

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5447/2019 & CM APPL. 28313-28314/2019**

Judgment reserved on: 02.07. 2019

Date of decision : 04.07.2019

JIGYASA JAIN & ORS

..... Petitioners

Through: Mr. Vikrant Pachnanda and Mr.
Nipun Katyal, Ms. Naina
Pachnanda, Advs.

versus

UNION OF INDIA & ORS

..... Respondents

Through: Mr. AK Sharma, Adv. for R-1.
Mr. Arjun Mitra, Adv. for IIT,
Roorkee, JEE (Advanced)

And

+ **W.P.(C) 5701/2019**

**MS. TARINI SHRIVASTAVA THROUGH HER FATHER
SHRI SANJEEV SHRIVASTAVA**

..... Petitioner

Through: Mr. Vipul Agrawal, Adv.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Kirtiman Singh, CGSC,
Ms. Shruti Dutt, Adv. for R-
1/MHRD
Mr. Amit Bansal, Adv. for R-2.
Mr. Arjun Mitra, Adv. with
Prof. Kaushik Ghosh for IIT
Roorkee (JEE Advanced)

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

1. The petitioners of WP (C) 5447/2019 and the petitioners of WP (C) 5701/2019 vide their petitions filed on 16.05.2019 and 21.05.2019 respectively seek to avail the benefit of the EWS Scheme introduced by the 103rd amendment to the Constitution of India for consideration of their candidature to the JEE (Advanced) Examination which has been conducted on 27.05.2019.

2. When the petitions were filed, the JEE (Advanced) Examination was yet to be conducted on 27.05.2019 and vide order dated 24.05.2019 in WP (C) 5447/2019 and vide order dated 22.05.2019 in WP (C) 5701/2019, the petitioners thereof were permitted to appear on a provisional basis in the JEE (Advanced) Examination as EWS candidates as an interim measure. However, the order dated 22.05.2019 in WP (C) 5701/2019 made it clear that the said provisional permission to appear in the examination was subject to the outcome of the writ petition and vide order dated 24.05.2019 in WP (C) 5447/2019, it has been observed vide paras 3 & 4 to the effect:

“3. In a similar matter, i.e. W.P. (C) 5701/2019 (Ms. Tarini Shrivastava v. UOI). I have, while issuing notice in the writ petition, permitted the petitioner, to appear in the JEE (Advanced) Examination, to be conducted on 27th May, 2019.

*4. There is no reason why the petitioner in this case should not be extended the **same** relief.”*

Thus, apparently the order dated 24.05.2019 is also as an interim measure.

3. **The grievance of the petitioners of both the petitions is identical and thus the petitions have been taken up for adjudication vide this common judgment.**

4. The JEE (Main) Examinations were conducted in January, 2019 and in April, 2019 and the best score amongst the two examinations was to be considered for the eligibility and registration of the JEE (Advanced) Examination and as an interim measure vide order dated 22.05.2019 in WP (C) 5701/2019 and vide order dated 24.05.2019 in WP (C) 5447/2019 the petitioners were permitted provisional appearance for the JEE (Advanced) Examination to be held on 27.05.2019.

5. The petitioners contend that at the time when the information bulletin was put up by the National Testing Agency arrayed as the respondent no.2 in WP (C) 5701/2019 and as the respondent no.3 in WP (C) 5447/2019, the reservations therein were prescribed as under:

“
RESERVATION
For admission to a participating institute please see the reservations applicable in that particular institute. In case of institutes run by Central Government, 15% of the seats are reserved for the category Scheduled Caste (SC), 7.5% for the category Scheduled Tribe (ST) and 27% for the category Other Backward Classes belonging to The “Non Creamy layer” (OBC-NCL). Each category will have 5% reservations for Persons with Disabilities (PwD) as defined in The Rights of Persons with Disabilities Act, 2016 (RPwD Act 2016). Other Backward Classes - Non Creamy Layer

(OBC–NCL) are as per the Central list of Other Backward Classes available on National Commission for Backward Classes (NCBC), Government of India website www.ncbc.nic.in Thus, the candidates falling in this list may mention OBC in the Category Column. State list OBC Candidates who are not in OBC-NCL (Central List) must choose General. Section 2(r) of the RPwD Act, 2016 states the following:

Persons with benchmark disabilities (PwD) means a person with not less than forty percent (40%) of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority.

