

THE HON'BLE SRI JUSTICE M.SEETHARAMA MURTI

WRIT PETITION No.9454 OF 2018

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, is filed by the petitioner seeking verbatim the following relief:

“...to issue a writ, order or direction more particularly in the nature of mandamus declaring the impugned proceedings F-171/CBSE/JEE/2018 dt.15-3-2018, issued by the Respondent No.2 as illegal, arbitrary, malafidely, unconstitutional & contrary to the spirit of the order of the Hon'ble High Court's Order dt.6-3-2018 passed in WP No.6793/2018 and to set aside the same and to consequently direct the Respondent No.2 herein to permit the Petitioner to appear in JEE (Main) 2018 Examination schedule to be conducted on 8-4-2018 for the admission in IIT, in the interest of justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstance of the case.”

2. I have heard the submissions of *Sri Pawan Kumar Agarwal*, learned counsel appearing for the petitioner, and of the learned Standing Counsel for Central Board of Secondary Education appearing for respondent No.2 and perused the material record.

3. The case of the petitioner, in brief, is this: The petitioner, having appeared for 10 + 2 examination, conducted in the month of October, 2017, from National Institute of Open Schooling, the 3rd respondent, obtained her online result for the said examination, on 06.12.2017. Erroneously, it was declared that she secured 361 out of 500 marks i.e., 72.2%. In fact, the petitioner intended to pursue further studies in Indian Institute of Technology and as such, intended to apply for entrance examination of the said course. The required application is to be filed before 01.01.2018. However, the

required percentage of marks for appearing for the said examination is 75%. Since her percentage of marks was erroneously declared as 72.2%, she could not apply for the said examination. Thereafter, the petitioner made necessary application for revaluation and on revaluation, her percentage worked out to 75.6%. She was issued a fresh online marks sheet on 23.01.2018 showing her percentage of marks as 75.6%. Therefore, she intended to file an application for the entrance examination, but the same was not received, as the last date for submitting online applications, being 01.01.2018, is over and as there is no possibility for receiving applications online. Hence, the Writ Petition is filed.

4. Learned counsel for the petitioner would submit that as per the information bulletin of the entrance examination, the required percentage of marks is 75% and that the candidate applying with incorrect details is liable for disqualification and therefore, the petitioner, being a *bona fide* applicant, did not apply, since by that time her percentage of marks was erroneously mentioned as less than 75%.

5. Learned Standing Counsel for respondent No.2 brings to the notice of the Court various Clauses in the information bulletin of the entrance examination and would submit that the applicants eligible are the candidates who appeared for examination in the years 2016, 2017 and 2018 and therefore, the candidates of the year 2018, whose results are not declared, are also eligible for making applications online and that as per the programme for scrutiny of applications made online, there is no possibility of

rejection of applications of the candidates securing less percentage of marks than prescribed and that in that view of the matter, the petitioner, even though she secured less percentage of marks than prescribed, ought to have made an application online without waiting for declaration of her correct percentage of marks and thus, the present request in the Writ Petition is untenable. She would further submit that there is no possibility now for receiving the online application and that the instructions mandate that the applications will be received only online and that no hard copies of the applications are receivable and that all arrangements for the entrance examination, including supplying of the examination papers and ball pens, which have to be supplied to the candidate in the examination halls, in the entire Country were already arranged and it would be difficult now to accommodate the petitioner for writing the entrance examination by receiving hard copy of the application.

6. I have given earnest consideration to the facts and submissions. Admittedly, the institution from which the petitioner appeared for examination (10 + 2) wrongly declared her percentage of marks as 72.2%. This percentage was disclosed to her even by 01.01.2018, which is the last date for making application for entrance examination. Therefore, she is ineligible with the said percentage of marks for making an application for the entrance examination. Later, after revaluation, on 23.01.2018 i.e., after the last date for filing application, her percentage of marks was declared as 75.6%. Therefore, the said facts disclose that the petitioner is not at fault.

7. Coming to the contention of the learned Standing Counsel that the petitioner ought to have made an application online, despite knowing her percentage of marks is less than prescribed percentage, in the considered view of this Court, such argument is untenable, for the reason that the Clauses in the information bulletin clearly mandate that if any candidate makes a false statement in the application, such applicant would be disqualified. In that view of the matter, the petitioner is correct in not making an application, when her marks were disclosed erroneously as 72.2% instead of as 75.6%. Hence, for no fault of the petitioner, in the considered view of this Court, she cannot be made ineligible for appearing for the entrance examination.

8. Considering the peculiar facts of this case, this Court is of the considered view that the petitioner is entitled to the relief claimed in the Writ Petition.

9. In the result, the Writ Petition is disposed of directing the 2nd respondent to receive the application of the petitioner either by means of online by making necessary arrangement or by means of hard copy and permit her to appear for the forthcoming entrance examination notwithstanding the fact the she has not submitted the online application before 01.01.2018.

Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

There shall be no order as to costs.

M.SEETHARAMA MURTI, J

March 23, 2018.

Note: Issue C.C. by 27.03.2018.

B/O.MD