

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

%

Date of decision: 30th April, 2015

+

W.P.(C) 7964/2012

KARTIK SAWHNEY

..... Petitioner

Through: Mr. Kamlesh Kumar Mishra, Adv.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Ms. Abha Malhotra & Mr. Dhruv Dwivedi, Advs. for R-1.

Mr. Amit Bansal & Ms. Seema Dolo,
Adv. for R-2.

Mr. Arjun Mitra, Adv. for R-3.

CORAM :-

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

RAJIV SAHAI ENDLAW, J.

1. This petition under Article 226 of the Constitution of India was filed to direct the respondents (i.e. (i) Union of India, Ministry of Human Resource Development, (ii) JEE (Main) Secretariat, CBSE and (iii) IIT Delhi)

(a) to ensure that alternate questions in lieu of questions with visual inputs are provided for candidates with visual disability in Joint Entrance Examination (JEE) (Main) – 2013 and JEE (Advanced) – 2013 as well as in corresponding examinations conducted in successive years;

- (b) to ensure that blind candidates are allowed to bring their own amanuensis, or in the alternative amanuensis are provided to the satisfaction of blind candidates, in JEE (Main) and JEE (Advanced) examinations;
- (c) to allow amanuensis who have completed Class XIth in Science stream with Physics, Chemistry and Mathematics for blind candidates appearing in JEE (Main) and JEE (Advanced) examination;
- (d) to ensure that the blind candidates do not face any discrimination by way of denial of opportunity to take part in counselling; and,
- (e) to suitably amend the provisions of Clause 2.5 of the Information Bulletin for JEE (Main) and Clause 2.3 of the Information Brochure for JEE (Advanced) as well as other rules, bye-laws, notifications, terms and conditions to ensure that visually challenged candidates are not prevented from pursuing engineering education on an equal basis with others.

2. The petition was entertained and notice thereof issued and counter affidavit was filed by the respondent no.3 IIT Delhi which was conducting JEE (Advanced) in the year 2013 and by the respondent no.2 CBSE, which conducts JEE (Main), and to which rejoinders were filed by the petitioner. The learned Single Judge before whom the petition was then pending, vide order dated 2nd

April, 2013 issued interim directions with respect to the examination then scheduled to be held on 7th April, 2013, (i) of providing scribe/reader/lab assistant from Science stream, who has studied Science upto Class XIth to the petitioner; (ii) of allowing the petitioner to meet and interact with the scribe/reader/lab assistant one hour before the examination, at the Centre of examination; and, (iii) of permitting the respondents to take steps which they may deem necessary to strengthen their invigilation system so that the scribe/reader/lab assistant does not indulge in any malpractices like copying and cheating during the examination.

3. In the light of the said directions having been issued, in the subsequent order dated 17th October, 2014, it was observed that the reliefs which were personal to the petitioner stood satisfied and finding that the remaining reliefs claimed in the writ petition were in the nature of Public Interest Litigation, the petition was ordered to be listed before the appropriate Bench.

4. We were on 10th December, 2014 informed that steps were in progress for preparation of the Scheme of Examination for the year 2015-16 and that various issues raised in the present petition were likely to be taken care of in the said Scheme. Thereafter the counsel for the respondent no.3 placed before us the Information Brochure of the JEE (Advanced) – 2015 in which according to

the respondent no.3 the essential issues raised in the writ petition stood addressed. We also directed the respondents to file affidavits in the regard and affidavits dated 27th February, 2015 and 16th March, 2015 have been filed by the IIT, Delhi and CBSE. We heard the counsel for the petitioner and the counsel for the respondents on 22nd April, 2015 and reserved judgment.