“Specified Disability” means the disabilities as specified in the Schedule of the RPwD Act 2016.

The categories of disabilities are:

- (i) Blindness and low vision*
- (ii) Deaf and hard of hearing*
- (iii) Locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy*
- (iv) Autism, intellectual disability, specified learning disability and mental illness, and*
- (v) Multiple disabilities from amongst persons under clauses (i) to (iv)*
- (vi) Other “specified disabilities” mentioned in the Schedule of the RPwD Act 2016.*

No change in the category will be entertained after the last date of JEE(Main)-2019 application form and no subsequent changes will be effective for JEE(Main) NTA Score 2019.

Please refer to Office Memorandum issued by Ministry of Social Justice & Empowerment dated 29 August 2018 (F.No.34-02/2015-DD-III), guideline IV, second paragraph.

The facility of Scribe/Reader/Lab Assistant should be allowed to any person with benchmark disability as defined under section 2(r) of the RPwD Act, 2016 and has limitation in writing including that of speed if so desired by him/her.

In case of persons with benchmark disabilities in the category of blindness, Locomotor disability (both arm affected-BA) and cerebral palsy, the facility of scribe/reader/lab assistant shall be given, if so desired by the person.

In case of other category of persons with benchmark disabilities, the provision of scribe/reader/lab assistant can be allowed on production of a certificate to the effect that the person concerned has physical limitation to write, and scribe is essential to write examination on his behalf, from the Chief Medical Officer/Civil Surgeon Medical Superintendent of a Government health care institution as per preforms at APPENDIX-I.

The candidates who require scribe/reader as per above will have to submit the request in writing to the Centre Superintendent for the same along with disability certificate issued by the authorized Medical Officer at least one week before the examination date. The Centre Superintendent will identify the scribe/reader from the students who are studying one class lower. In case a request is received from the candidate, he/she would be allowed to meet the scribe a day before the examination to verify the suitability of the scribe. One hour compensatory time will also be allowed to the candidates who are availing the facility of scribe/reader.

The reservation policy, as announced by the government from time to time and applicable to the admitting institutes will be used. The candidates are advised to look for the details at the time of admission.”

The applications were invited thus by the respondent no.1 on 08.02.2019 from candidates who wished to appear in the Joint

Entrance Examination (Main) in May which was required to be undertaken to such admission in the engineering colleges in the country including the Indian Institute of Technology (IIT)

6. It is submitted by the petitioners that despite the 103rd Amendment to the Constitution of India dated **12.01.2019** whereby a specific category of economically weaker sections in the general category was carved out of the existing reservation policy and an Office Memorandum dated **17.01.2019** issued by the Department of Social Justice and Empowerment, Ministry of Social Justice and Empowerment specifying certain conditions for availing the benefits of EWS category and concurrently another Office Memorandum issued on the same date **17.01.2019** by the Department of Higher Education, Ministry of Human Resource Development stating that the implementation of the EWS category would be from the academic year 2019-20.

7. The petitioners submit that when they filled in the form for the JEE (Main) Examination, 2019, there was no separate sub-category of EWS under the General category earmarked for citizens who were eligible to avail of the same and that the duration of filling up the form for JEE (Main) Examination was from 08.02.2019 to 07.03.2019. The petitioners submit that vide a separate notification, the National Testing Agency spelt out the terms of the economic weaker section under the General category of citizens permitting them to specify such category in a certain time-frame from **11.03.2019** to **15.03.2019**. Whereas, the petitioners of WP (C) 5447/2019 submit that they could not look into the website of the National Testing Agency due to their

preparation for the entrance examination, the petitioner of WP (C) 5701/2019 submits that she too could not avail of the time-frame between 11.03.2019 to 15.03.2019 to upload her status as being one belonging to the EWS category under the General category of citizens due to her Board examinations.

