

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on : 04.07.2019

Date of decision: 15.07.2019

W.P.(C) 6902/2019 & CM APPL.28708/2019

DIVYANSH TYAGI

.... Petitioner

Through Mr. Mayank Sapra, Mr. Arjun
Natrajan, Advocates.

versus

INDRAPRASTHA INSTITUTE OF INFORMATION
TECHNOLOGY & ORS.

..... Respondents

Through: Mr. Avnish Ahlawat, Adv. for
R-2
Mr. Amit Bansal, Adv. for R-3.
Ms. Hafsa Khan, Adv. for R-5.

And

+ W.P.(C) 7081/2019 & CM Nos. 29520/2019 & 29521/2019

PRAGYA GUPTA AND ORS.

..... Petitioners

Through: Mr. Mayank Sapra and
Mr. Arjun Natrajan, Advocates

versus

INDRAPRASTHA INSTITUTE OF INFORMATION TECHNOLOGY
AND ORS.

..... Respondents

Through: Mr. Arjun Mitra, Adv for R-1
Ms. Avnish Ahlawat, Adv for R-
2
Mr. Amit Bansal, Adv for R-3
Ms. Hafsa Khan, Av for R-5

CORAM:
HON'BLE MS. JUSTICE ANU MALHOTRA

JUDGMENT

ANU MALHOTRA, J.

1. The petitioners of both writ petitions i.e. W.P.(C)6902/2019 & W.P.(C)7081/2019 are based in Delhi and engineering aspirants and all appeared in the Joint Entrance Examination-2019 (JEE) conducted by the National Testing Agency in the months of January 2019 and April 2019.
2. The petitioner of W.P.(C) 6902/2019 i.e. Divyansh Tyagi secured an overall All India Rank of 4341 in the JEE. The petitioners of W.P.(C)7081/2019 i.e. Pragya Gupta, Joykirat Singh, Samarth Singhal & Kishan Sinha secured overall Ranks of 8360, 20538, 10500 and 9546 respectively. The NTA is submitted to have been entrusted with the conducting of the Joint Entrance Examination-Main in the year 2019 for the first time and is to address issues such as the assessment of the competence of candidates for admissions and recruitment comparable with research based international standards, efficiency, transparency and an error free delivery and is a premier specialist autonomous and self-sustained testing organization to conduct entrance examinations for admission/ fellowship in higher education institutions.
3. The petitioners submit that it is the first time that the score of the candidate was not mentioned in the result and was given in the percentile, whereas the petitioner of W.P.(C) 6902/2019 i.e. Divyansh

Tyagi got a percentile of 99.6406422, the percentiles of the petitioners of W.P.(C)7081/2019 were as under:-

<i>Serial No.</i>	<i>Petitioner</i>	<i>Percentile</i>	<i>Overall rank</i>
1.	<i>Pragya Gupta</i>	99.2845989	8360
2.	<i>Joykirat Singh</i>	98.2032108	20538
3.	<i>Samarth Singhal</i>	99.0946495	10500
4.	<i>Kishan Sinha</i>	99.1799414	9546

4. The petitioners of both the writ petitions registered and participated in the Joint Admission Counselling “JAC”-2019 which was coordinated by the Indraprastha Institute of Technology, Delhi. The said institute is arrayed as the respondent no.1 to both the petitions. The Netaji Subhas University of Technology (NSUT) arrayed as the respondent no.2 to both the petitions, the Delhi Technology University (DTU), Indira Gandhi Delhi Technical University for Women (IGDTUW), Indraprastha Institute of Information Technology Delhi (IIIT-Delhi) and the respondent no.1 participated in the said “JAC” 2019.

5. As per the Information Bulletin of the National Testing Agency i.e. the respondent no.3 in each of the petitions for the JEE Main-April, 2019 the eligibility criterion were prescribed to the effect:-

“ADMISSION TO NITs, IIITs, CFTIs, SFIs, STATE ENGINEERING COLLEGES FOR PARTICIPATING STATES AND OTHER PARTICIPATING INSTITUTIONS

Eligibility for Admission to NITs, IITs and CFTIs participating through Central Seat Allocation Board: Admission to NITs, IITs and CFTIs participating through Central Seat Allocation Board will be based on All India Rank as explained above subject to the condition that the candidate should have secured at least 75% marks in the 12th class examination, or be in the top 20 percentile in the 12th class examination conducted by the respective Boards. For SC/ST candidates the qualifying marks would be 65% in the 12th class examination.

Subject combinations required in the qualifying examination for admission to B.E./B.Tech. & B. Arch. /B. Planning Courses in NITs, IITs, and other CFTIs shall be as under.

<i>Course</i>	<i>Required Criteria based on Class 12th/ Equivalent qualifying Examination</i>
<i>B.E/B.TECH</i>	<i>Passed 10+2 examination with Physics and Mathematics as compulsory subjects along with one of the Chemistry/ Biotechnology/ Biology/ Technical Vocational subject</i>
<i>B.ARCH.</i>	<i>Passed 10+2 examination with Mathematics, Physics, Chemistry</i>
<i>B.PLANNING</i>	<i>Passed 10+2 examination with Mathematics</i>

The admission Policy, as announced by the competent authority of the admitting institutes shall be followed at the time of admission.

Eligibility for Admission to Other Institutions:

The above mentioned policy could also be adopted by other Technical Institutions participating in counselling through JoSAA/CSAB. In case a State opts to admit students in the engineering Colleges affiliated to State Universities, the State may prepare separate rank list based on criteria decided by them.

