

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7611 OF 2019

KAURWAD SHRINIVAS VENKATRAO
VERSUS
THE UNION OF INDIA AND OTHERS

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Advocate for Petitioner :
Dr. R. R. Deshpande h/f. Ms. Deshpande Priyanka R.
ASG for Respondents : Mr. S. B. Deshpande

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CORAM: S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ.

DATE: 25th JUNE, 2019

PER COURT:

1. The petitioner is aspirant of admission to IIT. The petitioner secured 64.8% marks in the 12th board examination. The petitioner seeks rounding off the percentage of marks to 65%.

2. Dr. Deshpande, learned counsel for the petitioner strenuously contends that the principle of rounding off is of universal application. A person securing 64.5 % and above is entitled for the same to be rounded off to 65%. According to the learned counsel, the said practice has been

accepted and followed in every course and by this Court and the Apex Court. The learned counsel to buttress his submission relies upon the judgment of the Apex Court in Case of **State of Uttar Pradesh and another Vs. Pawan Kumar Tiwari and others** reported in (2005) 2 SCC 10. The learned counsel submits that in similar set of facts the Division Bench of this Court in case of **Harsha D/o. Manoharlal Manshani Vs. State State of Maharashtra and another** reported in 2009 (5) Mh. L. J. 57 has observed that the process of rounding off though would not be attracted in the context of regulations framed by the Medical Council of India which operates while preparing merit list on the basis of marks obtained in the competitive examination for seeking admission to the P.G. course but in order to enable a candidate to appear for competitive examination it does not affect the other candidates rounding off would be permissible. According to the learned counsel, the facts in the case of **Harsha D/o. Manoharlal**

Manshani Vs. State of Maharashtra and another (*supra*) and in the instant petition are similar. In the present case also the petitioner is not seeking addition of marks obtained in competitive examination, but is seeking the benefit of the principle of rounding off so as to enable the candidate to be eligible and the same is permissible. The learned counsel also relies on the judgment of another Division Bench of this court in Writ Petition No. 11318 of 2012 dated 08.02.2013 and submits that the principle of rounding off is not restricted to the service matters but is also applicable to academic matters and for securing admission to the professional course.

3. The learned counsel further submits that the petitioner has performed exceptionally well in the JEE examination i.e. the competitive examination for participating in the selection for admission to IIT. The petitioner stands at Serial No. 384 and would get admission to IIT course. The learned

counsel further submits that the State of Maharashtra has issued guidelines for admission to B.Tech. course in the year 2019 – 2020, and the information brochure for the same provides for rounding off. The candidates who have secured 44.50 to 44.99 marks at the qualifying examination for deciding the eligibility are entitled for the same to be rounded to 45%. It is submitted that the same analogy requires to be adopted in the present matter also.

4. Mr. Deshpande, the learned Assistant Solicitor General submits that Clause 26 of the information brochure is clear. The candidate seeking admission to IIT must secure at least 75 % aggregate marks in Class 12th. The aggregate marks for S.C., S.T. and persons with disability candidates should be at least 65%. According to the learned A.S.G., the same cannot be relaxed otherwise it would have cascading effect. The learned A.S.G. relies on the judgment of the Apex Court in case of ***The Registrar, Rajiv Gandhi***

University of Health Sciences, Bangalore Vs. G. Hemlatha and others reported in (2012) 8 SCC 568 and another judgment of the Apex Court in case of **The West Bengal Joint Entrance Examination Board and others Vs. Sarit Chakraborty and others** reported in 2015 (2) SCALE 162.

5. We have considered the submissions canvassed by the learned counsel for respective parties.

6. Before we advert to the contentions canvassed by the learned counsel for the parties, it will be appropriate to refer to the relevant Clause.

"26. PERFORMANCE IN CLASS XII (OR EQUIVALENT) BOARD EXAMINATION

The candidates should satisfy at least one of the following two criteria for admission to IITs:

(1) Must have secured at least 75% aggregate marks in the Class XII (or equivalent) Board examination. The aggregate marks for SC, ST and PwD candidates should be at least 65%.

(2) Must be within the category-wise top 20 percentile of successful candidates in their respective Class XII (or equivalent) board examination."

7. It is not disputed that the petitioner does not qualifying Clause 26(2). The emphasis is on

Clause 26(1). The petitioner belongs to Scheduled Tribe category. As per Clause 26(1), the aggregate marks for admission to IITs for S.C., S.T. and persons with disability candidates in 12th standard should be "at least 65%". The petitioner has secured 64.8% marks. For arriving at percentage of 65% one mark is required to be added to the total marks obtained by the petitioner.

8. Reading the clause, it is manifest that S.T. candidate should obtain "at least 65%".

9. In Writ Petition No. 11318 of 2012 decided by the Division Bench of this Court dated 08.02.2013 and relied by the learned counsel for the petitioner, the Court was considering the rounding off the final examination marks. The Court considered the Ordinance 4. The said Ordinance 4 provides for condonation of marks.

10. In case of ***State of Uttar Pradesh and another Vs. Pawan Kumar Tiwari and others (supra)*** it was observed that the rules in question does

not debar rounding off all the figures. It was further observed that rules do not prescribe that any fraction has to be ignored.

11. In the present case, the clause requires that the aggregate marks secured by S.T. candidate should be "at least 65%". If the rounding off is allowed, the words "at least" would loose its efficacy and significance. In a way, one mark will have to be added in the total of the petitioner for the percentage to be 65%.

12. The Apex Court in case of ***The West Bengal Joint Entrance Examination Board and others Vs. Sarit Chakraborty and others*** (*supra*) observed that there were no guidelines for permitting the rounding off marks in order to make the candidate eligible. In the present case also there are no guidelines permitting rounding off of the percentage.

13. In case of ***The Registrar, Rajiv Gandhi University of Health Sciences, Bangalore Vs. G.***

Hemlatha and others (*supra*) the Apex Court relied on the another judgment of the Apex Court in case of **Orissa Public Service Commission and another Vs Rupashree Chowdhary and another reported in (2011) 8 SCC 108** and observed that when emphasis is given in the rule itself to the minimum marks to be obtained, there can be no relaxation or rounding off. It was observed, no power was provided in the Statue / Rules permitting any such rounding off or giving the grace marks. In the present matter also the clause lays emphasis on the minimum percentage to be obtained in Class 12th i.e. at least 65%. The said guidelines / brochure does not provide any power permitting rounding off.

14. It is also not an individual case that is required to be considered. Clause 26, as reproduced *supra* is uniformly applicable through out the country. Isolated case cannot be considered for the said purpose. If an individual candidate is permitted and allowed rounding off it would have a cascading effect. The entire

admission process would be affected.

15. The clause does not provide a provision for rounding off. The reliance placed by the learned counsel for the petitioner on the information brochure for admission to the B.Tech. Course issued by the Government of Maharashtra for the academic year 2019 – 2020 permitting rounding off would in a way go against the petitioner. The same would demonstrate that where ever the rounding off is to be made permissible, it is specifically provided under the guidelines or brochure. In the present case, the guidelines / brochure no where permits rounding off. In absence of the same, the case of the petitioner certainly cannot be accepted.

16. In the light of above, no relief can be granted to the petitioner.

17. Writ Petition stands disposed of. No costs.

[MANGESH S. PATIL, J.]
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[S. V. GANGAPURWALA, J.]