the basis for admissions. After litigation between the University and the College, it was agreed that 50% of the seats at St. Stephen would be filled based on CUET scores, while for the remaining 50% earmarked



for Christian students, the College would give 85% weightage to CUET marks and 15% weightage to interviews.

24. It is further submitted that for non-minority candidates, the College has been notifying Delhi University of its intake capacity for various courses, allowing students to apply based on their CUET scores. For the current academic year, the permitted intake at the College, excluding supernumerary seats, is approximately 400, distributed across various programs.

25. It is contended that while Delhi University has been allotting students beyond the sanctioned intake for convenience, arguing that some students may not take admission, the College has previously protested such excess allotments. It is submitted that excess allotments lead to minimal vacancies, and the College had requested Delhi University not to allot students beyond the sanctioned intake and after deliberations, it was agreed that excess allotment would be limited to 5% for each program.

26. It is argued that contrary to this agreement, Delhi University allotted more candidates than the permitted intake and exceeded the agreed 5% excess intake. For instance, it is submitted that in the case of petitioner no. 2 in *W.P.(C) 11695/2024* i.e. Ms. Aleena Imran, who had sought admission to the B.A.(Hons.) Economics course under the General Category, the permitted intake was 50 seats, with 50% (i.e., 25 seats) allocated for general category candidates. After considering reservations for SC/ST, 21 seats were available for General Category students. With the 5% excess, Delhi University could have allocated



22 candidates, but instead, it allocated 23 students, exceeding the permitted intake.

27. It is also contended that the College has correctly determined that 5% of 21 seats amounts to 1 seat (rounded from 1.05), whereas Delhi University erroneously rounded 1.05 to 2 seats. It is argued that such rounding is arbitrary, as standard practice dictates that fractions above 0.6 may be rounded to the next number, but not below.

28. It is further submitted that petitioners no. 1, 3, and 4 in *W.P.(C) 11695/2024* are excess candidates allocated to the BA Program, beyond the permitted intake and the 5% excess allotment. It is argued that the permitted intake for the BA Program is 50 seats, with 25 seats allocated under the general category. After accounting for the distribution of Urdu-specific seats, the total number of general category seats was 24, and 5% of 24 equals 1 seat. However, Delhi University allocated 36 candidates to the BA Program, which is arbitrary and excessive. In this regard, it is also contended that despite the BA Program offering multiple subject combinations, it remains a single course, and the intake should reflect this. It is stated that this course was presented as a unified program with a fixed intake of 24 seats under the general category.

29. Regarding petitioners no. 5 and 6 in *W.P.(C) 11695/2024*, who were allocated seats under the Single Girl Child category, it is submitted that the University could only have allotted one candidate under this supernumerary quota for the BA Program. However, Delhi University allocated 10 candidates in this category, which is impermissible and without legal basis. It is further argued that while



there may be a rational justification for reserving seats for male orphan children due to their disadvantaged status, there is no comparable rationale for reserving seats for a single girl child solely because she is the only child of her parents.

Submissions on Behalf of the Delhi University

30. Mr. Mohinder JS Rupal, appearing on behalf of the respondent no. 1 i.e. Delhi University, states that the respondent College ought not to have played with the career of the petitioners by refusing admission when their names were already released by the respondent University in the selected candidates for admission to the Respondent College. It is stated that the College, if aggrieved in any manner about the number of seats released by the University, ought to have taken it before the start of the admission process but not midstream and it is a well laid down principle of law that the goal post cannot be changed once the play has begun. It is also stated that petitioners are few of the most meritorious students able to seek admission in the St. Stephen's College, however, the College is treating them as if these petitioners are non-deserving back door entries.

31. It is argued on behalf of the Delhi University that all admissions to its affiliated colleges, including St. Stephen's College, are governed by the eligibility criteria and seat matrix provided in the Bulletin of Information, as well as the rules and policies outlined in the CSAS document for 2024. It is submitted that St. Stephen's College, being an affiliated college of Delhi University, is also bound to admit candidates allocated through the CSAS online platform. The



University emphasizes that St. Stephen's has been processing admissions solely through the CSAS platform for the past two years, thereby implicitly accepting the binding nature of the Bulletin of Information and CSAS policies.

32. It is further submitted that since the year 2022, the University has allocated extra candidates in all programs during the initial rounds of seat allocation. Specifically, it allocated 20% extra candidates for Unreserved, OBC, EWS, and Minority categories, and 30% extra for SC, ST, and PwBD categories in previous years. It is argued that in 2022, St. Stephen's College, through an email from the Principal dated 19.10.2022, had expressed its willingness to admit 20% extra candidates in the UR category, and even extended this provision to Christian candidates. For the current academic year 2024-25, it is submitted that the University has reduced the extra allocation to 5% at the request of St. Stephen's College. It is further argued that this decision was communicated to all college principals in an online meeting on 07.08.2024, which was attended by the Tutor of Admissions from St. Stephen's. It is contended that the Principal of St. Stephen's College accepted the 5% extra allocation for UR candidates and extended the same provision to Christian candidates.

33. It is further submitted that for the year 2024, St. Stephen's College has offered thirteen B.A. Programs and ten other Programs, and the University allocated 5% extra seats for each of these twenty-three programs. The University asserts that fractional numbers in seat calculations are rounded up in favor of the students, which has been the consistent practice in previous years. It is further contended that,



in 2023, St. Stephen's College admitted more than 20% extra Christian candidates in some programs without any formal approval, violating their own seat matrix. It is also submitted that the College has arbitrarily adjusted the seat matrix in 2024 to accommodate Christian candidates, without justification, after the interview process. Moreover, while the College has allocated extra seats to Christian candidates in certain programs, it is objecting to the admission of non-minority petitioners.

34. The University contends that 6 petitioners, who were allocated seats at St. Stephen's College, secured their admission through the automated CSAS process without any special intervention, based on the established allocation policy. It is argued that the entire admission process is nearing completion, with three rounds scheduled to be finished by 15.09.2024, and classes have already commenced in all programs across colleges. The University submits that the petitioners, who number only six, cannot be held responsible for the current situation and should not be denied admission by St. Stephen's College at this late stage.

35. Finally, it is submitted that the St. Stephen's College is erroneously treating the B.A. Program as a single unit, whereas, according to the seat matrix provided by St. Stephen's itself, there are thirteen distinct B.A. Programs, each with separate seat allocations for Unreserved and Christian candidates. It is argued that the University calculated the 5% enhancement for each program individually, rounding up the numbers where necessary. It is submitted that there was no mistake in the allocation, as this practice



of allocating extra seats in the first and second rounds is consistent with previous years. In fact, despite allocating 20% extra seats in the previous year, vacancies still remained.

36. Therefore, the University argues that the respondent College's claim of over-allocation is incorrect, and any issues arising from admissions are due to the College's own mismanagement, not the University's policy.