8. The 103rd Amendment of the Constitution of India vide which Clause 6 in Article 15 was inserted reads to the effect:

“ (6) Nothing in this article or sub-clause(g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making –

(a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5), and

(b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provision relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 20, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent of the total seats in such category.

Explanation – For the purposes of this article and article 16, “economically weaker sections” shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.””

9. The consequential Office Memorandum dated 17.01.2019 issued by the Department of Social Justice and Empowerment, Ministry of Social Justice and Empowerment reads as under”

*“F.No.20013/01/2018-BC-II
Government of India
Ministry of Social Justice and Empowerment
Department of Social Justice and Empowerment.
17th January, 2019
Shastri Bhawan, New Delhi*

OFFICE MEMORANDUM

Subject: Reservation for Economically Weaker Sections (EWSs) in civil posts and services in the Government of India and admission in Educational Institutions.

In pursuance of insertion of clauses 15(6) and 16(6) in the Constitution vide the Constitution (One Hundred and Third Amendment) Act, 2019 and in order to enable the Economically Weaker Sections (EWSs) who are not covered under the existing scheme of reservations for the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes, to receive the benefits of reservation on a referential basis in civil posts and services in the Government of India and admission in Educational Institutions, it has been decided by the Government to provide 10% reservation to EWSs in civil posts and services in Government of India and admission in Educational Institutions.

2. Persons who are not covered under the existing scheme of reservations for the Scheduled Castes, the Scheduled Tribes and the Socially and Economically Backward Classes and whose family has gross annual income below Rs. 8.00 lakh are to be identified as EWSs for the benefit of reservation. Family for this purpose will include the person who seeks benefit of reservation, his/her parents and sibling below the; age of 18 years as also his/her spouse and children below the age of 18 years. The income shall include income from all sources i.e. salary, agriculture, business, profession etc. and it will be income for the financial year prior to the year of application. Also persons

whose family owns or possesses any of the following assets shall be excluded from being identified as EWSs, irrespective of the family income:

- i. 5 acres of Agricultural Land and above;*
- ii. Residential flat of 1000 sq. ft. and above;*
- iii. Residential plot of 100 sq. yards and above in notified municipalities;*
- iv. Residential plot of 200 sq. yards and above in areas other than the notified municipalities.*

3. The income and assets of the families as mentioned in para 2 would be required to be certified by an officer not below the rank of Tehsildar in the States/UTs. The officer who issues the certificate would do the same after carefully verifying all relevant documents following due process as prescribed by the respective State/ UT.

4. Every Educational Institution shall, with the prior approval of the appropriate authority, increase the number of seats over, and above its annual permitted strength in each branch of study or faculty so that the number of seats available, excluding those reserved for the persons belonging to the EWSs, are not less than the total seats available in the academic session immediately preceding the date of the coming into force of this O.M.

5. Instructions regarding reservation in employment and admission to educational institutions will be issued by DoPT and Ministry of HRD respectively.

Sd/-

(B.L.Meena)

Joint Secretary to the Government of India”

10. Another Office Memorandum which was issued by the Department of Higher Education, Ministry of Human Resource Development on the same date i.e. 17.01.2019, reads to the effect:

*“F No: 12-4/2019-U1
Government of India
Ministry of Human Resource Development
Department of Higher Education*

*Shastri Bhawan, New Delhi
Dated: 17th January, 2019*

OFFICE MEMORANDUM

Subject: Reservation for Economically Weaker Sections (EWSs) for admission in Central Educational Institutions.

In accordance with the provisions of the Constitution (One Hundred and Third Amendment) Act 2019, and the reference of Ministry of Social Justice and Empowerment vide OM No. 2001310112018-BC-II dated 17th January 2019, enabling provision of reservation for the Economically Weaker Sections (EWSs) who are not covered under the existing scheme of reservations for the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes, it has been decided to provide reservation in admission to educational institutions subject to a maximum of ten percent of the total seats in each category. This would not apply to the minority educational institutions referred to in clause (1) of Article 30 of the Constitution of India.

