

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

+ LPA 575/2019

Reserved on: 17.10.2019

Date of decision: 31.10.2019

IN THE MATTER OF:

PRATEEK SINGHAL

..... Appellant

Through : Mr. R.M. Sinha and Mr. P.M. Sinha,
Advocates.

versus

**NATIONAL TESTING AGENCY, DEPARTMENT OF HIGH
EDUCATION MINISTRY OF HUMAN RESOURCE DEVELOPMENT &
ANR**

..... Respondents

Through : Mr. Amit Bansal, Standing Counsel
with Ms. Seema Dolo and Ms. Vipasha Mishra,
Advocates, for respondent No.1.

Mr. Arjun Mitra and Ms. Jaskaran Kaur,
Advocates, for respondent No.2.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

HIMA KOHLI, J.

1. The appellant, petitioner in W.P. (C) 8307/2019, is aggrieved by the judgment dated 19.8.2019 passed by the learned Single Judge, declining to quash the Business Rules issued by the respondent No.2/Joint Seat Allocation Authority (JoSAA), released on 16.6.2019 or set aside the cancellation letter dated 1.7.2019, issued by the respondent No.2/JoSAA informing him that the seat allotted to him in Maulana Azad National

Institute of Technology, Bhopal for pursuing a five year degree course, Bachelor of Architecture (B. Arch.), stands cancelled.

2. A brief glance at the relevant facts and sequence of events is considered necessary before dealing with the submissions made on behalf of the appellant to assail the impugned judgment.

3. The appellant had obtained 322 marks out of 500 marks in 10+2 CBSE Examination conducted for the Academic Year 2017-2018, which comes to 64.4% marks in the 12th Standard examination. Intending to pursue the five year Bachelor of Architecture Degree Course, the appellant submitted an application for participating in the JEE (Main), 2019 on 27.9.2018. The result of the First Attempt of the JEE (Main), 2019 was announced on 31.1.2019. The appellant also appeared in the Second Attempt of the JEE (Main), 2019, the result whereof was declared on 14.5.2019. On 23.6.2019, the appellant submitted his choices of the college for allocation of a seat in the subject course.

4. As per the Schedule of Events, seven rounds of seat allocation were to be conducted by the respondent No.2/JoSAA, commencing on 27.6.2019 and ending on 18.7.2019. Between 19.7.2019 to 23.7.2019, the process of document verification and acceptance of seats/admission in the participating institutes was to be concluded for the NIT+ system. By 5.8.2019, the two mop-up rounds for seat allocation also stood concluded.

5. On 27.6.2019, a round of counseling took place and the appellant was allotted Maulana Azad National Institute of Technology, Bhopal and was given five days for purposes of documentation verification at the Regional

Centre. When the appellant went to the Regional Centre at NIT, Delhi on 1.7.2019 and presented his documents for verification, he was informed that he was ineligible for the subject course and his seat had been cancelled by the respondent No.2/JoSAA with the remark that *“he did not come within top 20 percentile or fulfill minimum aggregate percentage of marked in class XII in JEE (Main), Paper-II.”*

6. Aggrieved by the cancellation order, the appellant filed the captioned petition that has been dismissed by the impugned judgment dated 19.8.2019 on the ground that the appellant did not satisfy the minimum eligibility criteria for the JEE (Main), 2019 Paper-2 for allocation of a seat in the five year Bachelor of Architecture Degree Course, as prescribed in the Information Bulletin issued by the respondent No.1/National Testing Agency (NTA) that has conducted examinations for admission to NITs, IITs, CFTIs, SFIs, State Engineering Colleges for participating States and other participating institutions in the JEE (Main) 2019. It was held that the eligibility criteria for admission to the aforesaid institutions for the JEE (Main) 2019, First Attempt and Second Attempt remained consistent and a candidate was required to secure at least 75% marks in the 12th standard examination or be in the top 20 percentile in the 12th class examination conducted by the respective Boards and the appellant having failed to secure the said marks, the cancellation order did not deserve interference. The learned Single Judge also disagreed with the submission made on behalf of the appellant that the public notice dated 25.9.2018, issued by the respondent No.1/NTA, declaring the revised eligibility criteria for admission to the first year of the five year B. Arch. Course, made applicable for the

Academic Year 2019-20, had superceded the eligibility criteria contained in the Information Bulletin for the JEE (Main) 2019, First Attempt, published in September, 2018 and the JEE (Main) 2019, Second Attempt, published on 8.2.2019.