Rejoinder Submissions on Behalf of the St. Stephens College

37. In rejoinder, the learned Senior Counsels appearing for respondent no. 3 St. Stephen's College argues that the University's claim that the College admits students based on "whims and fancies" is incorrect. It is submitted that the College is only bound to admit students within the sanctioned intake and has honored the 5% excess allotment as agreed. Learned Senior Counsel also contends that the University's assertion that the Bulletin of Information and CSAS were approved by the Academic and Executive Councils has not been substantiated with relevant documents. Moreover, it is argued that there is a distinction between the Bulletin of Information and CSAS.

38. Regarding the academic years 2022-23 and 2023-24, the College claims that it had protested against the excess allotments during those years, but the University still insisted on admitting students beyond the permitted intake. The College maintains that the issue now is how to calculate the 5% excess. It argues that fractions below 1.5 should not be rounded up, and the College has followed this principle in admitting students. It also asserts that the judgment



in *Fouzia Imtiyaz Shaikh & Anr.* is not applicable, as it involved a different context of 1/3rd reservation for women, whereas this case concerns a fixed 5% excess.

39. The College points out specific examples from the seat allotment, including B.A. (Hons.) English, where 13 seats were offered, of which 1 candidate did not accept admission. It similarly explains allotments for other courses like B.Sc. Physical Science with Chemistry, where excess allotments were made due to vacant seats after the first round of admissions. The College argues that it followed the University's allotment method, rounding up fractions over 0.5.

40. It is further contended that the University's policy regarding the 'Single Girl Child' quota needs adjudication by this Court, particularly on whether each subject combination within the B.A. Program should be treated as a separate program. The College asserts that it admitted one male orphan, one female orphan, and one Single Girl Child, in accordance with the University's policy, and argues that the University's claim of offering 23 programs is incorrect, as the College offers only 11 programs.

41. The College also disputes the University's claim that it did not exceed 5% in its allocations, arguing that in some instances, the University had allocated more than 5%, including in B.A. (Hons.) History and B.A. (Hons.) Economics, where allocations exceeded 20%. The College maintains that the excess Christian admissions were due to these over-allocations by the University.



42. It is submitted that despite the University's excess allocations, the College had followed the correct procedure in filling vacant seats, including shifting candidates between preferred programs when necessary. The College denies allegations of violating the seat matrix and explains that vacant seats in programs like B.Sc. Chemistry and B.Sc. Physics were due to candidates opting for other courses or not attending interviews.

43. Furthermore, it is contended that the University's interpretation of each subject combination as a separate program is incorrect, and the College has consistently treated the B.A. Program as a single unified program, with different combinations of subjects, and argues that these combinations do not constitute separate programs.

44. Lastly, the College argues that the University failed to properly discuss or inform it about excess allocations based on subject combinations, and the agreement was only for 5% excess in each program, not for each combination of subjects. It was also argued that this policy of allocating extra candidates in the initial rounds is itself arbitrary and without any basis.

Rejoinder Submissions on Behalf of the Delhi University

45. It is argued by learned counsel for the University of Delhi, Sh. Mohinder J.S. Rupal, that the University has always shared the Bulletin of Information and the CSAS with all colleges well before the admission process begins. However, it is submitted that St. Stephen's College did not share its Prospectus with the University, preventing the University from being aware of the specific details



mentioned in the College's Prospectus. It is further contended that the CSAS has been consistently included as part of the Bulletin of Information. It is argued that the seat matrix provided in the Bulletin for St. Stephen's College was submitted by the College itself, with the University merely assembling the data. Reference is made to the 'Disclaimer' on page 4 of the Bulletin. Additionally, it is argued that the University communicated the Bulletin and CSAS well in advance, as evidenced by emails dated 14.02.2024, 29.02.2024, and 30.05.2024.

46. Learned counsel further submits that the College's argument challenging the validity of CSAS is baseless, given that St. Stephen's itself directs students to register on the CSAS portal, as stated in its Prospectus. This message appears in multiple places, including pages 2, 8, 12, and 70 of the Prospectus. It is argued that St. Stephen's College, in an email dated 31.08.2024, had attached a 'B.A.P combination-wise allotment' document, treating the B.A. programs as separate entities and forwarding the names of selected Christian candidates. This, according to the University, contradicts the College's claim that the B.A. programs are to be treated as one.

47. It is further submitted that the documents filed by the petitioners show that after the release of the first allocation list, the College did not respond to the University's email directing the College to grant admission to all candidates, including the petitioners. As a result, the petitioners were unable to choose a second college. It is further argued that the case law cited by the College, including *TMA Pai Foundation v. State of Karnataka (2002) 8 SCC 481*, does



not support the College's argument that minority institutions have an absolute right under Article 30. It is sated that the Division Bench of this Court, in *St. Stephen's College v. University of Delhi* 2022 SCCOnline Del 2893, has held that minority institutions do not have absolute autonomy regarding admissions.

48. It is submitted that, during the arguments, the College admitted to making excess admissions for Christian candidates, exceeding the 20% threshold, but sought to justify this by pointing to alleged excess allocations for non-minority candidates in previous years. The University, however, notes that only 5% extra seats were agreed upon for the current year, and any fraction below 0.5 should be rounded up, a practice followed by the University in previous years. Additionally, it is argued that the College has admitted to making unauthorized adjustments to the seat matrix by shifting seats between programs and has admitted more than the allotted number of students in B.A. (Hons.) English, which was done without approval, and no PwD reservation in the Christian category was communicated.

49. The University further submits that, despite the College's detailed arguments, there are still vacant seats in the College even though classes had started on 16.08.2024. It is submitted that this reinforces the rationale for allocating extra seats during the initial rounds, as historically, not all sanctioned seats are filled, even after multiple admission rounds.

50. Lastly, it is argued that St. Stephen's College cannot challenge the admission process as a respondent in a writ petition filed by the students. The College had never raised objections to the admission



process before the present petition, and its current pleas are unsustainable. The University contends that the petitioners should not be deprived of their right to admission, as they followed the proper allocation process through CSAS.

51. This Court has **heard** arguments advanced on behalf of the petitioners as well as respondent no. 1 and respondent no. 3, and has perused the material placed on record by the parties.

ISSUES BEFORE THIS COURT

52. The following five issues have emerged, for consideration and adjudication by this Court, on the basis of the pleadings and the arguments addressed before this Court:

- (1) Whether the thirteen B.A. programs offered by St. Stephen's College should be treated as distinct and separate programs, or as a single unified B.A. program for the purposes of seat allocation/admission under the Christian Minority category and Unreserved category?
- (2) Whether Delhi University could have allocated 5% extra students to the respondent College, which has been challenged in the Additional Counter Affidavit and during Arguments by the respondent College, and whether such an allocation was in accordance with the agreed terms?
- (3) Whether, in determining the 5% extra seat allocation, fractions below 0.5 should be rounded off to the lower side or the higher side?



- (4) Whether this Court has the jurisdiction, in the present petition, to adjudicate the validity and constitutionality of the 'Single Girl Child Quota' as implemented by Delhi University?
- (5) Whether the petitioners should be denied admission to the respondent College despite fulfilling all requirements, solely due to a dispute or misunderstanding between the College and the University, which was beyond the petitioners' control?

