

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

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Date of Decision: 16.07.2013

+ W.P.(C) 4415/2013

SHUBHAM VIRENDRA JHAMB

..... Petitioner

Through: Mr Peeyoosh Kalra, Adv.

versus

CENTRAL BOARD OF SECONDARY EDUCATION

.... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

The petitioner before this Court qualified his Higher Secondary Examination from Maharashtra State Board of Secondary and Higher Education in the year 2013 and in the Mark sheet issued to him by the said Board, his marks were shown as 515 out of 600, i.e., 85.83%. The petitioner applied for correction of the said marks and vide communication dated 05.07.2013, the marks were revised to 520, i.e., 86.67%. The petitioner had also appeared in the JEE Examination conducted by the respondent-Central Board of Secondary Education (CBSE) for admission to various technical institutes and colleges. The said examination was conducted in two phases, the JEE Main having been conducted by CBSE, followed by JEE

Advanced (Advanced) conducted by IITs. The result of JEE (Main) was declared by the respondent CBSE on 03.07.2013, before the revised marks-sheet came to be issued to him. In the said result, the rank of the petitioner was shown as 11227 with percentile of 98.92. The said rank was arrived at by giving weightage of 60% to the marks obtained in JEE (Main) and weightage of 40% to the marks obtained in the qualifying examination, after applying the normalization formula adopted by the respondent. The petitioner had obtained 195 marks in JE (Main). His marks in the qualifying examination in physics, chemistry and mathematics, after applying the normalization formula, came to 180. Therefore, he was declared to have obtained a total score of 189 (60% of 195 + 40% of 180). The percentile score of the petitioner in the qualifying examination was found to be 98.92, whereas his All India Percentile score in JEE (Main), 2013 was determined at 98.85.

2. Maharashtra State Board of Secondary and Higher Education, in the revised mark sheet to the petitioner, awarded him 520 marks as against 515 marks shown in the previous mark sheet. The revision of marks took place only in one subject, i.e., physics in which initially the petitioner was awarded 71 marks, which was later revised to 76 marks. The petitioner approached the respondent-CBSE to correct his ranking in terms of the revised marks issue to him by Maharashtra State Board of Secondary and Higher Education. But, the said request yielded no result. The case of the petitioner is that if his revised result issued by Maharashtra State Board of

Secondary and Higher Education is taken into consideration, his percentile in the qualifying Board Examination as also his overall ranking in JEE (Main) would increase.

3. Undisputedly, the percentile score of the petitioner in the qualifying examination as also his ranking in the JEE (Main), 2013 Examination would undergo an upward revision if his marks in the qualifying examination conducted by Maharashtra State Board of Secondary and Higher Education are taken as 520, as per the revised mark sheet issued to him by the said Board. The petitioner may, therefore, be genuinely aggrieved on account of percentile score declared by CBSE in the qualifying examination as well as the all India ranking accorded to the petitioner on the basis of the marks initially awarded to him by the Board. But, the difficulty which arises in granting any relief to the petitioner is that any upward revision of his percentile score in the qualifying examination as also his overall All India Ranking and State ranking in JEE (Main), 2013, which presently stands at 11226 and 1078 respectively would simultaneously result in the percentile score in the qualifying examination as well as the overall All India and State Ranking of a number of other candidates getting affected. None of the candidates, whose percentile score in the qualifying examination and overall ranking would be affected on account of upward revision of the percentile score and ranking of the petitioner in JEE (Main), 2013, has been impleaded as a party to the petition and

since the petitioner does not even know as to how many are the students whose percentile in the qualifying examination and overall ranking would be affected nor does he know their particulars, it is also not possible for him to implead those persons as parties to the writ petition. For this reason alone, no relief can be accorded to the petitioner, despite the fact that he cannot be blamed for the mistake committed by the Maharashtra State Board of Secondary and Higher Education, in awarding lesser marks to him when his result in the qualifying examination was initially declared.

4. That apart, the petitioner may not be the only person whose marks have been upwardly revised by the concerned Board in the re-evaluation sought by the candidates, there may be many others like the petitioner whose marks in the qualifying examination have been upwardly revised by one or the other Board, there being many such Boards and Maharashtra State Board of Secondary and Higher Education being only one of them. If the respondent is directed to declare revised percentile in the qualifying examination and revised overall ranking of the petitioner, this may prompt others who are similarly situated, to approach the respondent-Board for revising their percentile and ranking. If that happens, there would be repeated modifications of the result declared by the Board for JEE (Main), 2013. Considering that counseling and admission in various colleges/institutions is to take place on the basis of the percentile score and overall

ranking declared by CBSE, there cannot be repeated revisions of the percentile score and the overall ranking declared by the Board, since such revisions are bound to derail the whole process of admission to the technical colleges and institutions.

5. The learned counsel for the petitioner, during the course of arguments, relied upon the decision of this Court in **Prashant Srivastava vs. CBSE & Ors.** AIR 2001, Delhi 28. In the above-referred decision, the petitioner before this Court appeared in Class XII examination conducted by CBSE in March, 2000. Normally, the results of such examinations used to be announced in the end of May or early June every year. CBSE also used to conduct All India Pre-Medical/Pre-Dental Entrance Examinations (PMT). The said examinations used to be conducted before Class-XII results were announced and, therefore, those who had appeared in Class XII examination, but, whose results had not been declared were also allowed to sit in the PMT Examination. The petitioner before this Court appeared in the PMT examination conducted on 14.05.2000 and the result of the said examination was declared on 30.05.2000. The petitioner, however, could not pass in Biology and had to appear in the Supplementary Examination held on 03.08.2000. In the meanwhile, the results of PMT Examinations were declared. Considering his rank in the merit list, the petitioner was entitled to appear for allotment of a seat in the first round of allotment, but since the results of the Supplementary Examination had not been declared, he was not allowed to participate in the allotment process in

the first round. After declaration of the result of the Supplementary Examination, the petitioner approached the respondent for allotment of a seat and sought participation in the second round of allotment. His request, however, was turned down. Being aggrieved, the petitioner approached this Court by way of a writ petition. Relying upon an earlier decision in **Neha Kattiyar Vs. The Central Board of Secondary Education & Ors., LPA No.385 of 1999**, the Court held that once the appellant passed Supplementary Examination, the result of the said examination would relate back to the first appearance in the said examination. It was further held that the petitioner shall be deemed to have passed Class-XII examination on 30.05.2000. Accordingly, a direction was issued to allow the petitioner to appear in the second round of allotment. The petitioner was to be considered along with the candidates in second counseling as per his rank in the merit list. However, the facts of this case are altogether different. In the case of **Prashant Srivastava** (supra), the marks obtained in the qualifying examination had no role to play in his merit in the PMT Examination. Neither his own rank nor the rank of other candidates was to be influenced by his Class XII result. On the other hand, in the case before this Court, the marks in the qualifying examination have a weightage of 40% and consequently, the overall ranking of the petitioner is bound to change if his revised result in the qualifying examination has taken place and a number of persons will be affected if the percentage score and ranking of the petitioner is

upwardly revised. Therefore, this judgment would have no application to the facts of the case before this Court.

For the reasons stated hereinabove, I am of the view that no relief can be granted to the petitioner.

The writ petition is accordingly dismissed.

One copy of this order be given dasti under the signatures of Court Master.

V.K. JAIN, J

JULY 16, 2013

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