2. The provision of reservations to the Economically Weaker Sections shall be in accordance with the directions contained in the OM No. 20013/01/2018-BC-II dated 17th January 2019 of the Ministry of Social Justice & Empowerment and shall be subject to the following:

a) The reservations shall be provided to EWSs for admission in Central Educational Institutions, (as defined in clause (d) of section (2) of The Central Educational Institutions (Reservation in Admission) Act, 2000) from the academic year 2019-20 onwards.

b) The above reservation would not be applicable to the 8 institutions of excellence, research institutions, institutions of national & strategic importance as specified in the Schedule to The Central Educational Institutions (Reservation in Admission) Act, 2006, as amended from time to time, and appended to this OM, and to the minority educational institutions referred to in clause (1) of article 30 of the Constitution.

c) Every Central Educational Institution shall, with the prior approval of the appropriate authority (as defined in clause (e) of section 2 of The Central Educational Institutions (Reservation in Admission) Act, 2006), Increase the number of seats over and above its annual permitted strength in each branch of study or faculty so that the number of seats available, excluding those reserved for the persons belonging to the EWSs, is not less than the number of such seats available, in each category, for the academic session immediately preceding the elate of the coming into force of this O.M.

d) Where, on a representation by any Central Educational Institution, the appropriate authority is satisfied that for reasons of financial, physical or academic limitations or in order to maintain the standards of education, the annual permitted strength in any branch of study or faculty of such institution cannot be increased for the academic session following the commencement of this Act, it may permit such institution to increase the annual permitted strength over a maximum period of two years beginning with the academic session following the

commencement of this Act; and then, the extent of reservation for the Economically Weaker Sections shall be limited for that academic session in such manner that the number of seats made available to the Economically Weaker Sections for each academic session shall not reduce the number and the percentage of reservations provided for SC/ST/OBC categories.

e) The scheme for implementing the reservation for the EWS shall be displayed on the website of the institution as soon as possible, but no later than 31st March 2019.

3. The Chairman UGC, Chairman AICTE and Chairperson NCTE and the Bureau Heads of the Department of Higher Education in the Ministry of Human Resource Development responsible for management of the Institutions of National Importance are requested to ensure immediate compliance of this OM.

4. This issues with the approval of the Minister for Human Resource Development.

Encl: As above

*Sd/-
17.01.2019
Smita Srivastava
Director*

- 1. Chairman UGC*
- 2. Chairman AICTE*
- 3. Chairperson NCTE*
- 4. All Bureau Heads of Department of Higher Education*

Copy to:

Chief Secretaries of all State Governments/UTs: with a request to give effect to the provisions of the Constitution (One Hundred and Third Amendment) Act, 2019 for all higher educational institutions funded/aided, directly or

indirectly, by the State Government in such manner that the provision for reservation for EWS would become operational from the academic year 2019-20.”

11. The National Testing Agency has further apprised that the second window was provided between 15.04.2019 and 17.04.2019 for candidates belonging to the EWS category to apply for appearance in the JEE (Main) Examination.

12. Undoubtedly, the National Testing Agency which conducted the examination for the JEE (Main) ought to have incorporated the reservation for the EWS category at the time of issuance of the information bulletin inviting applications from 08.02.2019 to 07.03.2019 for the EWS category as well in view of the amendment to Article to the Constitution 15 w.e.f. 12.01.2019, in view of the Office Memorandum dated 17.01.2019 issued by the Department of Social Justice and Empowerment, Ministry of Social Justice and Empowerment and by the Department of Higher Education, Ministry of Human Resource Development stating that the implementation of the EWS category would be done from the academic year 2019-20. However, the same was set forth vide a public notice only on 02.03.2019 by the National Testing Agency.

13. The National Testing Agency through the affidavit of its Director dated 31.05.2019 as placed on record of WP (C) 5701/2019 has submitted as under:

“1. That the Ministry of Human Resource Development (MHRD), Government of India (GOI) has established National Testing Agency (NTA) as an independent autonomous and self-sustained premier testing

organization under Society Registration Act 1860 for conducting efficient, transparent and international standards tests in order to assess the competency of candidates for admissions to premier higher education institutions.