ANALYSIS & FINDINGS

Issue No. 1:

Whether the thirteen B.A. programs offered by St. Stephen's College should be treated as distinct and separate programs, or as a single unified B.A. program for the purposes of seat allocation/admission under the Christian Minority category and Unreserved category?

53. At the outset, it is imperative to analyze whether the multiple B.A. programs offered by St. Stephen's College should be treated as distinct Programs or as part of a single B.A. Program. To resolve this issue, it is necessary to examine the practices followed by the College itself and the manner in which these programs were offered to prospective students for the current academic session.

54. Firstly, it would be important to note that for the **previous academic session** i.e. 2023-24, there was only one unified B.A. Program offered by St. Stephen's College. The same finds mention in the Bulletin of Information pertaining to UG Admissions for the year



2023-24, issued by the Delhi University. The relevant portion of the same is extracted hereunder:

St. Stephen's College											
B.A. Program Combination	UR	OBC NCL	SC	ST	EWS	SIKH	CHRISTIAN	CW	PWD	KM	
1 B.A Program (Any two disciplines out of these (Economics/English/History/Philosophy/Political Sc./Urdu))	21	0	3	1	0	0	25	1	3	0	
TOTAL	21	0	3	1	0	0	25	1	3	0	

55. However, for the **current academic session** i.e. 2024-25, the St. Stephen's College had introduced different B.A. Program combinations. The details of these Programs, including the manner in which they were offered, are contained in the Bulletin of Information for UG Admissions 2024-25. The relevant portion of this document is reproduced hereunder:

St. Stephen's College											
B.A. Program Combination	UR	OBC NCL	SC	ST	EWS	SIKH	CHRISTIAN	CW	PWD	KM	
1 B.A Program (English + Economics)	1	0	0	0	0	0	1	0	0	0	
2 B.A Program (English + History)	1	0	0	0	0	0	1	0	0	0	
3 B.A Program (English + Political Science)	1	0	0	1	0	0	2	0	0	0	
4 B.A Program (English + Philosophy)	0	0	0	0	0	0	1	0	0	0	
5 B.A Program (Economics + History)	2	0	1	0	0	0	3	0	0	0	
6 B.A Program (Economics + Political Science)	4	0	1	0	0	0	5	0	0	0	
7 B.A Program (Economics + Philosophy)	1	0	0	0	0	0	0	0	0	0	
8 B.A Program (Economics + Urdu)	1	0	0	0	0	0	0	0	0	0	
9 B.A Program (History + Political Science)	6	0	1	0	0	0	7	0	0	0	
10 B.A Program (History + Philosophy)	1	0	0	0	0	0	1	0	0	0	
11 B.A Program (History + Urdu)	2	0	0	0	0	0	0	0	0	0	
12 B.A Program (Political Science + Philosophy)	1	0	0	0	0	0	1	0	0	0	
13 B.A Program (Political Science + Urdu)	3	0	0	0	0	0	0	0	0	0	
TOTAL	24	0	3	1	0	0	22	0	0	0	

56. The issue before this Court is whether these thirteen B.A. Programs offered by St. Stephen's College should be treated as distinct and separate programs, or as a single unified B.A. Program, for the purpose of seat allocation and admissions under the Christian Minority category as well as Unreserved category.



57. This Court notes that the seat matrix, as extracted hereinabove, for the current academic session was prepared and forwarded by the College itself, to the Delhi University. The learned counsel for Delhi University Sh. Rupal argued and informed the Court that this seat matrix was forwarded by the St. Stephen's College itself, and the Delhi University had merely pasted and uploaded it in the Bulletin of Information. It is not the case of the college also, that the Delhi University had played any role in framing or preparing this seat matrix *qua* thirteen programs. In this regard, this Court's attention was also drawn towards the 'Disclaimer' in the Bulletin of Information, which supports the contention of Delhi University as mentioned below:

“This Bulletin of Information is a compendium of inputs assembled and collated from NTA and various Faculties, Departments, Centres, Colleges, other institutions of University of Delhi and related sources...”

58. In this Court's opinion, the seat matrix offered by the College clearly indicates that St. Stephen's College **had offered thirteen different B.A. programs, each with its own specific allocation of seats for various categories of students. Moreover, the College has assigned different sanctioned seats for each of these programs, both for Christian minority students as well as unreserved/non-minority students.**

59. Furthermore, this Court's attention was drawn to the cut-off marks issued by St. Stephen's College itself for securing admissions in these programs. **Notably, the College has set separate cut-off**



marks for each of the thirteen B.A. programs, thereby reinforcing the notion that these programs are being treated as separate. It is not in dispute that there is no single, consolidated cut-off marks list for the B.A. Program which is a practice followed by the colleges in case of single programs. The relevant extract of the cut-off marks/ranks, for these different B.A. Programs offered by the St. Stephen's College is extracted hereunder:

B.A Program (Economics + Political Science)	St. Stephen's College	8	UNRESERVED	N/A	808	45	740.0000000	788.0000000
B.A Program (Economics + Political Science)	St. Stephen's College	8	SINGLE GIRL CHILD	N/A	808	139	740.0000000	776.0000000
B.A Program (English + Economics)	St. Stephen's College	9	UNRESERVED	N/A	644	99	740.0000000	776.0000000
B.A Program (English + Economics)	St. Stephen's College	9	SINGLE GIRL CHILD	ALLOCATED (SINGLE GIRL)	644	644	740.0000000	740.0000000

60. This Court also notes that, as submitted by Sh. Rupal on behalf of the respondent no. 1, no other college affiliated to the Delhi University, who are offering different B.A. Programs in a similar manner, including other minority colleges, has registered any grievance regarding the seat allocation.

61. Therefore, **this Court cannot accept** the argument of the respondent no. 3 College that these thirteen courses are merely different subject combinations, within one B.A. Program, and are not to be treated as separate B.A. Programs. Based on the conduct of St. Stephen's College in preparing a distinct seat matrix and setting separate cut-off marks for each of these B.A. programs, this Court finds that these thirteen B.A. programs must be considered as



separate and distinct programs for the purpose of seat allocation and admissions under both the Christian Minority and Unreserved categories.

Issue No. 2:

Whether Delhi University could have allocated 5% extra students to the respondent College, which has been challenged in the Additional Counter Affidavit and during Arguments by the respondent College, and whether such an allocation was in accordance with the agreed terms?

62. The **St. Stephen's College**, in its Additional Counter Affidavit filed on 05.09.2024, **asserted** that there is a difference between the Bulletin of Information and the CSAS issued/released by the University. It was argued that the policy of allocating excess candidates in the First Round finds mention only in the CSAS and not in the Bulletin of Information, and since the CSAS has neither any statutory backing nor it has been shown by respondent no. 1 that the CSAS was passed through any Resolution, the same must be held to be an arbitrary and illegal procedure adopted by the Delhi University. **To controvert these arguments**, learned counsel for the Delhi University had drawn this Court's attention to the contents of Bulletin of Information, resolution passed by the worthy Vice-Chancellor and several emails sent by the University to all the Colleges affiliated to it.