Number of seats in various institutions:

For all admission related procedures/queries, the candidates are advised to refer the website of JoSAA, Central Seat Allocation Board (CSAB) or the concerned State government/institute after declaration of ranks of JEE (Main)–2019. The letter/e-mails/grievances/RTI cases/Court cases regarding admission related procedures/queries will not be entertained by NTA.

Reservation of seats:

As per Government of India rules candidates belonging to certain categories are admitted to seats reserved for them based on relaxed criteria. These categories are:

- (i) Other Backward Classes (OBC) if they belong to Non Creamy Layer (NCL)*
- (ii) Scheduled Castes (SC)*
- (iii) Scheduled Tribes (ST)*
- (iv) Persons with Disability (PwD) with 40% or more disability.*

Benefit of reservation for admission to NITs/IIITs and CFTIs shall be given only to those classes/castes/tribes which are in the respective central list published by the Govt. of India. For admission to State Engineering colleges who have opted for admission through JEE (Main)-2019, the reservation rules of that State shall apply.

The letter/e-mails/grievances/RTI cases/Court cases regarding reservation criteria will not be entertained by NTA.

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.

Seat Allocation Process and Admission Procedure:

Candidates shall be offered admission based on their choices and All India Ranks of JEE (Main) 2019 through a Seat Allocation Process to be announced later. The candidates will be able to make their choices online for branches/programs and institutes at appropriate time. Candidates are advised to regularly visit the JEE (Main) website: www.jeemain.nic.in for latest information.

The verification of documents would be done at the time of Seat Allocation Process/admission. The purpose would be to verify different records regarding identification, age, qualifying examination, State of eligibility, category and disability (if any) of the candidate. On failing to produce any of the authentic documents, the candidate will not be considered for admission.

SC, ST, OBC and PwD candidates will be required to produce original certificate as per prescribed formats issued by the competent authority at the time of Seat Allocation Process as well as at the time of admission, failing which they will not be considered for admission.”

6. The petitioners submit that despite the all India rank secured by them in the JEE Examination, 2019 on their participation in the Joint Admission Counselling, 2019 in which the Universities i.e. Netaji Subhash University of Technology (NSUT) (Respondent No.1), Delhi Technological University (DTU), Indira Gandhi Delhi Technical University for Women (IGDTUGW), Indraprastha Institute of

Information Technology Delhi (IIIT-Delhi) participated, they did not get the Institute of their choice in the first cut off lists.

7. As per the Information Brochure of the JAC, 2019 coordinated by the NSUT, New Delhi, the Seat Allotment General Rules prescribed to the effect:

“Chapter 5 Online Counselling Procedure

5.1 Seat Allotment - General Rules

During this step, the choices submitted by the candidates will be processed centrally and seats will be allotted in the order of merit as explained below on the basis of the locked choices. The allotment result will be available on the website www.jacdelhi.nic.in.

1) NSUT, DTU and IGDTTIW

i) No separate merit list will be prepared. The provisional seat allotment will be based solely on the All India Rank (CRL) of the candidate in the JEE (Main) 2019 examination as given by NTA.

ii) For B. Tech. program, All India CRL Rank in Paper-I of JEE (Main) 2019 will be considered.

iii) For B. Arch. at IGDTUW, All India CRL Rank in Paper-II of JEE (Main) 2019 will be considered.

iv) Other than above merit rank provisional seat allotment will be done by considering all the details provided by the candidate in his/her ONLINE application like category, region, minimum qualification eligibility criterion, choices filled etc.

2) Preparation of Merit list in respect of IIIT Delhi

i) Final percentile score obtained in paper-I in JEE Main 2019.

ii) Bonus points, if any, as defined in Annexure A (maximum: 3.5 points).

iii) The priority list will be based on the total of the above two.

iv) In case of a tie, candidate with a higher rank in JEE Mains 2019 shall rank higher.

Note: All participants of JAC Delhi 2019 counseling are intimated that admissions to various B. Tech. Programs at IIIT Delhi will be made as per IIIT Delhi ranking. The mechanism of arriving at IIITD ranking is defined above conjunction with Chapter 8 (Annexure A) about eligibility for Bonus Points. All interested are hereby advised to read it carefully and avail the benefits of Bonus Points as applicable individually. Any candidate who may have missed proper filling of Bonus Point claims during registration process can avail the benefits of Bonus Points by producing the relevant document during Document Verification schedule prior to seat allotment announcement for the subsequent round 1 failing which his/her claim for bonus points will remain forfeited.”

8. The petitioners thus submit that the said Information Bulletin of the JAC, 2019 thus revealed that there were separate rules for seat allotment in each of the participating Universities and submit that in terms of Clause 5.1 (2) referred to hereinabove in relation to the preparation of the merit list in respect of the IIIT, Delhi, reproduced hereinabove, bonus points which were to be added to the maximum of 3.5 points were to be as mentioned in Annexure-A which is to the effect:

“Chapter 8 Annexure

8.1 Annexure A: Eligibility Criteria for Bonus points at IIIT-D

Upto 3.5 Bonus Points will be given to candidates as mentioned below. For all these, official supporting documents (letters, certificates, etc.) will have to be provided. IIIT-Delhi will also directly verify it from the organizers.

1.Olympiads. Indian National Olympiad in Informatic. Maths, Physics, Chemistry, Astronomy, and Biology:

- 3.5 points, if the student was selected for the summer training camp for selection of the final team for International Olympiad (i.e.) IOITC, IMOTC, OCSC for Physics, Chemistry, Astronomy or Biology); Supporting documents needed: Certificate/letter from organizers.