2. The Department of Higher Education, Ministry of Human Resource Development (MHRD), Government of India has entrusted the responsibility of conducting Joint Entrance Examination JEE (Main) to the NTA from 2019 onwards.

3. That on 12.01.2019 the Constitution One Hundred and Third Amendment Act, 2019, was notified in the Gazette of India to make special provision of reservation for EWS in admission to Educational Institutions and for appointments.

4. That it is submitted that the Information of Bulletin for the JEE (Main), April, 2019 Examination was approved on 07-02-2019; with that on 08-02-2019, the online Application of JEE (Main) April was launched along with the said Information Bulletin on the website: www.jeemain.nic.in

5. That after the Bulletin of Information for the said exam was already issued, the MHRD vide its email dated 15-02-2019- addressed to Director General (NTA), sent its letter dated 01-02-2019 regarding reservation for EWS for admission in Central Educational Institutions. Copy of the email dated 15-02-2019 is annexed as Annexure R-1.

6. That a copy of letter dated 15-02-2019 was also received by NTA through email dated 15.02.2019 from MHRD, along with a copy of its Office Memorandum No. 12-4/2019 U1 dated 17.01.2019 regarding reservation for EWS for admission in Central Educational Institutions. Copy of the Letter No. 35-2/2019 T.S-I dated 15.02.2019 Annexure R-2.

7. That on 15-02-2019, it is submitted that the Organizing Chairman of JEE(Advanced)-2019 having Secretariat at IIT Roorkee, informed NTA that the Data required for EWS may be requested from all the Candidates of JEE(Main)-2019, as the same would be required by them in due course for JEE(Advanced)-2019. Copy of the letter dated 15-02- 2019 by Organizing Chairman of JEE (Advanced)-2019 is annexed as Annexure R-3.

8. That in view of the directions of the MHRD vide the aforesaid email and letters, on 02.03.2019 a Public Notice was issued by NTA introducing provisions in respect of EWS category, through the JEE Main Examination Portal for Information of concerned Candidates of JEE (Main) 2019 to record their EWS Category in their respective Online Application Form. For the said purpose the portal for the Online Application Form was opened from 11th to 15th March, 2019.

9. That it may be pertinent to mention here that the said Public Notice was also widely published in leading new papers (English/Hindi/Regional Language) throughout the country on 11.03.2019.

10. That based upon several representations, the Online Application Window on JEE (Main) Portal was once again opened from 15.04.2019 to 17.04.2019, to enable the Candidates of JEE (Main) 2019 to change their category status including EWS, as last opportunity. Copy of the Public Notice dated 15-04-2019 on the JEE (Main) Examination Portal is annexed as Annexure R-4.

11. That hence, it is submitted that due measures have been taken by the NTA in notifying the provision of EWS as one of the categories under which one could apply for the JEE (Main) April, 2019, Exam. It may be noted that in response to the Public Notices dated 02-03-2019 and 15-

04-2019 issued by NTA, about 37,395 and 7,217 candidates, respectively, have changed their category to EWS.

12. That in this regard it is further submitted that the Bulletin of Information for the JEE (Main) April, 2019 Examination, had issued specific instructions that candidates are advised to keep visiting the NTA's website regularly for latest updates.

13. That despite Public notices having been issued through publication in several newspapers and official website of JEE (Main) regarding implementation of EWS as a category, the Petitioner has failed to register himself as EWS candidate at both times i.e. 11th to 15th March and 15th to 17th April, 2019, when the examination portal was opened for candidates to make corrections in their category as OBC, ST/SC, General including EWS. Petitioner has been completely negligent in keeping himself well informed about the developments regarding the JEE (Main) Examination.

14. That it is submitted that the Petitioner belatedly, as an afterthought pleaded the alleged fault in the actions of the NTA, in implementing changes in the reservation policy, so far as EWS category is concerned. This is evident from the fact that the Petitioner has raked up the issue of error only after having seen his result, which clearly shows that if considered under UR Category, he would be ineligible to appear for ;he JEE (Advance) Examination and/or for admission to NITS/IIIT's/CFTIS in general category (common rank list). In view of the same, it is submitted that the present Petition lacks bonafide and ought to be dismissed on the said ground alone.