63. **In this Court's opinion**, to appreciate these contentions, it would first be relevant to take note of Chapter 5 of the Bulletin of Information for UG Admissions, Academic Year 2024-25, which



provides that for seat allocations and admissions, candidates have to apply to the CSAS of Delhi University, and that the details *qua* the same would be notified separately. The relevant portion of Bulletin of Information is extracted hereunder:

Registrations and Admission to Undergraduate Programs

1

REGULAR STUDENTS

The candidate must be a citizen of India.

For admission to Undergraduate Programs at University of Delhi, all candidates (including those applying under supernumerary quota) must register for CUET (UG)-2024 at <http://cuetug.ntaonline.in>

For seat allocations and admissions, candidates must apply to the Common Seat Allocation System (CSAS(UG)-2024) of University of Delhi. Details related to allocations and admissions through CSAS(UG)-2024 etc. will be notified separately. Candidate must visit www.admission.uod.ac.in on regular basis.

64. Further, **Chapter 21** of the **Bulletin of Information**, concerning the ‘Admissions in Minority Colleges’, which includes the St. Stephen’s College, specifically outlines that information relating to seat allocation and admissions shall be published in the CSAS (UG)-2024. It reads as follows:



Admission in Minority Colleges

Candidates desirous of taking admission under Minority quota must appear in CUET (UG) - 2024. In Minority Colleges 50% of the seats are for candidates belonging to the Unreserved category and 50% are reserved for Minority candidates.

There are six minority colleges in the University of Delhi, as listed below:

Christian Minority Jesus and Mary College St. Stephen's College	Sikh Minority Mata Sundri College (W) Sri Guru Gobind Singh College of Commerce Sri Guru Nanak Dev Khalsa College Sri Guru Tegh Bahadur Khalsa College
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Candidates belonging to Minority category must produce the certificate of minority at the time of admission containing details of the Minority Status of the candidate issued by any Government Organization/Local Municipality/ Panchayat/ Education Board/ School Leaving Certificate, etc or as applicable, issued by DSGMC/DMC or Baptism Certificate and/or Church membership certificate.

With respect to the issuance of minority certificate for Sikh candidates, the following may be noted:

- (a) The agencies authorized to issue Sikh minority certificates i.e., Government organization/ local municipality/Panchayat/education board/ school leaving certificate etc., or as applicable should have requisite permission/approval/authorization from the respective government under whose jurisdiction they work for issuing of Sikh minority certificate.
- (b) Definition/parameters of Sikh as defined in Sikh *Rehat Maryada* issued by Delhi Sikh Gurudwara Management Committee must be mentioned in the certificate.

Detailed information related to allocation of seats and admissions in the University will be published in the Common Seat Allocation System (Undergraduate)-2024 (CSAS (UG) - 2024). Candidates must refer to the website of the University for CSAS(UG)-2024 and other related details.

65. **This Court thus notes** that the Bulletin of Information, which the learned Senior Counsels for the respondent no. 3 have not assailed at any point of time, itself mentions at several places that the process of seat allocation and admissions in the colleges shall be carried out through CSAS.

66. **In addition to the aforesaid**, learned counsel appearing for the Delhi University had placed before this Court, the *Executive Council Resolution No. 13 (13-45) dated 27.07.2024*, containing the approvals accorded by the Worthy Vice-Chancellor of Delhi University, under Clause 5 of Ordinance-II of the Ordinances of



University, wherein it had been resolved that the Undergraduate CSAS shall be available on the following weblink:

https://admission.uod.ac.in/userfiles/downloads/29052024_CS_AS-UG_compressed.pdf

67. **Therefore, in this Court's opinion,** the argument of the respondent no. 3 College that CSAS has no statutory backing, either in the Bulletin or by any Resolution of the Executive Council or Academic Council is without any merit.

68. **Further this Court holds that,** even otherwise, the St. Stephen's College has never laid any challenge to the CSAS (UG)-2024 system created by the Delhi University for the purpose of allocating seats and admission in the colleges. This Court's attention was also drawn towards emails dated 29.02.2024 and 30.05.2024, *vide* which the Delhi University had informed all the colleges, including the St. Stephen's College, about the details of the Bulletin of Information and the Common Seat Allocation System respectively. The respondent no. 3, despite being well aware of the rules of the game in advance, has never challenged the same till date. Moreso, the College has been following the process and complying with the rules contained in CSAS for the last two years without any challenge before any authority.

69. Therefore, the contentions raised on behalf of the St. Stephen's College, regarding the legality of the CSAS or the information/rules contained therein, **are liable to be rejected.**



70. Moving ahead, **this Court notes that** in Chapter 1 of CSAS (UG)-2024, it has been clearly mentioned that “*Admitting students through UoD’s online platform Common Seat Allocation System (UG)-2024 is binding on all Colleges/Departments/Centre of University of Delhi*”. The St. Stephen’s College, being affiliated to the Delhi University, is thus **bound to follow the rules of CSAS** insofar as admissions under non-minority categories and supernumerary categories are concerned.

71. Further, Chapter 5 of CSAS (UG)-2024 i.e. ‘Allocation Rules’ provides as follows:

“8. To minimize the rounds of admissions, and to start the academic session on time, **the University may do extra allocations in the initial rounds of allocation.**”

72. Thus, **this Court holds that** the CSAS, which is binding on all colleges affiliated to Delhi University, clearly mentions that the University may allocate extra students in the initial rounds in order to ensure that academic session commences on time. The aim of this policy is to ensure that since many students often do not take admission in colleges despite allocation, the crucial time of the colleges is not wasted in several rounds of counseling and that seats are filled up earlier, so that the classes start timely with optimal class strength.

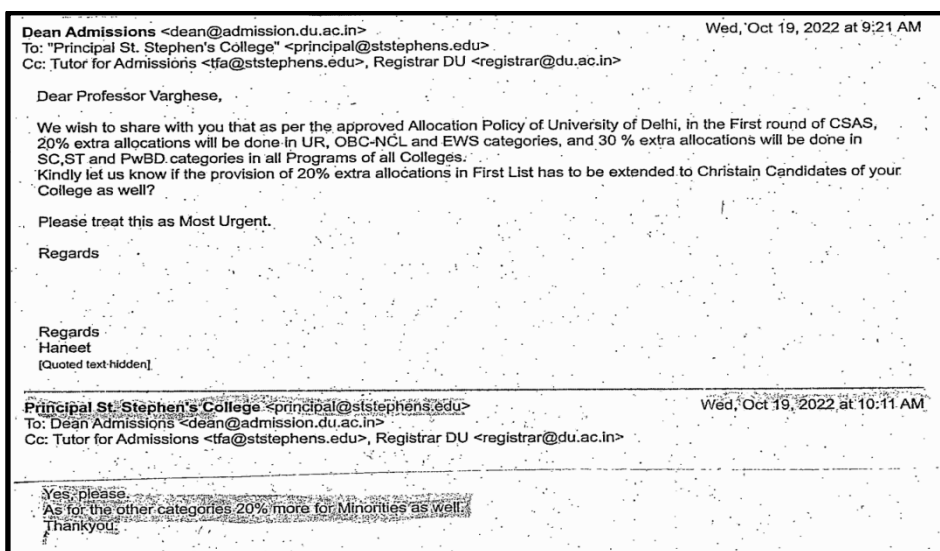
73. **It is also noteworthy** that this policy, of the Delhi University, of allocation of extra students in the initial rounds is **not a new one**, and has been in place for the last two years. **For the previous academic years**, this policy had been mentioned in the Bulletin of



Information itself, and the respondent no. 3 herein had diligently followed the same by allowing extra intake in the initial rounds, not only for the Unreserved category students but for Christian minority students also.