- 2 points, if the student qualified to appear in the National Level Exam for selection for the summer camp (i.e. INOI/INMO/INPhO/INChO/INAO/INBO). Supporting documents needed: Qualification letter/email to appear in the exam.

Note: Those who qualified to appear in INOI through ZCO-2016 will not be eligible for the bonus points and those who have been declared deemed have to qualified through ZCO 2017 will be eligible.

2.Procon Junior programming contest:

- 3.5 points for the medal winners: Supporting documents needed: Certificate/ letter from organizers certifying this

- 2 points for those who got certificates of Achievement; Supporting documents needed: Certificate/letter from organizers certifying this

3.National Talent Search scholarship

- 2 points, if a student has won this scholarship. If a student gets this in a specific category, then he/she can only be considered for admission in that category. Supporting documents needed: Certificate/grant letter.

4.Kishore Vaigyanik Protsahan Yojana (KVPY)

- 2 Points, if a student has qualified for this scholarship. IF a student gets this in a category, then he/she can only be considered for admission in that category. Supporting documents needed: Certificate of merit/grant letter.

5.INSPIRE Program of DST

- 3.5 points if a student is a recipient of Gold Silver Bronze Consolation Award in NLEPC. Supporting document needed: Official certificate for the award from DST.
- 2 points if a student has qualified for participation in the National Level Exhibition & Project Competition (NLEPC). Supporting documents needed: Official participation certificate from DST.

6. IGNITE Award of National Innovation Foundation

- 3.5 points if a student is a recipient of the National IGNITE Award.
- Supporting documents needed: Official certificate for the award from NIF.

7.IRIS National Science Fair

- 3.5 points if a student is recipient of the award for participation in the International Science and Engineering Fair (ISEF).
- 2 points if a student is selected for the National Fair Supporting documents needed: Official certificate for the award from IRIS.

8. Sports

In any sport in "high priority/priority discipline (as per terminology used by SGFI), except Chess (as Chess is dealt with separately), if a student represented a state in (i) National School Games organized by a School Games Federation of India, in U19 or U17 category, or (ii) national championship organized by a National Sports Federation in Senior/Junior category:

- 2 points for participation or winning a medal. Supporting documents needed: Certificate for the medal

or Certificate of participation issued by School Games Federation of India or by a National Sports Federation.

9. Chess

- *3.5 points for those whose FIDE rating is above 1800; supporting documents needed: FIDE ID, Self-attested printout of list of international rated tournaments played as provided by FIDE through their official website*
- *2 points for those whose FIDE rating is between 1200-1800. Supporting documents needed: Same as above.*

10. Culture

- *2 points for those Student who have received "scholarship to Young Artistes" given by Ministry of Culture, Government of India, or "Cultural Talent Search Scholarship Scheme" given by Centre for Cultural Resources and Training an autonomous body under the aegis of Ministry of Culture, Government of India. Supporting documents needed: Scholarship sanction letter and certificate issued by Ministry of Culture, Government of India / Centre for Cultural Resources and Training, Government of India.*

11. Class XII Score (Only for Delhi students applying through JAC)

- *2 points for those Delhi students who are in top 1 percentile of the total students who appeared for CBSE Board Class XII Exam in the year in which they appeared for the exam. List of students who are in top 1 percentile for 2019, 2018 and 2017 will be shared by IIT-D after the announcement of class XII results (CBSE has agreed to provide this information). For other boards, and other years, the Bonus points may be availed if the candidate can get a letter from their Board having details for top 1 percentile. Outside Delhi students are not eligible for this category of bonus*

points.”

were in terms of Rule 5.1 (2)(iii) to be added to the final percentile score obtained by the candidates in paper 1 in JEE (Main) 2019.

9. The petitioners submit that as a consequence of Clause 5.1 (2) (iii) as the priority list of IIT Delhi was to be based on the total of the final percentile score obtained in paper 1 in JEE (Main, 2019 and the bonus points as defined in Annexure-A to the maximum of 3.5 points, the same has resulted into a distorted ranking system and that despite the petitioners having secured much higher ranks in JEE (Main) 2019, the petitioners could not make the cut off in the first list on account of the distorted ranking system of IIT D.

10. The petitioners submit that the said mechanism put forth in Clause 5.1 (2) by the IIT D in its ranking system is manifestly arbitrary and has been put into implementation without any application of mind and being ignorant of the large scale implications of the same.

11. The petitioners of WP (C) 6902/2019 submits that a person securing a rank of 28261 in the JEE (Main) 2019 has been able to secure a stream and University of his/her choosing but the petitioner herein who secured a rank of 4341, had been selected for the last of the four Universities.

12. The petitioners of WP (C) 7081/2019 also contend that the Clause 5.1 (2) (ii) when applied, potentially renders the JEE (Main) 2019 ranking redundant and that this is due to bonus points having

been added to the percentile thereby affecting close to 11,000 students in every percentile.

13. The petitioners submit that on the website of the respondent no.1 there was also a public notice at large that for the purpose of admission to the IIIT D, which notice reads to the effect:

*“Top 1 percentile score of CBSE Class XII Board
(For IIITD Points category 11 – Refer JAC Brochure
Chapter 8)*

According to CBSE, students who have obtained total marks of 478 (out of 500) or higher in CBSE examination 2019 or 476 (out of 500) or higher in 2018 or 2017 are in top one percentile. Hence, all students (in Delhi Region) who have secured the above marks are eligible to apply for bonus points, as announced in JAC Information Brochure 2019.”

thus to the effect that students have scored 478 or higher in 2019 and 476 or higher in the year 2018 or 2017 would be considered in the top one percentile and it has thus been submitted by the petitioners that the purpose of admitting/ giving preference to candidates to show all round excellence would stand vitiated, if the said candidates were accorded an extremely high rank in the merit list.