15. That the contention of the Petitioner that since he was busy preparing and giving her Class XII Board Exam, he could not apply as an EWS candidate in terms of the

Public Notices dated 02-03-2019 and 15-04-2019, does not inspire confidence in as much as no exams were being held, at least, when the portal was opened for the second and last time i.e. 15-04-2019 to 17-04-2019.

16. That since the Merit List of JEE(Main) 2019, has already been declared to all concerned and has been provided to IIT Roorkee, the Organizing Committee for JEE(Advanced)-2019 and other Government run participating Engineering Institutions in first week of May 2019, nothing could be done by NTA at this stage.

17. That it is submitted that the answering Respondent has, at the earliest possible instance, taken all the measures to implement the directions issued by MHRD vis-a-vis introducing provisions in respect of EWS category.”

14. It has been submitted by the National Testing Agency that the petitioners have failed to register themselves as EWS candidates at both times when the examination portal was open for candidates to make corrections in the category as SC, ST, OBC and General including EWS from 11.03.2019 to 15.03.2019 and 15.04.2019 to 17.04.2019.

15. The affidavit of the Director of the National Testing Agency as placed in WP (C) 5701/2019 also indicates that the public notice was published in leading newspapers of the country in English, Hindi and regional languages on 11.03.2019 and during the course of submissions made, it was submitted that the said publication was made in 60 newspapers. The list of the said newspapers has been submitted on behalf of the National Testing Agency which indicates that there was wide publication made of the opening of the window

from 11.03.2019 to 15.03.2019 for making of corrections in the category as SC, ST, OBC and General including EWS. The list of the said newspapers in which the publication was displayed has been placed on record by the National Testing Agency which reads to the effect:

S. No.	NP Name	City	Language	Periodicity	Publish on	Not After
1.	<i>The Echo of India.</i>	<i>Port Blair</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
2.	<i>Echo of Arunachal</i>	<i>Itanagar</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
3.	<i>Sentinel</i>	<i>Guwahati</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
4.	<i>Asomiya Pratidin</i>	<i>Guwahati</i>	<i>Assamese</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
5.	<i>Hindustan (Patna)</i>	<i>Bhagalpur</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
6.	<i>Hindustan (Patna)</i>	<i>Muzaffarpur</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
7.	<i>Hindustan</i>	<i>Patna</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
8.	<i>The Tribune</i>	<i>Chandigarh</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
9.	<i>Nav Bharat (Bilaspur)</i>	<i>Bilaspur</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
10.	<i>Hari Bhoomi</i>	<i>Raipur</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
11.	<i>Nav Bharat (Raipur)</i>	<i>Raipur</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
12.	<i>Indian Express</i>	<i>Delhi</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
13.	<i>The Hindustan Times</i>	<i>Delhi</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
14.	<i>The Times of India</i>	<i>Delhi</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>

.						
15	<i>Dainik Jagran</i>	<i>Delhi</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
16	<i>Hindustan</i>	<i>Delhi</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
17	<i>The Navhind Times</i>	<i>Panaji</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
18	<i>Gomantak</i>	<i>Panaji</i>	<i>Marathi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
19	<i>Divya Bhaskar</i>	<i>Ahmedabad</i>	<i>Gujarati</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
20	<i>Dainik Jagran</i>	<i>Hisar</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
21	<i>Dainik Jagran</i>	<i>Panipat</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
22	<i>Excelsior</i>	<i>Jammu</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
23	<i>The Tribune</i>	<i>Jammu</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
24	<i>Taskeen</i>	<i>Jammu</i>	<i>Urdu</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
25	<i>Kashmir Images</i>	<i>Srinagar</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
26	<i>The Tribune</i>	<i>Sri Nagar</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
27	<i>Prabhat Khabhar</i>	<i>Dhanbad</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
28	<i>Prabhat Khabhar</i>	<i>Jamshedpur</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
29	<i>Prabhat Khabhar</i>	<i>Ranchi</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>