74. A perusal of material placed on record also reveals that in the years 2022-23 and 2023-24, the Delhi University had followed the same policy of extra allocations in every College i.e. to the effect that 20% extra students were allocated in Unreserved, OBC and EWS categories and 30% extra students were allocated in SC, ST and PwBD categories.

75. **This Court notes that pertinently, in the year 2022, the Principal of St. Stephen’s College had expressed his willingness to admit 20% extra candidates in the unreserved category and the desire of extending the same provision to Christian candidates as well, in all programs, vide email dated 19.10.2022.** The said email conversations between the College and the University read as under:





76. **This Court further notes that in the year 2023, the St. Stephen's College had, vide email dated 02.08.2023, requested the Delhi University that these extra allocations be restricted to 10% in the unreserved/non-minority category, so that total percentage of increased allocation does not exceed 20%. In response to the same, the Delhi University vide email dated 03.08.2023 had informed the College that in line with the last years' policy, the University had allocated 20% extra students already. However, it was stated that the University may review this policy for next year. In support of this, the Delhi University has also placed on record, as Annexure R-6, the details of 20% extra allocations made in the academic years 2022-23 and 2023-24 in the St. Stephen's College. **Therefore, it is not in dispute that in the previous two years, the College itself had agreed to the policy of allocating 20% extra students in the initial rounds of counselling, and thereby increasing allocation for Christian students in a similar manner.****

77. **For the current academic year i.e. 2024-25, this Court notes that the Delhi University had agreed to allocate only 5% extra students to the St. Stephen's College, considering the previous requests made by the College.** The fact that St. Stephen's College itself had agreed to follow this policy, is clear from the notice put up by the Principal of St. Stephen's College, which reads as follows:



IMPORTANT NOTICE

For the information of all concerned, St Stephen's College has admitted this year, the sanctioned number of candidates, 5% over that number and special categories including that of the Single Girl Child in every programme of study offered in the College.

The College has a sanctioned number of seats every year. Despite a request that additional seats should not be allotted to the College this year (as in the previous two years the College had been allotted 20% and 10% respectively in excess to the sanctioned seats), it was finally agreed upon that only 5% extra seats will be allotted to College. In addition to this 5% the College also accepted allocations in the three special categories which includes that of the Single Girl Child as well.

St Stephen's has honoured its word by admitting 5% over the sanctioned number of seats, admitting candidates to the newly created categories including that of the Single Girl Child in every one of its programmes. The College wishes to and will continue to uphold its 143-year old legacy of commitment to quality education and social justice.

PRINCIPAL

78. The Delhi University, in its counter-affidavit, has also informed this Court that an online meeting was held on 07.08.2024 with all the Principals of Colleges where they were informed about the percentage of extra students to be allotted to their colleges. In the said meeting, the Principal of St. Stephen's College had remained present and agreed to the 5% extra students allocation policy.

79. **Furthermore**, the implementation of the 5% extra student allocation policy by St. Stephen's College, for the current academic session i.e. **2024-25**, including for Christian minority students, is



further substantiated by an **email dated 31.08.2024**, sent by the **Principal of the College to the Dean of Admissions at Delhi University**. The relevant extract of this email reads as under:

“Dear Prof Gandhi,

Thank you for your email the queries/clarifications that you have raised. Please find the explanation to each of the three queries that you have raised. The College's responses have been indicated immediately below the query in blue colour.

We have followed the DU CSAS seat matrix with respect to the General Category; and Christian category. For the Christian category we have also followed the College's Admission policy with respect to the distribution of seats within the Christian categories;

We have also, like in the past years, adopted the same percentage of extra allotments for the Christian category as was done for the General category (5% this year).

I can categorically state that in all programmes offered from College we have NOT over allotted and have strictly kept to the logic of rounding off the fraction to the nearest round number **while calculating the 5% extra.**

We are resending the lists for all the programmes including the BA Programme files redone, combination-wise, after checking them all over again (and finding them in order) and request you to upload the names of the selected candidates in the CSAS portal to enable them to make the payment and join their classes at the earliest.

Thank you and with all good wishes...”

(Emphasis supplied)

80. Therefore, the contention raised on behalf of respondent no. 3 St. Stephen's College, that Delhi University's policy of allocating extra students in the initial round is impermissible in law and arbitrary, is bereft of any merit. This Court finds that the College itself has been consistently following this policy for the last three



years, including in the present academic year, without raising any objection or challenging the same in a Court of law. **Having accepted and applied this policy, the College cannot now challenge its validity in these proceedings, particularly when the students have been allocated to the College as per the provisions of CSAS (UG)-2024.**

Issue No. 3:

Whether, in determining the 5% extra seat allocation, fractions below 0.5 should be rounded off to the lower side or the higher side?

81. During the course of the proceedings, a significant issue arose for this Court's consideration regarding the calculation of 5% extra students as per the University's policy. Specifically, the question is whether fractions or decimals below 0.5 should be rounded off to 0, or rounded off to the next whole number. For instance, Delhi University contends that for the B.A. Program (Economics + History), where there are 2 seats under the Unreserved category, 5% of 2 amounts to 2.1, which they argue should be rounded off to 3 seats. On the other hand, St. Stephen's College asserts that 2.1 should be rounded off to 2 seats, and that only decimals exceeding 0.5 should be rounded off to the next whole number.

82. The attention of this Court was drawn by the learned counsel for Delhi University to the judgment of *State of Goa v. Fouziya Imtiaz Shaikh* (2021) 8 SCC 401.



83. In this regard, this Court also takes note of the observations of the Hon'ble Supreme Court of India in case of *Ganesh Sukhdeo Gurule v. Tahsildar (2019) 3 SCC 211*, which are extracted hereunder:

“15. Another judgment is a Full Bench judgment in *Jayram Tolaji Shinde v. Urban Development Deptt.*, which is relied on by the learned counsel for the respondent, by referring to the judgment of this Court in *Pawan Kumar Tiwari*- the Full Bench of Bombay High Court held that there is no justification that fraction below 0.5 be ignored in allotting the seats to registered or recognised parties on the basis of groups as per statutory scheme delineated by the Bombay Provincial Municipal Corporations Act, 1949. Referring to the judgment of this Court in *Pawan Kumar Tiwari*, in para 31, the Full Bench of the Bombay High Court has rightly held that rounding off was not the ratio or principle on which Pawan Kumar Tiwari case- was decided.