14. The petitioners thus submit that the bonus points as mentioned in Annexure-A to the maximum of 3.5 points in terms of Clause 5.1 (2) thereof, if added to the percentile and not to the score of the candidate, takes the candidates securing bonus points at a much higher pedestal than the person having secured a higher rank in the JEE (Mains), 2019 and that the said Clause 5.1 (2) of the Information Brochure of the JAC 2019 is devoid of any logical reasoning and

vitiates the sanctity of the ranking system as well. The petitioners have thus sought the setting aside of Chapter 5.1 (2) of the Information Brochure released by the Netaji Subhash University of Technology and seek the cut off rank of the first round issued by the IIITD and the respondent no.2 be set aside.

15. Both the petitions raise virtually similar issues and thus have been taken up together for disposal.

16. The respondent no.1, the Registrar of the IIITD vide his affidavit dated 01.07.2019 in his official capacity submits that the petition is devoid of merits and misconceived and deserves to be dismissed. The said respondent i.e. IIITD thus submits to the effect:

“8.That the admissions to the Engineering / Architecture courses in Delhi Technological University (DTU), Indira Gandhi Delhi Technical University for Women (IGDTUW), Indraprastha Institute of Information Technology Delhi (IIITD) and Netaji Subash University of Technology (NSUT) are carried out by a common process, based on the All India Rank prepared by National Testing Agency in Paper-I of the JEE (Mains) 2019 examination for DTU, NSUT and IGDTUW and on IIITD ranks for admissions to IIIT-Delhi. In addition, the minimum marks criterion in the qualifying examination are also prescribed by the individual institutes, as well as reservation policies.

9. A detailed Information Brochure indicating all the requirements, procedures, time frames etc., is also published. For the year 2019, the admission process was coordinated by NSUT, i.e. the Respondent no. 2 herein, for the Joint Admission Counselling 2019 (JAC).

10.That in the Information Brochure thus published by the Respondent no. 2, the specific requirements/ conditions if any, of the participating institutes are set out in detail. These requirements are also published separately in the Information Brochures, if any, of the participating

institutes. The answering Respondent no. 1 has its own requirements, which are also set out in its own Information Brochure. This brochure contains the rules governing the admission process to the B. Tech Programs of the answering Respondent no. 1. A distinction therefore, has to be drawn between the purpose of the Information Brochure of the answering Respondent no. 1 (containing these rules) and the purpose of the JAC 2019 Information Brochure, which sets out the manner in which the rules are implemented for a common counselling seat allocation process.

11. The admissions to the B. Tech. programs conducted by the Respondent no. 1 are available through one of three ways, viz. (i) through JAC; (ii) using the scores obtained in the Undergraduate Common Entrance Examination for Design, conducted by IIT Bombay, for some seats in B. Tech Computer Science and Design (CSD) and (iii) using the Class XII score for B. Tech in Computer Science and Social Science (CSSS).

12. That the above is provided for in the Information Brochure of the IIITD which was published on its website and the same has been in the public domain since 23.03.2019. It is in terms of the aforesaid Information Brochure of IIIT Delhi that aspiring candidates can come to know of the courses and programs offered by Respondent no. 1 and the eligibility conditions for the same. The said Information Brochure also contained the provisions pertaining to grant of bonus points to the candidates, which are applicable in cases of admission through JAC and for B. Tech in CSSS. The copy of the first page of the IIITD Information Brochure 2019, along with the relevant portions for the admission process, bonus points and preparation for the merit list, are enclosed herewith and marked as ANNEXURE R/1.

13. That the provisions contained in Chapter 5 of the JAC Information Brochure have been derived from the above provisions of the IIIT Delhi Information Brochure. Therefore, as submitted above, the Information Brochure

of the answering Respondent contains the rules and requirements, eligibility conditions, provisions for preparation of merits lists, etc., while the JAC 2019 Information Brochure specifies the manner in which the counselling is to be carried out.

14. That therefore, the two submissions which are sought to be urged from the above facts are that (i) there is no challenge to the provisions of the HIT Delhi Information Brochure, which are thus unchallenged, applicable and completely binding and (ii) the present petition, having been filed on 26.06.2019 is highly belated and suffers from delays and laches.

15. The Petitioner has deliberately chosen not to reveal the above facts to this Hon'ble Court and seeks to give the impression that he came to know of the provision for bonus marks for the first time from the JAC 2019 Information Brochure. It is submitted that even this explanation would be incorrect, since the JAC 2019 Information Brochure was published on 23.05.2019 and it was pursuant to this Brochure only that the Petitioner could register for the common counselling process.

16. That the ground of delays and laches assumes significance in view of the fact that as per the pre-announced counselling process, the first round of counselling started on 21.06.2019 and stood concluded on 26.06.2019. During this process the seat allotment result was declared and on various dates the candidates from within and outside Delhi exercised their options to accept / reject the allotted seat and reported at their respective institutes to pay the fees, get document verification carried out and fulfilled all other requisite formalities. It is relevant to point out that as on 26.06.2019 approximately 80% of the seats have already been allotted AND accepted by the respective candidates.

