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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 4189/2012

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Judgment dated 24.07.2012

ROHIT YADAV

..... Petitioner

Through : Mr.Gaurav Jain and Mr.Gagan Mathur,
Adv.

versus

CENTRAL BOARD OF SECONDARY
EDUCATION AND ORS

..... Respondents

Through : Mr.Atul Kumar, Adv. for respondent
no.1.

Mr.R.K. Singh and Ms.Deepa Rai, Adv.
for respondent no.2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J (ORAL)

1. Rule. With the consent of counsel for the parties, writ petition is set down for final hearing and disposal.
2. Present writ petition has been filed by petitioner under Article 226/227 of the Constitution of India seeking a writ, order or direction in the nature of mandamus directing the respondents to grant admission to the petitioner at the National Institute of Technology, Kurukshetra and admit the petitioner in Electronics and Communication Engineering in the current session starting from 2012.
3. The necessary facts, to be noticed for disposal of the present writ petition, are that the petitioner belongs to Village Boria Kamalpur situated at Tehsil Rewari, Haryana. The petitioner had applied online for All India Engineering Entrance Examination-2012 (AIEEE), conducted by respondent no.2. As the petitioner does not have the benefit of a computer, he approached a private cyber cafe at Rewari to fill up the form

online. As per the petition, operator of the Cyber Cafe committed a mistake by which the age of the petitioner was mentioned as 4.4.1994 instead of 8.4.1994. Certificate from the CBSE has been filed along with the present writ petition, which shows that the date of birth of the petitioner is 8.4.1994.

4. Learned counsel for the petitioner submits that the petitioner is not computer literate. The petitioner has no personal computer, nor does he have any access to the internet. The parents of the petitioner are not well educated nor the petitioner was assisted by them at the time of online filling up of the application form.
5. As per the petition, respondent no.2 conducted the entrance examination on 29.4.2012 for admission to the Engineering seats at All India level by way of AIEEE 2012. The petitioner appeared in the said entrance examination. In June, 2012, result of the entrance examination was declared by respondent no.2 and the petitioner was declared qualified. The petitioner secured All India Rank of 18725. Being an OBC of Haryana the rank of the petitioner was 75th in the Haryana State in the OBC Category and 671 in the Haryana State in General Category. The petitioner accordingly opted for admission to the NIT, Kurukshetra. The petitioner was allotted a seat at NIT, Kurukshetra, by respondent no.2. On 2.7.2012 the petitioner was directed by respondent no.2 to report to his reporting centre, namely, NIT Kurukshetra to seek the admission in the Electronics And Communication Branch, however, during verification of the documents of the petitioner, the NIT Kurukshetra found that the date of birth of the petitioner mentioned in the online application form was at variance with the original date of birth certificate of the petitioner. This fact was informed to the petitioner by NIT Kurukshetra. On the ground of discrepancy/difference in the age of the petitioner, the petitioner was

informed that he could not be admitted to the said course.

6. Learned counsel for the petitioner very candidly admits that while filling up the online application form for entrance examination due to oversight a wrong date of birth was entered into by the operator of the cyber cafe, however, for a bonafide mistake the petitioner cannot be debarred from admission to NIT Kurukshetra or any other college. Counsel further submits that having regard to the economic background of the petitioner; the fact that petitioner is not computer literate and in fact his village only gets electricity for few hours in a day; the petitioner had to travel to Rewari from his Village to fill the online application form; the mistake was committed by the operator of the cyber cafe, which the petitioner admittedly failed to rectify within the time allowed by the respondents; and the mistake was bonafide and without any intention to gain any advantage, the petitioner should not be debarred from admission to any course. Counsel further contends that petitioner is willing to suffer for the mistake and may or may not be admitted to a college of his choice but in case the petitioner is completely denied admission in any of the colleges despite his having succeeded in the examination and secured 75th rank, the life of the petitioner would be ruined and the hopes of the family of the petitioner would be dashed into pieces. Counsel also contends that the petitioner has not fabricated or tampered with his birth certificate. Counsel further submits that the birth certificate issued by CBSE to the petitioner has not been disputed by the respondents and, thus, the petitioner cannot be penalized to this extent.
7. Mr.R.K. Singh, learned counsel for respondent no.2, has handed over counter affidavit in Court today. Mr.R.K. Singh submits that the petitioner himself is to be blamed for the lapse as the petitioner has been extremely careless in filling up the on-line application form.