16. Further, in para 34 of *Jayram Tolaji Shinde*, the Full Bench of the Bombay High Court itself held that there is no justification to ignore fraction below 0.5 in the context of allocation of registered or recognised parties or groups who are entitled to number of seats. The above judgment of the Bombay High Court in no manner supports the case of the respondent, it rather supports the appellant's contention.

19. When majority comes to 5.33 votes “not less than 5.33 votes” have to be given meaning, hence, 5.33 can never be rounded off to 5, fraction has to be treated as one because votes cannot be treated as fraction. Hence, 5.33 votes to be read as 6 votes for passing of the motion as mandated by Section 35(3).”

84. Though both these judgments were delivered in context of one third reservations for women in elections, yet it was held that ‘votes’ cannot be treated as ‘fraction’.

85. Learned Senior Counsels for the College also failed to produce before this Court, any case law, that mandates such an interpretation



to be in favor of rounding fractions to the lower numerical figure, especially in a case where the policy is designed to benefit students.

86. Learned Senior Counsel for the College had argued that while granting degrees, if a student scores 59.40% marks, the same are not rounded off to 60%. **In this Court's opinion, marksheets and human beings are fundamentally different and must be treated as such. The treatment of fractions in the context of human seat allocations cannot be equated to their treatment in mathematical calculations for marks on a marksheet.** Therefore, when dealing with fractions like 1.2 or 1.3 or 1.4 in the context of seat allocations, the figure must be rounded up to 2, as **humans cannot be divided into fractions**, and rounding off to the lower numerical figure would undermine the spirit of the policy.

87. This can be explained better by way of the following illustration.

Illustration by this Court

Let us consider the facts in light of the Extra Seat Allocation Policy of Delhi University (DU), which provides the allocation of extra 5% of the total seats in a particular program. The program size refers to the total number of seats available to all candidates. If we accept the respondent no.3's argument as valid, the following illustrative scenarios would arise:

Let us take the Program Size to be 10 Candidates, then in that case:



- *Calculation of Extra Seat Allocation: 5% of 10 = 0.5 seats.*
- *The mathematical calculation in case of calculating 5% of 10 seats would be 0.5 seats. In case, the argument of the learned counsel for respondent no. 3-college is taken to be correct, it will have to be rounded off to '0'. This is problematic since the extra seat allocation policy will effectively become ineffective for smaller programs and no seat can be allocated in such program under the supernumerary quota.*

Implication

With this logic, if programs with small numbers, i.e. 0-11 candidates, result in quotas being rounded off to 0, it nullifies the benefit of the provision itself. This would misalign with the intent of the policy.

88. Thus, if the argument of respondent no. 3 College is accepted, the policy of allocating 5% extra students will have no application, and it would become redundant and otiose, in case of those programs where the seats allocated by a college are less than or up to ten.

89. **In this Court's view, the interpretation of beneficial policies must align with the intent behind them and cannot result in a reduction below the prescribed 5% extra intake.** If the respondent college insists on a rigid mathematical approach, arguing



that fractions such as 0.5 or 0.4 should be ignored and treated as 0 in the context of seat allotments, it would defeat the very purpose of the policy introduced by the Delhi University.

90. This Court also notes that, as submitted by Sh. Rupal on behalf of the respondent no. 1, no other college affiliated to the Delhi University, has registered any grievance regarding the allocation of 5% extra students and rounding off the fraction.

91. To defend its stand on this issue, it was also argued on behalf of the respondent no. 3 College that the College, being a minority educational institution, is free to frame its own policies and rules for giving admissions to the students, including as to how the fractions will be rounded off, in view of Article 30(1) of the Constitution of India. In this regard, however, learned counsel for the Delhi University had drawn this Court's attention towards the judgment of the Division Bench of this Court in case of *St. Stephen's College v. University of Delhi* 2022 SCC OnLine Del 2893. In the said case, the Division Bench after analysing all the judicial precedents of the Hon'ble Supreme Court, has held that **Article 30(1) of the Constitution of India is not an absolute right and the aided minority educational institutions affiliated to the University must follow the norms and procedures set by the concerned University.**

The relevant portion of the decision is extracted hereunder:

“57. This Court does not find weight in the learned Senior Counsel's submissions. **The reason why CUET was imposed was because of the varying standards of evaluation and teaching of different State Boards in allocation of marks that placed students of one Board at**



a disadvantage than the other. CUET was meant to be a method to standardise and uniformalise the process of evaluation by providing all applicants a level playground for proving their merit. It was in the context of varying standards of different State Boards and in the absence of reservation for the minority community that the Supreme Court had noted in its Para 65 of St. Stephen's College v. University of Delhi (supra) that there were *compelling reasons* for the Petitioner-College to follow its own admission programme. There is reason in the submissions of Mr. Arun Bhardwaj and both the learned ASGs that **now that CUET has been implemented which takes away the aspect of having to select students on the basis of marks obtained in qualifying examinations of different institutions with different standards, the basis of the Judgement also goes away and therefore, no compelling reason exists anymore for an interview to be conducted.**

58. It has been observed in Para 102 in the very same Judgement itself that

*“in light of all these principles and factors, and in view of the importance which the Constitution attaches to protective measures to minorities under Article 30(1), the minority aided educational institutions are entitled to prefer their community candidates to maintain the minority character of the institutions **subject of course to conformity with the University standard.**”*

59. Therefore, while this Court does not agree with the submission of Mr. Bhardwaj and the learned ASGs that T.M.A. Pai Foundation v. State of Karnataka (supra) virtually overrules St. Stephen's College v. University of Delhi (supra) on account of the fact that it categorically notes in Q.8. that apart from the fixation of rigid percentage for reservation, the basic ratio is correct, this Court also does not agree with the submissions of Mr. Sibal that St. Stephen's College v. University of Delhi (supra) grants the Petitioner-College the power to conduct an interview for shortlisted for all times to come, even when the basis of the observations rendered in the said Judgement have changed. No sufficient explanation has been advanced by the learned Senior Counsel for the Petitioner-College as to how the taking away of the right of the Petitioner-College to conduct interviews for its non-minority candidates will deprive the



Petitioner-College of its fundamental right under Article 30(1) when it still retains its right to prefer its minority community and conduct an interview for its minority population.