5. The respondent no.2 CBSE in its affidavit dated 16th March, 2015 has stated, (i) that Clause 2.5 of the Information Bulletin for JEE (Main) – 2015 has been amended to make provision for candidates suffering from 40% or more physical impairment; (ii) such candidates will have the discretion of either opting for his/her own scribe/reader or to submit a request to the Centre Superintendent for the same and in which case the Superintendent will identify the scribe/reader and the candidates will be allowed to meet the scribe a day before the examination to verify the suitability of the scribe; (iii) such candidates will be given one hour compensatory (extra) time, irrespective of the fact whether they are availing the facility of scribe/reader; and, (iv) that CBSE will take up the issue of inclusion of alternate questions (for visually impaired candidates) in lieu of questions having visual inputs in the next meeting of JEE Apex Board for taking further necessary action in the matter.

6. IIT, Delhi, responsible for conducting JEE (Advanced) – 2015, in its affidavit dated 27th February, 2015 has stated, (i) that services of a scribe (amanuensis) have been made available to candidates who are visually impaired, dyslexic, have disability in the upper limbs or have lost fingers/hands thereby preventing them from bubbling the Optical Response Sheet (ORS); (ii) to avail this benefit, the candidate has to request the Chairman, JEE (Advanced) – 2015 of the respective zonal IIT in the prescribed format; (iii) the scribe will be a Class XIth student from Science stream with Mathematics as one of the subjects; (iv) one hour extra time has been given to such candidates; (v) that the Joint Admission Board/Joint Implementation Committee for the JEE (Advanced) have also considered the relief claimed in the petition of providing alternate questions in lieu of questions with drawings/visual inputs but have decided that it is not possible because, (a) visual questions are an integral part of the testing process; (b) it is not possible to find questions of identical difficulty; (c) such candidates would be entitled to choose one scribe from the panel maintained in this regard; (d) however it has not been found feasible to allow the candidates to bring their own scribe; and, (e) the candidates will however be allowed to meet the scribe one day prior to the examination in the presence of the Presiding Officer and the Invigilator.

7. As would be obvious from the aforesaid, the changes already made/carried out by the respondents satisfy all the reliefs claimed in the petition save for providing alternate questions (to visually impaired candidates) in lieu of questions with visual inputs. As far as the said issue is concerned, the CBSE, qua JEE (Main) has stated that the matter is under consideration and IIT, Delhi responsible for conducting JEE (Advanced) has stated that the matter has been discussed at the appropriate level and has not found favour for the reasons given and recorded aforesaid. We are of the view that in such matters the power of the Court to intervene is limited and the decision of the experts in the field of education has to be respected. Supreme Court, in ***All India Council for Technical Education Vs. Surinder Kumar Dhawan*** (2009) 11 SCC 726 held that the Courts are neither equipped nor have the academic or technical background to substitute themselves in place of professional technical bodies and take decisions in academic matters involving standards and quality of technical education. If the courts, to alleviate hardship or to provide better opportunity or because they think one course of action is better than the other, start taking decisions in educational matters, without realizing the repercussions on the field of technical education in general, it will lead to chaos in education and deterioration of standards. The purpose of education is to arm

the candidate with the knowledge and expertise to perform the role for which he/she has qualified and not with a mere paper Degree. If the experts, after considering the matter, have formed an opinion that no purpose would be served in admitting a candidate to IIT, who is unable to tackle a problem requiring visual inputs, in the absence of anything to the contrary, we are unable to hold/direct otherwise. The court's jurisdiction to interfere with the discretion exercised by such an expert body is limited even though right to education is concomitant to the Fundamental Rights enshrined in Part III of the Constitution (see *The Dental Council of India Vs. Subharti KKB Charitable Trust* (2001) 5 SCC 486). The counsel for the petitioner also has not been able to argue that the decision in this regard of the Joint Admission Board/Joint Implementation Committee is erroneous in any way. Supreme Court in *Maharashtra State Board of Secondary and Higher Education Vs. Paritosh Bhupesh Kumar Sheth* (1984) 4 SCC 27 had warned that it will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded.

8. We accordingly dispose of this petition in terms of above; leaving the parties to bear their own costs.

RAJIV SAHAI ENDLAW, J

CHIEF JUSTICE

APRIL 30, 2015
'pp'