7. Mr. Sinha, learned counsel for the appellant has laid a challenge to the impugned judgment on three counts. Firstly, he has argued that the learned Single Judge has failed to appreciate that the respondent No.2/JoSAA is not vested with the jurisdiction to fix the eligibility criteria for admissions and it is only the Council of Architecture being a Statutory Body that is empowered to do so. He submitted that on a reading of the Notification dated 21.8.2018, issued by the Ministry of Human Resource Development, Government of India (MHRD) on the subject of conducting Joint Entrance Examination (JEE), 2019 for admission to NITs/IITs and other Centrally Funded Technical Institutes, it is clear that JEE Apex Board (JAB) is not authorized to frame the eligibility criteria. Alluding to the public notice dated 25.9.2018, issued by the respondent No.1/National Testing Agency (NTA) which states that the Council of Architecture had revised the eligibility criteria, it is his plea that the said public notice overrides the earlier Notification dated 21.8.2018 that had made the appellant eligible to appear in the examination as he had secured more than 50% aggregate marks in standard 10+2 CBSE examination. Reference was made to the powers of the Council of Architecture, prescribed in Section 45(2)(h) of the Architects Act, 1972 to contend that the Council alone is entitled to formulate regulations for conducting professional examinations, prescribing qualifications of examiners and conditions of admissions to the said

examinations and since the Council had revised the eligibility criteria, the respondent No.2/JoSAA could not have disqualified the appellant.

8. The second plea taken by learned counsel for the appellant is that the learned Single Judge ought to have held that the respondents had illegally changed the eligibility criteria for appearing in the subject examination midstream for the reason that the respondent No.2/JoSAA had released the Business Rules on 16.6.2019, which was well after the date when the examination was conducted and the results declared. He pointed out that the results of the First Attempt of JEE (Main), 2019 Paper-2 were declared on 31.1.2019, wherein the percentile score of the appellant was 99.2676875 and the results of the Second Attempt of the JEE (Main) Paper-2 were declared on 14.5.2019, wherein his percentile score was 98.7260414. Strenuously arguing that there cannot be any retrospective application of the Business Rules issued by the respondent No.2/JoSAA on 16.6.2019, it was submitted that the learned Single Judge ought to have allowed the writ petition and set aside the cancellation order. Lastly, it was canvassed that contrary to the objection taken by the counsel for the respondents and upheld by the learned Single Judge that the appellant/petitioner had approached the Court belatedly, as a matter of fact, there was no delay on the part of the appellant in approaching the Court for relief for the reason that the seat allocated to him was cancelled on 1.7.2019 and the writ petition was filed on 29.7.2019.

9. To understand the contextual background in which the impugned judgment has been assailed, we may first examine the relevant rules and regulations, governing the eligibility criteria and role of the respondent No.1/NTA and the respondent No.2/JoSAA in the admission process.

10. The MHRD, Government of India has established the respondent No.1/NTA as an independent testing organization registered under the Societies Registration Act, 1860 for conducting efficient and transparent tests to assess the competency of candidates for admission to premier higher educational institutions. The task of conducting JEE (Main) was entrusted by the MHRD to the respondent No.1/NTA from the year 2019. Significantly, respondent No.1/NTA does not have any role to play in laying down the guidelines or the eligibility criteria. The qualifications and other basic eligibility requirements for candidates to appear in the JEE (Main) Examination are prescribed by the JEE Apex Board (JAB). JAB has been constituted by the MHRD, Government of India and it comprises of amongst others, Directors of various Institutes across the country that participate in the Common Seat Allocation Process for the streams of Engineering, Architecture and Planning courses.

11. Vide Notification dated 21.8.2018, the MHRD, Government of India reconstituted the JAB for conducting the 2019 Examination for admissions to IITs, NITs and other Centrally Funded Technical Institutions. The said Notification declared that JAB will be the final authority for setting up of the policies, rules and regulations for conducting JEE (Main), twice a year. Based on the said policies and the approval granted by the JAB, the respondent No.1/NTA publishes Information Bulletins for conducting the JEE (Main) twice a year. The Central Seat Allocation Board (CSAB) jointly conducts the admission process for engineering institutes in India, other than the IITs in conjunction and collaboration with the respondent No.2/JoSAA. In the said admission process, a common counseling is held where

candidates are offered seats in different engineering colleges/institutions on the basis of their ranks and preferential list of course and institutes, in terms of the choices opted for by them.

12. The Information Bulletin (First Attempt) for JEE (Main), 2019, issued by the respondent No/1/NTA in September, 2018 for the examination to be conducted in January, 2019 laid down the following eligibility criteria in para 3.1:-

“3.1 Eligibility for Admission to NITs, IIITs and CFTIs participating through Central Seat Allocation Board.