60. It becomes pertinent at this juncture to reiterate Para 152 of T.M.A. Pai Foundation v. State of Karnataka (supra) which **very aptly notes that admissions to aided institutions, whether awarded to minority or minority students, cannot be at the absolute sweet will and pleasure of the management of the minority educational institutions.** If it is found that the regulations to promote academic excellence and standards do not encroach upon the guaranteed rights under Article 30, the aided minority educational institutions *can be required to observe inter se merit amongst the eligible minority applicable and passage of common entrance test by the candidates, where there is one, with regard to admissions in professional and non-professional colleges.* The Judgement notes that if there is no such test, a rational method of assessing comparative merit may be evolved. The contention of Mr. Sibal that the right established by Article 31 of the Constitution of India cannot be whittled down by any regulatory measure is, thus, belied by the observations made in T.M.A. Pai Foundation v. State of Karnataka (supra).

63. **Therefore, even though there exist limitations to the regulations of the State when it comes to interfering in the admission process instituted by the Petitioner-College under its fundamental right as per Article 30(1) for the minority community, it emerges before this Court that the Respondent No.1 is well within its right to formulate policies regulating the right of the Petitioner-College, which is an aided educational institution, to admit students if it is of the opinion that the admission policies of the Petitioner College may potentially lead to maladministration and lower the standard of excellence of the institution. Accordingly, the policies of Respondent No.1 that is under consideration in the instant matter do not traverse beyond reasonability and do not impinge upon the rights of the Petitioner-College under Article 30(1).**

64. After having established that the right of the Petitioner-



College to conduct interviews under the garb of right to administer under Article 30(1) would not extend to its non-minority candidates, **and that the Petitioner-College is bound by the admission policy formulated by Respondent No.1 pertaining to the instant issue**, this Court will now delve into the *third question* – whether the Petitioner-College has the right to sub-classify the minority category under Article 30? In this regard, it would be pertinent to peruse the Judgement of the Kerala High Court in The Medical Mission of the South Kerala Diocese of the Church of South India (SIUC) v. Muhammed Rizwan and Ors. as has been relied upon by the learned ASG appearing for Respondent No.1. Mr. Sibal has stated that an SLP has been filed before the Supreme Court against the said Judgment, and notice has been issued in the same. However, it is necessary to note that there is no stay on the operation of the Judgement as such.

69. In view of the above, this Court has arrived at the following conclusions:

- i. **The fundamental right under Article 30(1) accorded to a minority institution cannot be extended to non-minority members.**
- ii. **Article 30(1) is not absolute and the State has the right to formulate regulations concerning the administration of a minority institution to the extent that it is for the furtherance of the interest of the minority community and is in a bid to prevent maladministration of the minority institution. Aided minority educational institutions that are affiliated with a University must follow the norms and procedure of the said University.**
- iii. Protection under Article 30(1) can be extended to the extent that it allows a minority institution to sub-classify the reservation accorded to the minority community...”

(Emphasis supplied)

Argument of Lack of Infrastructure in St. Stephen's College

92. Learned Senior Counsel for the respondent no. 3 College had argued that the College lacks sufficient infrastructure and the



necessary number of teachers to accommodate the petitioners and other extra students which have been allocated to it by the Delhi University. However, in this regard, this Court observes that as noted in preceding discussion, in the previous two academic years also, the St. Stephen's College had accepted 20% extra allotment of students, and had correspondingly enhanced 20% christian quota voluntarily as is reflected in their emails exchanged with the Delhi University. It is noteworthy that in the current academic year, the extra allotment is 5%, as accepted by St. Stephen's College. It is also noted that the College had been informed about this 5% extra allocation of seat policy of the current year in advance by the Delhi University and their acceptance is noted in their email to Delhi University wherein they have requested for 5% corresponding extra admission under the christian category which was promptly acceded to by the University.

93. Therefore, the argument put forth by respondent no. 3 regarding infrastructural and staff constraints is not tenable and lacks merit, since the respondent no. 3 College itself had accepted the allocation of 20% extra students in the previous academic year, and the infrastructure thus was available for the said 20% students in addition to 20% extra in a corresponding Christian students quota. While accepting the 5% extra allocation and demanding 5% corresponding extra admission under Christian category they were well aware about their infrastructure and staff constraints, if any.



Issue No. 4:

Whether this Court has the jurisdiction, in the present petition, to adjudicate the validity and constitutionality of the 'Single Girl Child Quota' as implemented by Delhi University?

94. The present issue has arisen for consideration of this Court since in its Counter-Affidavit and the arguments addressed before this Court, it was asserted on behalf of St. Stephen's College by Sh. Chacko, learned Senior Counsel, that there is no legal rationale behind creation of the 'Single Girl Child' quota. It was argued that this quota creates an artificial subclass within the broader category of 'women,' which is inherently a single class, and thus violates Article 14 of the Constitution of India. It was also argued that although Article 15 allows for special provisions for women, Article 15(5) specifically excludes the application of such measures to minority educational institutions. Thus, it was argued fervently that the 'Single Girl Child' quota, created by the Delhi University, is *ultra vires* Article 14, 15(5) and 30 of the Constitution of India.

95. For the sake of clarity, the policy of the Delhi University, in relation to reserving one seat for a Single Girl Child in every program, as outlined in CSAS (UG)-2024, is reproduced hereunder:

“23.8: SINGLE GIRL CHILD (SGC)

01 (One) seat in each Program of every college is reserved under the Supernumerary Quota for a single girl child...”

96. **In this Court's opinion**, so far as the above contentions raised on behalf of the respondent no. 3 are concerned, this Court is of the view that St. Stephen's College has never challenged, till date, in any



Court of law, the legality or the constitutionality of the ‘Single Girl Child’ quota, created by the Delhi University, for the purpose of granting admissions in the affiliated colleges.

97. **In this Court’s opinion**, the present writ petitions have been filed by students who, after being allocated seats in St. Stephen’s College by Delhi University, were denied admission by the College. The scope of these writ petitions is confined to the denial of admission to the petitioners, and this Court, while adjudicating the petitions, cannot delve into the constitutionality of a quota introduced by the University, especially when such a challenge is being raised by the College for the first time in these proceedings, where it is only one of the respondents. In case St. Stephen’s College was genuinely aggrieved by the introduction of this quota, it ought to have either raised its concerns with the University or approached the appropriate Court of law to challenge the constitutionality of the same, particularly regarding its applicability to minority educational institutions. This has not been done and therefore, in this Court’s opinion, they cannot be allowed to agitate the same before this Court as respondents.

98. **In fact, it is noteworthy that the St. Stephen’s College itself had agreed to allot seats under the ‘Single Girl Child’ quota for the various programs offered by it.** This is clear from the following ‘Important Notice’ issued by the Principal of the College:



IMPORTANT NOTICE

For the information of all concerned, St Stephen's College has admitted this year, the sanctioned number of candidates, 5% over that number and special categories including that of the Single Girl Child in every programme of study offered in the College.

The College has a sanctioned number of seats every year. Despite a request that additional seats should not be allotted to the College this year (as in the previous two years the College had been allotted 20% and 10% respectively in excess to the sanctioned seats), it was finally agreed upon that only 5% extra seats will be allotted to College. In addition to this 5% the College also accepted allocations in the three special categories which includes that of the Single Girl Child as well.

