

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WA.No. 1533 of 2015 () IN WP(C).21080/2015

**AGAINST THE ORDER/JUDGMENT IN WP(C) 21080/2015 of HIGH COURT OF KERALA
DATED 15-07-2015**

APPELLANT(S)/WRIT PETITIONER:

**NIVEDITHA V.R AGED 18 YEARS
D/O.BABURAJAN NAIR, PARASSERY UNRA L 20, TC 8/1828/6
UDAYARIGI NAGAR, THIRUMALA.P.O.
THIRUVANANTHAPURAM DISTRICT.**

**BY ADVS.SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE**

RESPONDENT(S)/RESPONDENTS IN WPC:

- 1. STATE OF KERALA
REPRESENTED BY SECRETARY TO TECHNICAL EDUCATION DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. COMMISSIONER OF ENTRANCE EXAMINATIONS
OFFICE OF THE COMMISSIONER OF ENTRANCE EXAMINATIONS
5TH FLOOR, HOUSING BOARD BUILDINGS, SANTHI NAGAR
THIRUVANANTHAPURAM-695 001.**

BY GOVERNMENT PLEADER SRI.ROSHAN D. ALEXANDER

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 16-07-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

ASHOK BHUSHAN, CJ

&

A.M. SHAFFIQUE, J.

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W.A. No. 1533 of 2015

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Dated this, the 16th day of July, 2015

J U D G M E N T

Shaffique, J

This is an appeal filed by the petitioner challenging judgment dated 15/7/2015 in WP(C) No.21080/2015.

2. The writ petition was filed seeking for a declaration that the petitioner is eligible and entitled to have the published ranked list modified in accordance with the revision of her marks as per Ext.P4 and to have her consequential ranking considered during the next allotment.

3. Petitioner appeared for admission to Architecture Engineering Course for the current academic year. She had completed her C.B.S.E. during May, 2015 from Kendriya Vidyalaya SAP Camp, Peroorkada, Thiruvananthapuram. In terms of the prospectus conditions for allotment of seats for the aforesaid course, she applied and submitted her marks. In the meantime, she also applied for revaluation of her CBSE marks. By Ext.P4, she

was informed that she got 87 marks for English language, whereas, earlier the marks awarded to her was only 76. In other words, she got 11 marks more. As per the prospectus conditions, for the Architecture course, rank list will be prepared taking into consideration the marks obtained by the candidate in the National Aptitude Test in Architecture as well as the marks obtained in the qualifying examination, i.e. CBSE. By the time the petitioner got the revaluation results, the marks obtained by her earlier were already uploaded in the website of the Commissioner of Entrance Examination and the rank list had been prepared and the first and second allotment were also over. Petitioner therefore approached the Commissioner of Entrance Examination requesting for adding her 11 marks obtained on revaluation and to consider her for the third allotment taking into consideration the additional marks as well. Since it was not considered by the Commissioner of Entrance Examination, this writ petition is filed seeking the aforesaid reliefs.

4. Learned Single Judge after taking note of Clause 9.7.9 of the prospectus and having observed that though the petitioner's case requires sympathy, taking into consideration the

conditions in the prospectus, no relaxation could be made by the Commissioner of Entrance Examination and therefore the writ petition was dismissed.

5. Impugning the aforesaid judgment, the learned counsel for the appellant submits that when there is increase in the marks on account of revaluation during the allotment process, the Commissioner of Entrance Examination should exercise the discretionary power and permit the additional marks obtained to be computed for the purpose of atleast the next allotment. Learned counsel also relied upon the conditions in examination being conducted by the Joint Implementation Committee, JEE (Advanced 2015), wherein appropriate provisions had been made in Chapter XV to take note of revision in marks on account of revaluation.

6. On the other hand, learned senior Government Pleader appearing on behalf of the respondents would submit that once the ranked list had been prepared on the basis of score in the entrance examination as well as the marks obtained in the qualifying examination, there is no procedure to revoke the ranked list based on revaluation results. Reference is made to

Clause 9.7.4(c), which reads as under;

“9.7.4 (c) Rank list for admission to B.Arch Course will be prepared by giving equal weightage to the score obtained in the 'National Aptitude Test in Architecture' (NATA) and to the marks/grades obtained in the Qualifying Examination by the candidate (As per guidelines of the Council of Architecture, India).

Marks obtained by the candidate in the National Aptitude Test in Architecture (NATA) out of 200 will be added to the total marks/*grades secured by the candidate in the Qualifying Examination computed out of 200. The Rank list will be prepared based on the total marks obtained out of 400, computed as above(*If grades are awarded to candidates in their Qualifying Examination, it will be converted to equivalent marks for this purpose).

Candidates to be considered for inclusion in the rank list for allotment to B.Arch course in all institutions including private Self-financing Colleges have to appear for 'NATA' and secure minimum score as prescribed by COA. [Refer Clause 6.2.3 (b)]”.

7. Further reference is also made to clause 9.7.9 which is already extracted by the learned Single Judge which clearly indicates that the marks of qualifying examination and NATA score received on or before 31/5/2015 alone would be considered for preparing the Architecture rank list. It is therefore argued that

once ranked list is published, it is final and when there is clear stipulation in the prospectus that the marks received subsequently will not be considered under any circumstances, there is no power with the Controller of Entrance Examination to take note of the additional marks obtained by the petitioner for revaluation.

8. Learned Government Pleader also relied upon the judgment in ***Chandigarh Administration and another v. Jasmine Kaur and others*** [(2014) 10 SCC 521] wherein, after considering ***Asha v. Pt.B.D.Sharma University of Health Sciences*** [(2012) 7 SCC 389], Supreme Court observed that the schedule relating to admissions to the professional colleges should be strictly and scrupulously adhered to and shall not be deviated under any circumstance either by the courts or the Board and midstream admission should not be permitted.

9. Though the learned counsel for the appellant relies upon Ext.P6, the prospectus of JEE, we do not think that Chapter XV can have application when specific terms and conditions had been specified in the prospectus for admission to the course in issue. When the prospectus conditions are verified, it is clear that

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the marks obtained subsequent to 31/5/2015 will not be considered under any circumstance. This is a complete bar for any person to claim that the revaluation results after the notified date has to be taken into consideration for the purpose of preparation of rank list after any allotment, as the case may be. When there is clear stipulation in the prospectus, petitioner cannot claim any legal right to demand that the marks obtained after 31/5/2015 has to be considered by the Controller of Entrance Examination.

Hence, we do not find any ground to interfere with the judgment of the learned Single Judge. Accordingly, writ appeal is dismissed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

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PS to Judge