17. That it is therefore, submitted that vested rights have been created in favour of these candidates, in terms of their seat allotment and acceptance thereof. In the event of

any directions are passed at this stage, which would change the rankings, numerous candidates would be unfairly affected and prejudiced, that too, without being before this Hon'ble Court. This is for the reason that once having accepted the seat offered to them, they may not have accepted seats in other institutes, either within or outside Delhi and it may not be possible for them to participate in other seat allocations processes at this stage. It is therefore, respectfully submitted that it would be entirely unfair and inequitable for any directions to be passed at this stage, at the instance of the present Petitioner.

18. That apart from the above, it is respectfully submitted that the provision for granting of bonus points / marks is not a whimsical inclusion which has occurred for the first time in 2019. To the contrary, this provision is the result of a conscious and deliberate policy decision, with the objective of giving benefit to those candidates with other achievements, over and above their performance in Class XII examinations and/or the entrance examinations. The idea behind giving of bonus points is to allow a candidate to jump over other candidates in the ranking. The logic behind this provision is to compensate a student for the effort put in for obtaining these achievements and the experience of the answering Respondent is that these bonus marks candidates perform academically better than others.

19. That the said policy came to be implemented with the approval of the Board of Governors of the Respondent no. 1 in terms of the decision taken on 30-01-2012. The provision for bonus points has thus been in place since 2012 and has evolved since then with improvements being made almost every year, based on past experience and data analysis. The above submission is demonstrated from the minutes of meeting of the Board of Governors of the Respondent no. 1 dated 30.01.2012, 20.08.2013, 09.12.2013, 22.01.2015, 06.01.2016, 14.04.2016, 25.11.2016, and 28.02.2019, the copies of which are

enclosed herewith and marked as ANNEXURE RI/2 (Colly). These minutes demonstrate that the award of bonus marks has been deliberated upon from time to time and its scope has been widened to be more inclusive.

20. That the Board of Governors is entitled to exercise all the powers of the Institute in terms of Section 18 of the IIIT Delhi Act. The Institute in terms of Section 3(3) of the said Act is financially and administratively autonomous, and in terms of Section 6 (15) of the Act, is empowered to determine the standards for admission to the Institute which may include examination, evaluation or any other method of selection. The copy of Section 3, 6 and 18 of the IIIT Delhi Act are enclosed herewith and marked as ANNEXURE RI/3 (Colly).

21. That the above stated objective has a reasonable nexus with the manner in which it is sought to be achieved and the decisions taken. It is further submitted that the decision taken considers all the relevant factors, during deliberations. The decision of the Board of Governors of the answering Respondent, recorded in the minutes of meeting dated 28.02.2019 deals with the issue of award of bonus marks in the context of the changed input from JEE (Mains).

22. That the Board had the benefit of the recommendations of experts specially constituted for this purpose; this committee took into account the difference between the earlier years and the present year, wherein on earlier occasion an absolute score in JEE (Mains) was provided, whereas in the present year a percentile of the candidate with respect to total JEE applicants. The question therefore, before the committee was what the adjusted bonus marks for 6 (or 10) should be, for the new scoring scheme of JEE. The committee gave two solutions, i.e.

a. Reduce the bonus marks to about one-fourth (1.5 for the 6 bonus marks, and 2.5 for the 10 bonus marks) for the new JEE scoring method. This is likely to have a similar impact as previous years;

b. As the impact of the new JEE scoring is not fully clear (the committee had to make some assumptions), is a relaxed view is to be taken, then the bonus marks maybe one-third (i.e. 2 for 6 marks, and 3.5 for 10 marks), or more.

23. That the above recommendations of the committee were considered by the Board of Governors, which decided to approve the relaxed approach mentioned above. It was further decided that the impact analysis of this decision was to be brought to the notice of the Board after completion of the admission process to the B. Tech, so that it may be revisited, if required.”

17. The respondent IIITD thus submits that the submissions made by it bring forth that:

- (i) the provision to have bonus points is the conscious policy decision taken by the body competent to arrive at the same;*
- (ii) this is not a provision which has been introduced for the first time, but is in existence since the year 2012 and has evolved since then;*
- (iii) there is a sound and valid logic in having bonus marks, i.e. to allow an eligible candidate to jump in the rankings for the merit list;*
- (iv) the new scoring scheme for JEE, being percentile and not marks, has been taken into consideration and*
- (v) it applies only to the ranking lists of IIIT Delhi and not to the other institutes participating in JAC 2019.”*

18. The IIITD thus submits that there is no anomaly in the candidates being awarded bonus marks being placed as a candidate with a lower rank higher in the merit list on account of the bonus marks being awarded and that as per the analysis of its Committee, the net effect is the same, i.e. whether the bonus marks are added to

the JEE marks score, or points are added to the JEE percentile score, the candidate entitled to the bonus marks would always be placed higher in the merit list, even though she may have a lower rank than some other candidate.

19. The respondent/IITD has thus submitted that the provisions for awarding bonus marks has stood the test of time and that the candidates entitled to these bonus marks actually perform better than the others and that the said provision has been applied uniformly, objectively and without exception by the petitioner herein.

20. It has further been submitted that the petitioner of WP (C) 6902/2019 had in fact even been offered his 5th choice of course and institute being computer engineering in the first round of counselling and that the petitioner thereof has also accepted the said seat and it was thus apparent that no prejudice of any kind would be caused to the said petitioner.