30 .	<i>Vijay Karnataka</i>	<i>Bengaluru</i>	<i>Kannada</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
31 .	<i>Mathrubhu mi</i>	<i>Thiruvananthapuram</i>	<i>Malayalam</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
32 .	<i>The Pioneer</i>	<i>Bhopal</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
33 .	<i>Nai Duniya</i>	<i>Indore</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
34 .	<i>Dainik Bhaskar</i>	<i>Jabalpur</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
35 .	<i>The Times of India</i>	<i>Mumbai</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
36 .	<i>Nav Bharat</i>	<i>Nagpur</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
37 .	<i>Sakal</i>	<i>Pune</i>	<i>Marathi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
38 .	<i>The Shillong Times</i>	<i>Shillong</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
39 .	<i>Mawphor</i>	<i>Shillong</i>	<i>Khasi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
40 .	<i>Vanglaini</i>	<i>Aizawl</i>	<i>Mizo</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
41 .	<i>Nagaland Post</i>	<i>Dimapur</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
42 .	<i>Sambad</i>	<i>Bhubaneswar</i>	<i>Odia</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
43 .	<i>The Tribune</i>	<i>Bhatinda</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
44 .	<i>The Tribune</i>	<i>Jalandhar</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>

45 .	<i>Punjab Kesari</i>	<i>Jalandhar</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
46 .	<i>Ajit</i>	<i>Jalandhar</i>	<i>Punjabi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
47 .	<i>Rajasthan Patrika</i>	<i>Jaipur</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
48 .	<i>Samachar Jagat</i>	<i>Jaipur</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
49 .	<i>Sikkim Express</i>	<i>Gangtok</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
50 .	<i>Hamro Prajasakti</i>	<i>Gangtok</i>	<i>Nepali</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
51 .	<i>The Times of India</i>	<i>Chennai</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
52 .	<i>Sakshi</i>	<i>Hyderabad</i>	<i>Telugu</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
53 .	<i>Dainik Jagran</i>	<i>Allahabad</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
54 .	<i>Dainik Jagran</i>	<i>Lucknow</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
55 .	<i>Amar Ujala</i>	<i>Meerut</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
56 .	<i>Amar Ujala</i>	<i>(Dehradun</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
57 .	<i>Amar Ujala</i>	<i>Nainital</i>	<i>Hindi</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
58 .	<i>The Times of India</i>	<i>Kolkata</i>	<i>English</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>
59 .	<i>Ananda Bazar Patrika</i>	<i>Kolkata</i>	<i>Bengali</i>	<i>DAILY(M)</i>	<i>11/03/2019</i>	<i>11/03/2019</i>

60	Manbhum Sambad	Purulia	Bengali	DAILY(M)	11/03/2019	11/03/2019
----	-------------------	---------	---------	----------	------------	------------

16. The affidavit of the Director of the National Testing Agency further indicates that 37,395 candidates in response to the public notice dated 02.03.2019 and 7,217 candidates in response to the public notice dated 15.04.2019 issued by the National Testing Agency changed their category to EWS. It is essential to observe that the public notice dated 15.04.2019 provided the last opportunity to the JEE (Main) Examination, 2019 candidates to make correction in their category including EWS and the same reads to the effect:

“ **Public Notice**
Date: 15.04.2019

Last opportunity to JEE (Main) 2019 Candidates to make correction in their Category including – Economically Weaker Sections) EWS.

It is brought to the notice of the Candidates of JEE (Main) January/ April-2019 that the facility for correction in their Category column in their Online Application Form (General, OBC-NCL, SC, ST and EWS) will be operational on the website www.jeemain.nic.in from 15/04/2019 to 17/04/2019.

The candidates are advised to visit the website, verify their Category and mention their respective Category as per their actual Category Status latest by 17/04/2019 (5 p.m).

Since, it is a last time facility extended to the candidates to avoid any hardship to them, the concerned Candidates are

informed to undertake correction in their Category Column (wherever necessary) very carefully as no further chance will be given.

JEE Unit, NTA”

The said public notice made it amply clear that no further chance would be given to make corrections in the category column.

