

\$~68

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

Date of Decision: 23rd May, 2019

+ W.P.(C) 5104/2019 & CM APPL. 22588/2019

UJJWAL TRIPATHI

.... Petitioner

Through: Mr. Prashant Shukla, Adv.

versus

DIRECTOR GENERAL, NATIONAL
TESTING AGENCY

..... Respondent

Through: Mr. Amit Bansal, Adv. with
Mr. Aman Rewaria, Adv. for NTA
Mr. Arjun Mitra, Adv. for IIT, Roorkee

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

%

J U D G M E N T (O R A L)

1. The grievance of the petitioner, as set out in the writ petition, was that, despite being a student belonging to the Economically Weaker Section (hereinafter referred to as “EWS”), he has been treated by the National Testing Agency (hereinafter referred to as “the NTA”), which conducts the Joint Entrance Examination (Main) [hereinafter referred to as “the JEE (Main)”], as a General category candidate.

2. The JEE (Main) Examination, it may be noted, is an examination which is required to be undertaken by candidates who

aspire to obtain entry into any of several engineering colleges run by the government, which include the Indian Institutes of Technology (hereinafter referred to as “IITs”).

3. The top 245000 performers, in the JEE (Main) Examination, are entitled to appear in the JEE (Advanced) Examination , which is held by one or the other IIT every year, and it applies only for admission to the IITs.

4. A minimum cut-off percentage is prescribed by the JEE (Main) Examination. The petitioner, who undertook the JEE (Main) Examination, had entered his name, in the application form, as a candidate belonging to the General category. As the form did not contain any provision for permitting a candidate to enter his status as belonging to the EWS category. Subsequently, however, the NTA issued a public notice, permitting candidates, who belonged to the EWS category, to change their category, as entered in the application form, for which a window period, from 11th March, 2019 to 15th March 2019, was provided. The petitioner, availing this opportunity, changed his category from General to EWS.

5. The claim of the petitioner was that the petitioner secured 89.19 percentile in the JEE (Main) Examination. The cut-off, for General category candidates in the said examination, in order to enable them to be eligible to appear in the JEE (Advanced) Examination, was fixed as 89.7 percentile, whereas the cut-off for the EWS category was 78.2 percentile. The petitioner had, therefore, scored more than the cut-off

for EWS candidates, but less than the cut-off for General category candidates.

6. The petitioner was shown, in the said results, as a General category candidate. The grievance of the petitioner, in the writ petition, is that this was an error, as he was an EWS candidate and had secured more than the cut-off prescribed for EWS candidates in the JEE (Main) Examination.

7. The writ petition, therefore, prays that the respondents be directed to allow the petitioner to undertake the JEE (Advanced) Examination, which is scheduled to commence on 27th May, 2019.

8. Consequent to issuance of notice, a counter affidavit has been filed by Respondent No.1 (NTA).

9. It is pointed out, in the said counter affidavit, that a second window, for change of category, was opened by the NTA between 15th April, 2019 and 17th April, 2019, and that the petitioner had, during the second window period, re-converted his category from “EWS” to “General”. The screenshot of the said change/correction, made by the petitioner, on 17th April, 2019 at 3.10 p.m., has been annexed to the counter affidavit. The counter affidavit submits, therefore, that, as the petitioner had re-converted his category to “General” prior to the declaration of the JEE (Main) Examination results, no fault could be found for the petitioner having been reflected, in the said result, as a General category candidate. In these circumstances, avers the counter-

affidavit, the petitioner has, by his own act, disentitled himself to the benefits of lower cut-off percentile as available to EWS category candidates.

10. Mr. Prashant Shukla, learned counsel appearing for the petitioner, does not dispute the fact of his client having changed his category from EWS to General on 17th April, 2019 at 3.10 p.m. Indeed, there can hardly be any dispute about the said fact in view of the screen shot annexed to the counter affidavit of the NTA, which clearly shows that the said change had been effected by the petitioner on 17th April, 2019 at 3.10 p.m.

11. Mr. Shukla, however, submits that this was probably owing to an inadvertent error on the part of his client, as there could be no justifiable reason for his client, who was an EWS candidate, to seek to change his categorisation to “General”, thereby raising the threshold of marks required to be obtained for him to be eligible to appear in the JEE (Advanced) Examination.

12. Learned counsel may be right.

13. This Court, however, cannot second guess the reason for the petitioner having changed his category from EWS to General at 3.10 p.m. on 17th April, 2019. The fact remains, however, that he did so. Thereby, he sealed his chances to appear in the JEE(Advanced) examination.

14. Even if this were to be taken as an inadvertent act on the part of the petitioner, this Court cannot be oblivious of the fact that the JEE (Advanced) Examination is a humongous exercise, which involves lakhs of students and, if courts are to interfere in such matters, treating the change of category as inadvertent, or as an accidental slip on the part of candidate, a Pandora's box would inevitably be opened.

15. Candidates who apply for such examinations are required to be vigilant and ensure that they are circumspect while applying, and while making entries, especially where the entire process of application, as is this case, takes place online.

16. Mr. Shukla requests this Court to take a sympathetic view of the matter, as, in his submission, if the petitioner is not allowed to appear in the JEE (Advanced) Examination, he would lose his chance to secure higher education in the IITs.

17. This Court sympathises with the situation in which the petitioner finds himself, but expresses its inability to come to his aid.

18. On the date of release of the results for the JEE (Main) Examination, the petitioner had, by his own act, categorized himself as a General category candidate. The result was also, therefore, issued treating him as a General category candidate.

19. There is no provision for the petitioner's candidature to be changed again. Nor can this court direct the respondent to do so, at the

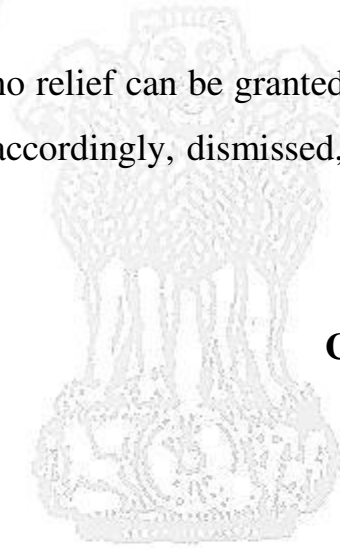
instance of the petitioner. Two window permits, for effecting change of category, were provided by the NTA. Taking advantage of the first window period, the petitioner changed his category from “General” to “EWS”, and, during the second window period, he changed his category back to “General”.

20. There is no provision for any further change and, consequently, this Court cannot allow the petitioner to appear in the JEE (Advanced) Examination, treating him as an EWS candidate.

21. In view thereof, no relief can be granted to the petitioner in this writ petition, which is accordingly, dismissed, albeit with no order as to costs.

MAY 23, 2019
dsn

C. HARI SHANKAR, J



सत्यमेव जयते