*Admission to NITs, IIITs and CFTIs participating through Central Seat Allocation Board will be based on All India Rank as explained above in section 2.10 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 examination.*

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

<i>Course</i>	<i>Required Criteria based on Class 12th /Equivalent qualifying Examinations</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/B. PLANNING</i>	<i>Passed 10+2 examination with Mathematics</i>

”

13. Para 3.1 reproduced above, is in two parts. The first part lays down the eligibility criteria for candidates who seek admission to NITs, IITs and CFTIs, participating through the CSAB and requires the candidate to secure atleast 75% marks in the 12th class examination, or be in the top 20 percentile in the 12th class examination conducted by the respective Boards. The second part of para 3.1 prescribes the subject combinations required in the qualifying examinations for admission to the B.Architecture and B. Planning Course and requires a candidate to have passed 10+2 examination with the subject, mathematics.

14. The Information Bulletin (Second Attempt) JEE (Main), 2019, published on 8.2.2019, for the examination to be conducted in April, 2019 laid down the following eligibility criteria:-

“Eligibility for Admission to NITs, IIITs and CFTIs participating through Central Seat Allocation Board: Admission to NITs, IIITs 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.

<i>Course</i>	<i>Required Criteria based on Class 12th /Equivalent qualifying Examinations</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>

„

15. As can be seen from the above, while the eligibility criteria in the first part of the aforesaid para, remained the same as was prescribed in the Information Bulletin (First Attempt) published in September 2018, the subject combination required in the qualifying examination for admission in the B. Arch course was revised and now a candidate was required to have passed 10+2 examination with three subjects, mathematics, physics and chemistry.

16. The Seat Allocation Process and Admission Procedure in para 3.5 of the Information Bulletin (First Attempt) reads as follows:-

“3.5 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.jeeemain.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 given in Appendix-7, 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.”

17. The above procedure states in so many words that the process of verification of documents shall take place at the time of seat allocation and on scrutiny of the said documents regarding, amongst others, qualifying examination, if it is found that a candidate does not fulfill the required norm, he will not be considered for admission in the IIIT's, NIT's and GFTI's participating in the Central Seat Allocation Process.

18. Next comes the Business Rules for Joint Seat Allocation made by the respondent No.2/JoSAA for the Academic Programs offered by IITs, NITs, IEST, IIITs and other GFTIs for the Academic Year 2019-20 and issued on 16.6.2019. The said Business Rules that have been duly endorsed by the Joint Implementation Committee, JEE (Advanced) 2019 and by the Chairman, Joint Admission Board, JEE (Advanced) 2019 and granted approval by the Core Committee of the Central Seat Allocation Board, 2019, lays down the Rules for allocation of seats for admission in the IIT's, NIT's and CFTI's for the Academic Year 2019-20 and declares that:-

“No agency other than JosAA 2019 is responsible for joint seat allocation. Candidates seeking information/assistance from any agency/agent other than JoSAA 2019 shall be doing so at their own risk and cost.”

19. Chapter III of the Business Rules lays down the following criteria for allocation of a seat in the B. Arch/B. Planning programs for the participant institutions:-

“III CANDIDATES WHO CAN PARTICIPATE IN JOINT SEAT ALLOCATION

4. Each and every candidate who satisfied one or more of the following criteria is eligible for participation in joint seat allocation:

Criterion(iv): Secured a rank in JEE (Main) 2019 Paper-2 for B.Arch/B. Planning programs at NITs, IEST, IITs and Other-GFTIs

AND

Must have passed Class XII (or equivalent) examination with Mathematics as one of the subjects. Further, the candidate should have passed each subject individually as well*

AND

Satisfies the “Performance in Class XII (or equivalent) examination” criteria as given in Annexure 2(b)”*

** Class XII and equivalent examinations are given in Annexure 4.”*

20. Annexure 2 (b) referred to in Chapter III above, stipulates as under:-

“Performance in Class XII (or equivalent) examination (Applicable only for candidates seeking admission to NITs/IITs and other GFTIs)

1. One of the criteria for admission to NITs/IITs/Other participating GFTIs is that the candidate should satisfy at least one of these two criteria:

(i) The candidate is within the category-wise top 20 percentile of successful candidates in their respective Class XII (or equivalent) examination of respective stream and

Board.

(ii) The candidate has secured minimum 75% (for GEN or OBC-NCL) or minimum 65 % (for SC, ST or PwD) of aggregate marks in the Class XII (or equivalent) examination of respective stream and Board.

2. The marks scored in the following five subjects will be considered for calculating the aggregate marks and the cut-off marks for fulfilling the top 20 percentile criterion.