21. Through the submissions that were made on behalf of the respondent/ IITD reliance was placed on the verdict of the Hon'ble Division Bench of this Court in *Pallavi Sharma Vs. College of Vocational Studies & Anr. 221 (2015) DLT 738 (DB)* in support of the contention of the respondent with specific reference to observations in para 14 of the said verdict which reads to the effect:

“14. At any rate, the law is well settled that the procedure prescribed in the Prospectus/Bulletin of Information issued by the institutions is binding and no mandamus can be issued directing the educational institutions to act contrary to their own procedure.”

22. On behalf of the respondent reliance was also placed on the verdict of this Court in ***Dr. Sonia Garg and Anr. Vs. Union of India and Anr.*** in WP (C) 427/2012 to contend that merely because certain conditions imposed are inconvenient to some student, it cannot be said to be arbitrary. **It has also been submitted on behalf of the respondent that there is no reason or justification to interfere in the eligibility criteria that has been laid down by the IIITD which was published on its website and has been in the public domain since 23.03.2019 and contained the provisions pertaining to the grant of bonus points to the candidates.**

23. Reliance was also placed on behalf of the said respondent on the verdict of the Hon'ble Supreme Court in ***University Grants Commission and Anr. Vs. Neha Anil Bobde (Gadekar) (2013) 10 SCC 519*** with specific reliance to the observations in para 31 of the said verdict, which reads to the effect:

“31. We are of the view that, in academic matters, unless there is a clear violation of statutory provisions, the Regulations or the Notification issued, the Courts shall keep their hands off since those issues fall within the domain of the experts. This Court in University of Mysore vs. C.D. Govinda Rao, AIR 1965 SC 491, Tariq Islam vs. Aligarh Muslim University (2001) 8 SCC 546 and Rajbir Singh Dalal vs. Chaudhary Devi Lal University (2008) 9 SCC 284, has taken the view that the Court shall not generally sit in appeal over the opinion expressed by expert academic bodies and normally it is wise and safe for the Courts to leave the decision of academic experts who are more familiar with the problem they face, than the Courts generally are. UGC as an expert body has been entrusted with the duty to take steps as it may think fit for the determination and maintenance of standards of teaching,

examination and research in the University. For attaining the said standards, it is open to the UGC to lay down any “qualifying criteria”, which has a rational nexus to the object to be achieved, that is for maintenance of standards of teaching, examination and research. Candidates declared eligible for lectureship may be considered for appointment as Assistant Professors in Universities and colleges and the standard of such a teaching faculty has a direct nexus with the maintenance of standards of education to be imparted to the students of the universities and colleges. UGC has only implemented the opinion of the Experts by laying down the qualifying criteria, which cannot be considered as arbitrary, illegal or discriminatory or violative of Article 14 of the Constitution of India.”

to contend that it would be wholly unsafe for the Court to interfere in the domain of conducting of examinations by the National Testing Agency and on the parameters set forth by the IIITD through its brochure dated 23.03.2019.

24. The IIITD through its written submissions as placed on the records of WP (C) 6902/2019 has also submitted that the specific requirements/ conditions of the participating institute had been published in detail and the specific requirements/ conditions, if any, of the participating institute were set out in detail and that in these circumstances, the answering respondent no.1 had its own requirements, which were set out in his own business brochure and which information brochure contained the rules governing the admission process to the B. Tech programme of the IIITD. The said respondent/IIITD has thus submitted that the distinction has to be drawn between the purpose of the Information Brochure of the

respondent no.1 /IIITD and the purpose of the JAC 2019 Information Brochure, which set out the manner in which the rules are implemented by a common counselling / seat allocation process.

25. The respondent/IIITD has thus submitted that the provisions contained in Chapter 5 of the JAC Information Brochure had been derived from the provisions of the IIIT Delhi Information Brochure and, therefore, the Information Brochure of the IIITD contained the rules and requirements, eligibility conditions, provisions for preparation of merit lists, etc., while the JAC 2019 Information Brochure specifies the manner in which the counselling is to be carried out.

26. The respondent/IIITD submits further that the petitions have been filed with much delay and suffer from laches. The IIITD further submits that its Information Brochure was published on its website and put in the public domain from 23.03.2019 and that the contention of the petitioners that they learnt of the information of the bonus points for the first time from the JAC 2019 is wholly an incorrect explanation in as much as the JAC 2019 Information Brochure was published on 23.05.2019 and it was only pursuant thereto that the petitioners could have registered for the common counselling process.

27. The IIITD further submits that the ground of delay and laches assumes significance and that the first round of counselling was started on 21.06.2019 and stood concluded on 26.06.2019. The IIIT D further submitted that on the result being declared during the process of seat allotment on various dates the candidates from within and outside Delhi exercised their options to accept / reject the allotted seat

and reported at their respective institutes to pay the fees, get document verification carried out and fulfilled all other requisite formalities and that as on 26.06.2019 approximately 80% of the seats had already been allotted and accepted by the respective candidates.

28. The IIITD further submits that thus vested rights were created in favour of those candidates in respect of the seat allotment and acceptance thereof and that in the event of any directions being passed, which would change the rankings, numerous candidates would be unfairly affected and prejudiced, that too, without being before this Court and that this is for the reason that once having accepted the seat offered to them, they may not have accepted seats in other institutes, either within or outside Delhi and it may not be possible for them to participate in other seat allocation processes at this stage. It is further submitted by the IIITD that it would be entirely unfair and inequitable for any directions to be passed at this stage, at the instance of the present Petitioners.