8. Mr. Singh further submits that the petitioner had ample opportunity to make the correction in the online application form between 31.12.2011 and 29.4.2012. Mr.Singh further submits that after 29.4.2012 the petitioner lost his right to make changes in the application form and, thus, he has to suffer for the mistake made by him. Counsel also contends that the entire process is conducted through a software programme and at this stage no change can be made in the data, which has been entered in the computer. Counsel also submits that the date of birth is one of the parameters to decide the eligibility of a candidate. Counsel further submits that on the basis of personal data the date of birth has become a vital and crucial factor in deciding who amongst the same rank holders would get the priority i.e. a student older by age is placed higher than the younger in terms of rank. Counsel has drawn the attention of the Court to page 6 of the Counter affidavit with respect to explanation rendered for not being able to entertain the request of the petitioner. Page 6 of the counter affidavit reads as under:

“How does a DOB (showing oneself older) materially affect the overall ranking system and in the final analysis in the admission process; and how by permitting the petitioner to correct the DOB entries, will now alter his rank position vis-à-vis others in the list?

As per the AIEEE brochure published by CBSE vide Clause No.13.4, Date of Birth (DOB) is a deciding (a tie breaker) in determining the rank. There is no fixed formula for relating rank shift to DOB shift. Both are random numbers. Shift of DOB, in one case, may shift rank by 5 steps and the computer, on the basis of the computation formula factoring DOB, state-domicile, reservation quota, availability of vacancies coupled with preferences exercised by students subject-wise, devised by experts, automatically changes permutations in terms of ranking of each students in AIEEE list, which automatically result in allotment of seats to students. It is near impossible to state the actual shift in terms of ranking position or number of students being affected, given the fact that the computer is required to work out permutations of 5 lakhs students

against 50,000 available seats, depending on (i) the number of candidates with the same marks in different subjects, (ii) to number of days by which the DOB is changed, and (iii) whether one candidate is in the borderline of allocation of a particular institute or branch. This, only the CBSE can work out the actual data, and which may take weeks to complete the process.

Why it is not practical to permit change of entries in personal data now and allot seat to the petitioner?

The process of allocation of seats has already been completed until the 3rd Round of counselling, and the seat earlier allotted to the petitioner in NIT, Kurukshetra, after cancellation, would have been put back in the common pool and also allotted to some other student by the computer system. That process would have itself taken more than 24 hours of computation to process 1.6 Crore choices. It is physically impossible to take up revision on case by case basis when such mistakes appear. Lakhs of candidates will have to wait for the computer process to complete if all such cases of mistake are taken up for revision manually. The CCB will then not be in a position to complete the counseling process within the schedule given in the Information brochure. The only practical choice available to CCB is to disqualify those few candidates who commit a vital mistake inspite of adequate reminders and opportunity to correct them along the way.”

9. Counsel for respondent no.2 has also drawn the attention of the Court to Clause 3.1.6.3 of the Information Brochure, which reads as under:

“3.1 Online Registration – Round 1 to 4 (June 16 to 25, 2012)

6. Changes in the following fields are not permissible under any circumstances.

- i. Candidate’s name
- ii. Mother’s name
- iii. Father’s name
- iv. Date of birth.

Note.

3. If the personal data submitted/entered by a

candidate is found to be wrong at the time of verification of certificates either during reporting or at any later stage, the allotment of seat/provisional admission is liable to be cancelled.”

10. Counsel for respondent no.2 has also relied upon Clause 14.3 of the Information Bulletin, which reads as under:

“14.3 Verification of documents would be done at the time of counselling/admission. The purpose would be to verify different records regarding identification, age, qualifying examination, state of eligibility and category of the candidate. On failing to establish any of the documents, the candidates will not be considered for admission.”