(a) For B.E./B.Tech. programmes

i. Physics

ii. Mathematics

iii. Any one of Chemistry, biology, biotechnology, technical vocation subject.

iv. xxx

v. xxx

(b) For B.Planning the marks in the following subjects will be considered:

(i) Mathematics

(ii) Other four subject”

(c) For B.Arch. the marks in the following subjects will be considered:

(i) Passed 10+2 examination with at least 50% aggregate marks in Physics, Chemistry and Mathematics and also at least 50% marks in aggregate of 10+2 level examination or passed 10+3 Diploma examination with Mathematics as compulsory subject with at least 50% marks in aggregate.”

21. Chapter XVII of the Business Rules that provides for “Provisional Offer of Seat and its Confirmation” prescribes the following conditions in paras 42 and 44:-

“XVII PROVISIONAL OFFER OF SEAT AND ITS CONFIRMATION

42. A candidate who has been allocated a seat is allowed to download the “Provisional Seat Allocation Letter” and an e-challan for remittance of seat acceptance fee.

*44. Candidates should (i) remit seat acceptance fee using the e-challan or using SBI Net Banking and (ii) report at a Reporting Center for document verification before the last date/time specified [see Annexure 3 for the timeline]. Failure to report in person for seat acceptance will be considered as if the candidate has rejected the offer. **Seat will be confirmed by the Reporting Centre after verification of the original documents and ensuring that the candidate meets all the eligibility norms [see Annexures 7 to 9]. Seat will be cancelled if, at any time, any of the documents / certificates is found to be invalid / fraudulent and/or the candidate does not meet all the eligibility norms.**”*

22. Annexure 7(b) appended to the Business Rules also contains the format of a proforma required to be filled up by the candidate and submitted to the Joint Seat Allocation Authority. Enclosed with the said proforma is a draft undertaking required to be submitted by a candidate. The relevant clauses of the said undertaking are reproduced herein below for ready reference:-

*“1. I accept the offer of provisional admission to
Course Name:
Institute Name:”*

“3. My marks are _____ out of 500 of the Board

_____ from which I appeared the Qualifying Examination in 2018/2019.

I declare myself eligible for admission to IITs/NITs/IIEST/IITs/O-GFTIs (tick whichever is applicable)

(a) Being in “top 20 percentile cut-off marks amongst successful candidates” in my Board in my category.

(b) Having obtained _____ percent marks in the qualifying examination.”

23. Thus, on provisional allocation of a seat, a candidate is required to furnish an undertaking alongwith the prescribed proforma stating *inter alia* that he is aware of the fact that the offer of appointment has been made provisionally and further, that he/she is eligible for admission to the subject course “*being in top 20 percentile cut-off marks amongst successful candidates in my Board in my category*”.

24. It is noteworthy that that the aforesaid Rules relating to the admission process have been published in terms of the decision of the Council of IITs that was notified by the MHRD, Government of India on 08.04.2016. The communication dated 08.04.2016 states that the IIT Council had constituted a Committee of eminent persons to suggest ways for improving the system of Joint Entrance Examination and after due consultation with the stakeholders, the said Committee submitted its report to the Government recommending amongst other things, to dispense with the weightage given to the 12th class examination marks in the JEE (Main) ranking. Upon examining the said report, in consultation with the stakeholders and the Departments of School Education/Higher Education, the Chairman, IIT

Council had recommended the following changes in the JEE pattern for the year 2017:-

“a) There shall be no weightage for the 12th class marks in calculating the ranks in the JEE Main exam.

b) For the candidates to qualify for admission in the IITs/NITs/IIITs and such other CFTIs whose admission are based on the JEE ranks, they should have secured at least 75% marks in the 12th Class exam, or be in the top 20 percentile in the 12th class exam conducted by the respective Boards. For SC/ST student the qualifying mark would be 65% in the 12th Class exam.

There is no other change in the JEE examination system for 2017.”

25. It is the above recommendation made by the Chairman, IIT Council that has been incorporated in the Information Bulletins issued by the respondent No.1/NTA on instructions received from the respondent No.2/JoSAA and have been made a part of the Business Rules issued by the respondent No.2/JoSAA, as a basic requirement for a candidate seeking admission and seat allocation through the JEE (Main) 2019 examination to B. Tech program or the B. Arch./B. Planning program.