29. It is further submitted by the IIITD that the provision for granting of bonus points / marks is not a whimsical inclusion which has occurred for the first time in 2019 and that to the contrary, this provision is the result of a conscious and deliberate policy decision, with the objective of giving benefit to those candidates with other achievements, over and above their performance in Class XII examinations and/or the entrance examinations. The IIITD further submits that the idea behind giving of bonus points is to allow a candidate to jump over other candidates in the ranking and that the logic behind this provision is to compensate a student for the effort put

in for obtaining these achievements and the experience of the answering respondent is that these bonus marks candidates perform academically better than others.

30. The respondent/IIITD submits that the said policy came to be implemented with the approval of the Board of Governors of the respondent no.1 in terms of the decision taken on 30-01-2012 and that the provision for bonus points has thus been in place since 2012 and has evolved since then with improvements being made almost every year, based on past experience and data analysis and that these minutes demonstrate that the award of bonus marks has been deliberated upon from time to time and its scope has been widened to be more inclusive. The IIITD/ respondent also submits that the Board of Governors is entitled to exercise all the powers of the institute in terms of Section 18 of the IIIT Delhi Act and that the Institute in terms of Section 3(3) of the said Act is financially and administratively autonomous, and in terms of Section 6 (15) of the Act, is empowered to determine the standards for admission to the Institute which may include examination, evaluation or any other method of selection.

31. The IIITD further submits that the stated objective has a reasonable nexus with the manner in which it is sought to be achieved and the decisions taken and that the decision taken considers all the relevant factors, during deliberations and the decision of the Board of Governors of the answering respondent, recorded in the minutes of the meeting dated 28.02.2019 deals with the issue of award of bonus marks in the context of the changed input from JEE (Mains) and that the Board had the benefit of the recommendations of a committee of

experts specially constituted for this purpose; and that this Committee took into account the difference between the earlier years and the present year, wherein on earlier occasion an absolute score in JEE (Mains) was provided, where in the present year a percentile of the candidate with respect to total JEE applicants and it is further submitted that the question therefore, before the committee was what the adjusted bonus marks for 6 (or 10) should be, for the new scoring scheme of JEE and two recommendations were given.

32. It is further submitted by the IIITD that the recommendations of the Committee were considered by the Board of Governors, which decided to approve the relaxed approach and it was decided that the impact analysis of this decision was to be brought to the notice of the Board after completion of the admission process to the B. Tech, so that it may be revisited, if required.

33. The IIITD further submits that the provision to have bonus points is the conscious policy decision taken by the body competent to arrive at the same and this is not a provision which has been introduced for the first time, but has been in existence since the year 2012 and has evolved since then and that there is a sound and valid logic in having bonus marks, i.e. to allow an eligible candidate to jump in the rankings for the merit list and that the new scoring scheme for JEE percentile and not marks that has been taken into consideration and that the addition of the bonus marks to the percentile score of the JEE (Main) 2019 applies only to the ranking lists of IIIT Delhi and not to the other institutes participating in JAC 2019.

34. The IIITD has further submitted that apart from the factum that the bonus marks are to be added to the percentile score of the JEE (Main), not being an anomaly but a conscious decision on the analysis of the same the net effect is the same whether the bonus marks are added to the JEE marks score, or points are added to the JEE percentile score, the candidate entitled to the bonus marks would always be placed higher in the merit list, even though he/she may have a lower rank than some other candidate and that the provision for awarding bonus marks has stood the test of time and that the candidates entitled to these bonus marks actually performed better than others and the said provision was applied uniformly, objectively and without exception, as per the well-defined parameters and no prejudice is caused to any candidate.

35. The IIITD *inter alia* further submitted that during the course of the final hearing that the petitioner for the first time sought to rely on a chart in an attempt to demonstrate that the rankings are affected due to the award of bonus marks and it is submitted that the contentions of the petitioner are incorrect, since:-

- they are contrary to the merit list published for 2018;
- IIITD rank has been calculated incorrectly, since in 2018 the marks obtained by each student were converted to a base of 100 and bonus marks were added to that number, in which case the total marks can go above 100 and that based on the final marks obtained, each student is allotted a rank in the decreasing order of their final marks.

36. It is submitted by the IIITD that in his formula the petitioner has

allotted equal rank to the students who scored above 100, which is wrong and that similarly, this year bonus points are simply added to the percentile score, which can again go above 100 and the merit list is again prepared in the decreasing order of the final marks obtained and that in his formula the petitioner is again allotting similar rank to the students with above 100 percentile score, which is again not true and in both the years the method of the breaking followed for allotment of rank is student with higher JEE Rank gets higher IIITD rank.

37. Significantly, the minutes of the 44th Meeting of the Board of Governors held on 28.02.2019 at the IIITD read vide para 44.7.2 to the effect:

“44.7.2 To consider to approve the revised proposal on the award of Bonus Marks for B. Tech, Admission in 2019

The Board deliberated on the proposal of the Committee constituted for the purpose based on its analysis. The Board approved the relaxed approach as recommended by the Committee and the bonus marks may be one third (i.e. 2 for 6 marks and 3.5 for 10 marks) for the B.Tech admission in 2019. The Board desired that the impact analysis of this decision may be brought to the notice of the Board subsequent to the completion of B.Tech admission process so as to revisit the decision next year, if required.”