St Stephen's has honoured its word by admitting 5% over the sanctioned number of seats, admitting candidates to the newly created categories including that of the Single Girl Child in every one of its programmes. The College wishes to and will continue to uphold its 143-year old legacy of commitment to quality education and social justice.

PRINCIPAL

99. Thus, **in this Court's opinion**, the College itself admits to having honoured its word by, *inter alia*, admitting candidates in newly created categories including the Single Girl Child quota, in each one of its programs.

100. Thus, the College cannot now take a contradictory stand before this Court to argue that the quota is unconstitutional, when it has itself adhered to the said policy and admitted candidates under the said quota, without raising any objections or challenging the *vires* of the same.



101. As a sequitur to the aforesaid, the **allotment made by the Delhi University, under the Single Girl Child quota**, in the respondent no. 3 College, for different B.A. Programs as per Clause 23.8 of CSAS (UG)-2024, **cannot be termed as illegal or arbitrary.**

Issue No. 5:

Whether the petitioners should be denied admission to the respondent College despite fulfilling all requirements, solely due to a dispute or misunderstanding between the College and the University, which was beyond the petitioners' control?

102. **This Court notes** that applications for CUET 2024 were invited by respondent no. 2 i.e. the National Testing Agency, and the petitioners herein had duly submitted their applications within this specified time frame. Thereafter, the petitioners had successfully qualified for the CUET examination scoring the following marks:

Petitioners	Marks Scored
Hargun Singh Ahluwalia	776/800
Aleena Imran	754/800
Gusanjan Singh Natt	770/800
Alok Ranjan Singh	770/800
Nishika Sahoo	740/800
Prisha Tayal	742/800
Vanya Malik	748/800

103. After declaration of the results, the petitioners herein had duly complied with this process of CSAS by submitting their documents



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on the web portal within the stipulated time frame. By way of the first allocation list of CSAS, the petitioners herein had qualified for their preferred college i.e., respondent no. 3/St. Stephen’s College. Further, according to the schedule, respondent no. 3 was required to verify and approve the petitioners’ online applications between 16.08.2024 and 20.08.2024. The deadline for the petitioners to pay their college fees was 21.08.2024. However, the applications of the petitioners were kept ‘under process’ by the St. Stephen’s College. The screenshot of the portal of one of the petitioner’s is reproduced as under:

#	Program / College / Ref. No.	Allocation / Seat Category / Score / Preference Number	Application Status	User Action	Detail
1	BA Program (History + Philosophy) St. Stephen's College 88736-STEPHEN-BAPR736-45-CSAS-1-1+FA	Allocation: CSAS Round-I Seat Category: Unreserved Score: 776.0000000 Choice: 4	New Application	Documents verification/ approval from College/Department under process	View

104. **Thus, this Court observes** that it is evident from the facts of the case that the petitioners herein, who are meritorious students and have secured high marks in CUET, had diligently followed every step of the process without any delay or fault on their part. They had submitted their CUET applications within the designated period, qualified for the examination, and had also timely completed both Phases I and II of the CSAS by submitting the necessary documents and providing their college preferences. The petitioners had also successfully qualified in the first allocation list. **Despite their compliance**, respondent no. 3’s failure to either approve or reject



their applications within the prescribed time frame had directly led to their inability to pay the fees and secure admission in respondent no. 3 college. This administrative lapse on part of St. Stephen's College had deprived the petitioners of their right to admission, despite their full adherence to the process. Furthermore, the petitioner's applications were kept 'under process' by respondent no. 3 College, without any definitive approval or rejection during the allotted verification period and therefore their future and admission remained under suspense.

105. Thus, **in this Court's opinion**, the petitioners were not at fault at any point during the process of admission, but had to face undue hardship due to the ongoing dispute between respondent-University and respondent no. 3 College pertaining to seat matrix and the manner of calculation of fraction while calculating the number of allocated seats as per the policy of the University.

106. This indecision on the part of the College had left the petitioners in a state of uncertainty, preventing them from taking any further action at that stage. On the one hand, the petitioners faced the challenge of uncertainty over securing admission to their preferred college, St. Stephens, and on the other hand, they were also deprived of the opportunity to select and opt for their second-choice college. The prolonged 'under process' status effectively blocked their participation in subsequent allocation rounds, causing them to miss out on other potential options for securing a seat.

107. Thus, this Court is of the considered opinion that the petitioners now have a legitimate expectation from the Delhi



University, which is State under Article 12 of the Constitution of India, that they must be granted admission in respondent no. 3 College as they are meritorious, fulfill all the eligibility criteria and were allotted St. Stephen's College by the Delhi University as per rules of the CSAS (UG)-2024.

Light at the end of the tunnel

108. In view of this Court's observations and findings on issue nos. 1 to 4, this issue is decided in favour of the petitioners that since the University's calculation of the seats by taking the fraction to a higher side for rounding off the number of seats has not been set aside, neither found fault with, by this Court, resultantly, the **respondent no. 3 i.e. St. Stephen's College is directed to grant admission to the petitioners herein**, as per the allocation policy of the University which has been followed by the College itself in the last academic years, so that they are able to attend their classes, after fulfilling the other formalities as required under the relevant rules.

109. For the petitioner in *W.P.(C) 11837/2024*, it is directed that the Delhi University and the respondent no. 3 College shall take necessary steps for opening of the fee portal so that she can be granted admission in the College.

110. **This case has travelled and reached the end of the tunnel of litigation before this Court, where the petitioners were unsure of their future and admission in the college of their choice for which they have worked so hard. Fortunately, they have light at the end of this tunnel.**



BEFORE PARTING WITH THIS CASE: GUIDELINES

111. The educational institutions which contribute significantly to preparing the future generations of our country, **should best be** administering and teaching in their educational institutions and not forced to defend their cases in the Courts, which can be ensured only by way of a simple solution finding process through timely meetings between the parties and time bound solutions.

112. **This Court notes as the students await the outcome** of the judgment in the corridors of this Court while the college and the university are contesting each others claim vehemently, and it is a co-incident that this case was heard and arguments were concluded on 05.09.2024 which is also celebrated as Teacher's Day, **this Court makes its endeavour to pass an order which will direct the students to their classes and direct the university and the colleges to an amicable permanent solution.**

113. In this regard, while it is noted that the seat matrix and allocation has become a bone of contention between the University and the college in the past two years, as the emails exchanged between them suggests, it would thus be prudent and is directed, that in future, the colleges who have any grievances regarding the seat matrix, will send their grievances to the concerned authorities of the Delhi University at least three months prior to the initiation of the admission process for a new academic session. The representation so made will be decided by the University within two months from the date of receipt of such representation by holding meetings etc. as deemed appropriate. This will ensure that the students do not face



any problem in attending their classes, and such grievance resolution at an early stage will ensure that the colleges are also able to run their administration and classes without any need to run to the Court.

114. In view of the above, the present petition along with pending application stands disposed of.

115. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

SEPTEMBER 6, 2024/ns