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

Date of Decision : 06.04.2018

+ W.P.(C) 2847/2018 & CM Nos.11548/2018, 11549/2018

ANU YADAV

..... Petitioner

Through: Mr.Rakesh Kumar, Adv.

versus

SECRETARY (SCHOOL EDU. AND LITERACY) AND ORS.

..... Respondents

Through: Mr.Manik Dogra, Sr. Govt.

Counsel for R-1.

Mr.Amit Bansal with

Ms.Manisha Singh &

Ms.Seema Dolo, Adv. for

R-2.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. Vide the present petition, the petitioner has sought a direction to respondent No.2 to accept the examination fees in the sum of Rs.1,400/- and permit the petitioner to appear in the National Eligibility cum Entrance Test (NEET Exam), 2018 held on 06.05.2018, for which the last date was upto 11:50 pm on 13.03.2018.

2. Learned counsel for the petitioner submits that the petitioner is a meritorious student having obtained 94.6% in the senior secondary examination held in the year 2017. He further submits that petitioner had appeared in the NEET Exam-2017 as an OBC candidate and had obtained 539 out of 720 marks therein, but was unable to achieve the cut off marks of 553 out of 720 and was, therefore, once again preparing for the NEET Exam-2108. He submits that being desirous

for applying for NEET, she had required the coaching institute where the petitioner was undergoing coaching, to submit her online application form and complete all necessary formalities.

3. Learned counsel for the petitioner submits that it later transpired that that due to oversight on the part of the dealing clerk in the coaching institute, the petitioner's examination fee could not be remitted and petitioner became aware of the same only on 12.03.2018 when she received a message from the respondent No.2 regarding non-remittance of the examination fee.

4. Upon notice, the respondents have filed their counter affidavit wherein they have explained that the application form of the NEET (under graduate) was 100% online process and the application form could be submitted successfully by completing the following 4 steps:-

"7. That the application form of NEET (UG) 2018 is 100% online and application could be submitted successfully by completing and following 04 steps:

- i. Registration on the NEET website*
- ii. Submission of entire application form including uploading of photograph and signature*
- iii. Payment of online fees.*
- iv. Printout of confirmation page (a proof of payment of fee)"*

5. It is further explained by the respondents that step-2 relates to submission of entire application form including uploading of photograph and signature and the same further divided into three parts to facilitate the candidate so that they could submit one part at a time

in case if they so desire. It is the respondents' case that though the petitioner had duly registered on the NEET website and had initiated the process for submission of the application form, she had not completed the said process and had not uploaded her photograph and signature which was a pre-requisite for the successful submission of the application form.

6. Mr.Bansal further submits that since the submission of the petitioner's application form was not complete, there was no question of her paying the examination fees and it is only for this reason, the petitioner's examination fee was not accepted by the system. He submits that in view of the aforesaid position that the petitioner's application form itself was incomplete and had not been submitted in accordance with the laid down procedure, the system of the respondents cannot be faulted for not having accepted the fees from the petitioner.

7. Learned counsel for the petitioner has refuted the aforesaid submissions made by learned counsel for the respondents and contends that the petitioner had successfully completed all the three stages. He places reliance on the 'login details' of the petitioner to contend that after the draft Nos.1, 2 and final draft submitted by the petitioner had been saved, the petitioner had duly clicked on the 'final submit' entry on 21.02.2018 itself and, therefore, contends that it is apparent that the petitioner had duly completed the second stage which meant that her application had been successfully accepted by the system of the respondents.

8. Having heard learned counsel for the parties, I find that except the bald statement of the petitioner that she had duly completed the second stage, there is nothing on record to show that the petitioner had successfully completed the second stage. A perusal of the login entry does not lead to the conclusion that the petitioner's application form was accepted and those login entries merely show that the certain drafts were saved.

9. There is yet another reason as to why the petitioner's plea that her application form had been successfully submitted, cannot be accepted. A perusal of the e-mail dated 13.03.2018 filed as Annexure P-8 by the petitioner sent at 8.05 a.m. on 13.03.2018, shows that the petitioner herself had stated that the login ID did not show her photograph and signature and, therefore, a request was made by her vide this e-mail to permit her to login so that the payment could also be made.

10. At this stage, it may also be appropriate to notice the e-mail sent by the petitioner at 4. 51 p.m. on 13.03.2018 wherein the petitioner has in no unclear terms, stated that on the night of 12.03.2018, she had successfully uploaded and submitted her photograph and signatures, but still she was unable to make the payment process on 13.03.2018. Thus, it appears that the petitioner is taking contradictory stands in her two e-mails both dated 13.03.2018 one having been sent at 8.05 a.m. and the other at 4:51 p.m.

11. On the one hand, the petitioner had sent her e-mail sent at 8.05 a.m. on 13.03.2018 taking the plea that the login did not show her photograph and signatures whereas on the same date at 4.51 p.m., she

had taken the plea that the photograph and signature had been uploaded on 12.03.2018. Even though learned counsel for the petitioner contends that the login record does not show that the petitioner had gone online on 12.03.2018 and therefore, urges that the petitioner's e-mail sent at 4:51 p.m. on 13.03.2018, wherein she had asserted that she had uploaded her photograph and signature on 12.03.2018, may be ignored and her assertion that she had successfully submitted her application form on 21.02.2018 should be believed.

12. Having given my thoughtful consideration, I am of the view, that in the light of the categorical denial by the respondents that the submission of the petitioner's application form was ever completed as per procedure before the prescribed deadline time of 5:30 p.m. on 12.03.2018, it is not possible for this Court, while exercising jurisdiction under Article 226 of the Constitution, to come to a conclusion that her form was duly submitted as per procedure.

13. In view of the aforesaid conclusion that the submission of the petitioner's application form itself was not completed, the Court is unable to accede to the prayer made by the petitioner to direct the respondents to accept her fees belatedly.

14. The petition is dismissed with no order as to costs. The pending applications also stand disposed of.

(REKHA PALLI)
JUDGE

APRIL 06, 2018/gm