11. I have heard learned counsel for the parties, considered their rival contentions and also perused the pleadings as well as the annexures filed along with the petition and the counter affidavit. The basic facts are not in dispute that the petitioner had appeared in the entrance examination for admission to the Engineering seats at All India Level by way of AIEEE-2012 on 29.4.2012. The petitioner secured All India ranking of 18725. Being an OBC of Haryana the rank of the petitioner was 75th in the Haryana State in the OBC Category and 671 in the Haryana State in General Category. The petitioner opted for admission to the NIT Kurukshetra. Based on the rank of the petitioner, he was allotted seat at NIT Kurukshetra by respondent no.2, and was called for verification of documents by NIT Kurukshetra. The petitioner was declined admission at the time of counselling on account of the fact that the date of birth mentioned in the online application form did not match with the original certificate issued by CBSE. There is no quarrel to the proposition sought to be urged by counsel for respondent no.2 and the submissions made by him based on the procedure adopted by respondents for counselling and for allotting seats to candidates.

12. Learned counsel for the petitioner during the course of hearing has very fairly conceded that the petitioner will not stake his claim based on his actual date of birth to avoid any inconvenience to the respondents or any other students who have already derived benefit of the incorrect date of birth filled in by the petitioner in the online application form. Counsel has further submitted that the petitioner will not stake his claim on the seat allotted to him by NIT Kurukshetra on account of the mistake made by him, however, the petitioner is willing to accept seat available in any of the institutions of respondent no.2 to avoid the petitioner from being deprived a seat to any college.
13. A careful reading of Clause 3.1.6.3 of Information Brochure clearly spells out that if the personal data submitted or entered by the candidate is found to be wrong at the time of verification of certificates either during reporting or at later stage, the allotment of seat/provisional admission is liable to be cancelled. The aim and objective for introducing this clause is to deal with a situation where a candidate may either submit a forged or a fabricated marksheet or any other certificate which would entitle a candidate for admission.
14. The facts at hand are slightly different. The petitioner herein has not filed a fabricated birth certificate or a false document or any other document, which is either tampered or manufactured. At the time of filling up the online application form for the entrance examination the operator of the cyber cafe has entered a wrong date of birth of the petitioner in the application form as 4.4.1994 whereas the correct date of birth is 8.4.1994. There is no dispute with regard to genuineness of the date of birth certificate issued by CBSE evidencing the date of birth of the petitioner as 8.4.1994. On account of this mistake to debar the petitioner would amount to travesty of justice. The Court cannot lose track of the fact that Delhi is

not India; there are lakhs of students in rural areas, like the petitioner herein, who have the potential; and the students from rural background are not less intelligent than the students from affluent background. Admittedly, the petitioner comes from a humble background, resides in a village and does not have access either to the computer or the internet. While in towns people are familiar with computer, laptop, I pad and other tablet form of computers, which provide them access to vast information at their finger tips. On the contrary, students from remote villages, who are away from towns, who do not get continuous electricity, cannot be deprived of their right to education, more so when the petitioner has secured a seat.

15. A careful reading of Clause 3.1.6.3 would also show that in case there is any discrepancy the admission is liable to be cancelled. Another word for liable would be likely. In case the intention was that the admission would *ipso facto* be cancelled such language would have been used by the persons who had drafted the booklet. In my view Clause 3.6.6.3 is not applicable to the facts of the present case as the date of birth of the petitioner as per CBSE is 8.4.1994 and not 4.4.1994. The petitioner had no intention to mislead the respondent or gain any unfair advantage. The certificate from CBSE is a genuine document. Thus the petitioner cannot be debarred.
16. Accordingly, having regard to the facts of this case, I am of the view that on account of the bonafide mistake of the petitioner, the petitioner cannot be penalized to the extent that the admission granted to him should be cancelled. In case it is not possible to grant the petitioner admission to NIT Kurukshetra, let admission be granted by respondent no.2 to the petitioner in Electronic and Communication Engineering in any other college of respondent no.2.

17. Accordingly, writ petition stands disposed of in view of above.

CM APPL. 8711/2012

18. Application stands disposed of in view of the order passed in the writ petition.

19. Let copy of the order be given DASTI to counsel for the parties under the signature of Court Master.

G.S.SISTANI, J

JULY 24, 2012

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