38. The deliberation in the said meeting at 44.7.2 indicates that a Committee comprising of Prof. B. Bhaumik, IIT Delhi, (External Senate Member), Prof Dheeraj Sanghi, Director PEC, Chandigarh, (External Senate Member), Dr. Anubha Gupta, DOAA, Dr. Vikram Goyal, DOSA, Dr. A K Solanki, Registrar, and Prof Pankaj Jalote, Distinguished Professor as Advisor was constituted on the approval of the Chairman Senate and its recommendations were in relation to the

aspect in question were to the effect:

“The IIT-Delhi makes admission to various B.Tech. programs through its own merit. In the earlier years, this merit was prepared from the total JEE score of every applicant (out of 360, which we converted to out of 100 for bonus), to this 6 (or 10) bonus marks were used to be added to the score as applicable as per the claim of the applicant and the policy of the Institute for such award. This allowed a student with total JEE marks "X-6" (or X-10 as applicable) to be equal to one with marks X after bonus. This year the JEE 2019 is being conducted by the National Testing Agency (NTA) and as per NTA, the JEE merit will be prepared on the basis of the percentile of the candidate with respect to total JEE applicants instead of on the basis of total score of the candidates in PCM. The question the committee looked at was what the adjusted bonus marks for 6(or 10) should be given for the new scoring scheme of JEE.

Bonus Marks Adjustment for new JEE format.

The bonus marks scheme allowed a student with some JEE rank to jump ill ranking. The philosophy was to compensate for the effort the student must have put for his/her other achievements which may have led him/her to not spend as much time in coaching for JEE. Over the years we have seen that this scheme not only adds diversity, but bonus marks students perform academically better (their CGPA after 1 year is consistently about 1 more than other students). This scheme was championed by IIT-Delhi, and is a sound way to include other achievements beyond one exam – which has many undesired side effects.

Total JEE score was earlier computed using the total marks in PCM (out of 360, which we converted to out of 100 for bonus). Now, JEE total score for a candidate is the percentile of the candidate with respect to total JEE applicants. Earlier we added 6 (or 10) bonus marks to the total out of 100. This

allowed a student with total JEE marks (x-6) equal to one with marks x after bonus. The question the committee looked at was: what should the adjusted bonus marks for 6 (or 10) be, given the new scoring scheme of JEE.

Aim of bonus marks adjustment: Bonus marks allowed a student to jump in ranking. For keeping the scheme similar in scope as before, the adjusted bonus marks should be such that the student jumps over similar fraction of students in the new JEE scoring system.

The committee looked at students who got 6 bonus marks (as very few student get 10 bonus marks) over the last few years, and considered what fraction of JEE-applicants a student with bonus marks jumps over to just get into IIT. The committee looked at only General Candidates; and only for those students who applied through JAC to IIT-Delhi, and did not consider other students who received bonus marks but would not get admitted in IIT. The committee assumed that the total no of JEE-applicants to be about 10 Lac - which is about the no of students who applied last year. The committee observed the following:

- With 6 bonus marks, a student jumps about 1% to 1.5% in terms of JEE rank and get admitted in IIT-D.*
- If the bonus marks were 50% higher (i.e. 9 marks), a student jumps over about 2% to 3% in terms of JEE rank.*

As in the new JEE scoring system, a student with 1 extra mark will jump over 1% of the JEE applicants (as per JEE site, they are giving the final score as percentile of total JEE applicants), the committee suggests:`

- Reduce the bonus marks to about one-fourth (1.5 for the 6 bonus marks, and 2.5 for the 10 bonus marks) for the new JEE scoring method. This is likely to have a similar impact as previous years.*
- As the impact of the new JEE scoring is not fully clear (the committee had to make some assumptions), if a relaxed view is to be taken, then the bonus marks may be*

one- third (i.e. 2 for 6 marks, and 3.5 for 10 marks), or even more.

In either case, the committee recommends that it should be clarified/announced that this adjustment is for this year only, and based on data from the new JEE scoring system and its impact on our admissions, the Institute may revise it suitably next year.”

were considered and as referred to hereinabove, it was concluded to the effect:

“The Board deliberated on the proposal of the Committee constituted for the purpose based on its analysis. The Board approved the relaxed approach as recommended by the Committee and the bonus marks may be one third (i.e. 2 for 6 marks and 3.5 for 10 marks) for the B.Tech admission in 2019. The Board desired that the impact analysis of this decision may be brought to the notice of the Board subsequent to the completion of B.Tech admission process so as to revisit the decision next year, if required.”

39. On a consideration of the rival submissions thus that have been made on behalf of either side, it is apparent that the Information Brochure of the IITD/ the respondent no.1 was available in the public domain w.e.f. 23.03.2019. The policy decision of the Board of Governors of the IITD on 28.02.2019 indicates that it is a conscious decision taken by the academicians of the IITD to add the bonus marks not exceeding 3.5 as per Annexure-A to its Information Brochure to the percentile score of a candidate in the JEE (Main) 2019. There was nothing that had prevented the petitioners not to opt for the IITD if they chose not to in view of the policy of IITD as set forth in its Information

Brochure.

40. Apart from the same, as rightly contended on behalf of the IIITD and the other respondents that vested rights have accrued in favour of those who have participated in the counselling process from 21.06.2019 to 26.06.2019.

41. Furthermore it is not considered appropriate by this Court to interfere in the Regulations and notifications issued by the IIITD qua determination of its policy decision which is a conscious decision taken on the basis of an expert committee's analysis which Committee consisting of seasoned academics has deliberated on the quality of intake of candidates to be inducted into its Institutions.

42. In the circumstances, the prayer made by the petitioners of WP(C) 6902/2019 and by the Intervenor Sankalp Ranjan vide CM APPL.29551/2019 in WP (C) 6902/2019, are all dismissed.

ANU MALHOTRA, J

JULY 15th, 2019
NC/vm