17. On behalf of the National Testing Agency it has been submitted that the information bulletin itself provided vide the note ‘follow 4 (four) steps to Apply Online’ for candidates appearing for the JEE (Main), April 2019 Examination for the first time vide note no.(iv), which reads to the effect:

“candidates are advised to keep visiting the NTA’s website regularly for latest updates and to check their SMS/e-mails.”

thus, advising candidates to keep visiting the NTA’s website regularly for latest updates and check their SMS/e-mails.

18. It is the avowed contention of the petitioners that they were busy preparing their exams and were thus not aware of the public notices nor of the changes made onto the website of the National Testing Agency for the JEE (Main) Examination.

19. That about 37,395 and 7,217 candidates made changes pursuant to the Public Notices dated 02-03-2019 and 15-04-2019 issued by NTA respectively and pursuant to the information placed on the website of the National Testing Agency for the conducting of the examination of JEE (Main) 2019 and the list of 60 newspapers placed on record by the National Testing Agency during the course of

submissions made, makes it amply clear that there was adequate public notice, which was provided to all to make the requisite changes to seek eligibility in terms of the EWS category.

20. In the circumstances, it is the petitioners themselves alone who are liable and responsible for having not availed of the opportunity of making the change of the category into EWS category for the purpose of participating in the JEE (Advanced) Examination. Merely because provisional permission was granted to them to put in appearance for the JEE (Advanced) Examination vide order dated 24.05.2019 in WP (C) 5447/2019 and vide order dated 22.05.2019 in WP (C) 5701/2019, the same *per se* cannot confer any right on the petitioners to contend that if they were permitted to appear again, they would really be entitled to avail of the opportunity of pursuing the course.

21. Though, the Indian Institute of Technology (Roorkee) has placed on record in a closed envelope, which is directed to continue to remain in a sealed condition, the result of the JEE (Advanced) Examination in which the petitioners were permitted to participate vide order dated 24.05.2019 in WP (C) 5447/2019 and vide order dated 22.05.2019 in WP (C) 5701/2019 respectively, *per se* does not confer any right on the petitioners to absolve them of any responsibility for their own lapse nor can it make the respondent herein liable for their lapses.

22. Reliance was placed on behalf of the National Testing Agency on the verdict of the Hon'ble High Court of Allahabad in Writ (C) No.17275/2019 and the verdict of the Hon'ble Division Bench of High Court of Judicature at Bombay, Nagpur Bench, Nagpur in WP

No.3633/2019 filed by the students claiming admission in the quota of reserved for EWS category in the Central Education Institution introduced by Office Memorandum dated 17.01.2019 vide which the petitions filed by the candidates were both dismissed.

23. On a consideration of the facts of the present two petitions, it is apparent that though undoubtedly, the National Testing Agency ought to have incorporated the aspect of EWS category at the time when the admission process commenced rather than by way of publication of the public notice published on 02.03.2019, yet the same cannot confer any rights on the petitioners in as much as the National Testing Agency had taken into account that the public at large was informed by the public notices of the opening of the portals from the period 11.03.2019 to 15.03.2019 and 15.04.2019 to 17.04.2019 for candidates to upload the change of their category including the EWS category.

24. In the circumstances of the instant case where as already adverted to hereinabove, 37,395 and 7,217 candidates made changes pursuant to the Public Notices dated 02-03-2019 and 15-04-2019 respectively and had applied to incorporate the EWS category for the candidature for JEE (Advanced) Examination, 2019, it is apparent that there was effective public notice for making the changes in the categorization to incorporate the EWS category in terms of the 103rd Constitutional Amendment to Article 15 of the Constitution, the equities of the case are not in favour of granting the prayer made by the petitioners to permit them now to be treated as candidates of EWS category for the JEE (Main) Examination, 2019 despite interim orders dated 24.05.2019 in WP (C) 5447/2019 and dated 22.05.2019 in WP

25. The maxim - “*Vigilantibus et non dormientibus jura subveniunt* - The laws aid those who are vigilant, not those who sleep upon their rights” is wholly applicable in the instant case.

ANU MALHOTRA, J.