26. Continuing with the sequence of events, on 19.6.2019, the respondent No.2/JoSAA issued the following Corrigendum clarifying the conditions laid down in clause 2(c) of Annexure 2 (b) referred to in Chapter III of the Business Rules:-

“CORRIGENDUM

JoSAA business rules, Annexure 2(b) Performance in Class XII (or equivalent) examination (Applicable only for candidates seeking admission to NITs/IIITs and other

GFTIs), page number 55, point no.2(c) paragraph

“(c) For B.Arch. the marks in the following subjects will be considered:

(i) Passed 10+2 examination with at least 50% aggregate marks in Physics, Chemistry and Mathematics and also at least 50% marks in aggregate of 10+2 level examination or passed 10+3 Diploma examination with Mathematics as compulsory subject with at least 50% marks in aggregate. ”

shall be read as

“(c) For B.Arch. the marks in the following subjects will be considered:

- (ii) Mathematics, Physics, Chemistry***
(ii) Other two subjects.”

27. For purposes of comparison, placed below is a tabulated statement of the original clause 2(c) in Annexure 2(b) *vis-a-vis* the amended clause 2(c) as contained in the Corrigendum dated 19.6.2019:-

ORIGINAL PROVISION	CORRIGENDUM
(c) For B. Arch. the marks in the following subjects will be considered: (i) Passed 10+2 examination with at least 50% aggregate marks in Physics, Chemistry and Mathematics and also at least 50% marks in aggregate of 10+2 level examination or passed 10+3 Diploma examination with Mathematics as compulsory subject at least 50% marks in aggregate.	“(c) For B. Arch. the marks in the following subjects will be considered: (i) Mathematics, Physics, Chemistry (ii) Other two subjects. ”

28. To test the submission made by the learned counsel for the appellant that by virtue of the public notice dated 25.09.2018, issued by the respondent No.1/NTA, the eligibility criteria declared by the respondent No.2/JoSAA stood superseded, it is necessary to examine the Minimum Standards of Architectural Education Regulations, 1983 (in short, 'the 1983 Regulations') made by the Council of Architecture, incorporated under the Architects Act, 1972. The powers of the Council of Architecture have been spelt out in Section 45 of the Architects Act, 1972 and amongst others, the said Council is required to make regulations for conducting professional examinations, laying down qualifications of examinations and conditions to admissions for such examinations [Refer: Section 45(2)(h)]. Regulation 4 of the 1983 Regulations declared by the Council of Architecture prescribes as follows:

“4. Admission to the Architecture Course

(1) No candidate, with less than 50% marks in aggregate, shall be admitted to the architecture course unless he/she has passed an examination at the end of the new 10+2 scheme of Senior School Certificate Examination or equivalent with Mathematics as a subject of examinations at the 10+2 level.”

At the foot of the 1983 Regulations is the following non-obstante clause:

“Notwithstanding anything contained in these regulations, the institutions may prescribe minimum standards of Architectural Education provided such standards does not, in the opinion of the Council, fall below the minimum standards prescribed from time to time by the Council to meet the requirements of the profession and education thereof.”

29. The aforesaid 1983 Regulation was revised by the Council of Architecture and the minimum eligibility criteria for admissions to the B.Arch course was reframed in terms of the Official Gazette published on 06.06.2017 and brought into force from the academic session 2019-20. Post revision, the eligibility criteria for the B.Arch course reads as below:-

“No candidate shall be admitted to architecture course unless she/he has passed an examination at the end of the 10+2 scheme of examination with 50% marks in Physics, Chemistry and Mathematics and also 50% marks in aggregate of the 10+2 examination.”

30. For ease of reference, placed below is a table setting out the earlier prescribed minimum standards for admission to the B. Arch course *vis-à-vis* the revised minimum standards in terms of the Official Gazette dated 06.06.2017:-

ORIGINAL PROVISION	AMENDED PROVISION
(1) No candidate, with less than 50% marks in aggregate, shall be admitted to the architecture course unless he/she has passed an examination at the end of the new 10+2 scheme of Senior School Certificate Examination or equivalent with Mathematics as a subject of examinations at the 10+2 level.	(1) No candidate shall be admitted to architecture course unless she/he has passed an examination at the end of the 10+2 scheme of examination with at least 50% aggregate marks in Physics, Chemistry & Mathematics and also at least 50% marks in aggregate of the 10+2 level examination or passed 10+3 Diploma Examination with Mathematics as compulsory subject with at least 50% marks in aggregate.

31. A glance at the aforesaid amended provision shows that post-amendment, the minimum standards prescribed by the Council of Architecture for a candidate to qualify for admission to the B.Arch course is

that he must secure minimum of 50% aggregate marks in Physics, Chemistry and Maths and at least 50% of marks in the aggregate of the 10+2 level examination or he ought to have passed 10+3 Diploma examination with mathematics as a compulsory subject alongwith at least 50% marks in aggregate. Besides the aforesaid revision in the minimum standards prescribed in the 1983 Regulations, there has been no change in the non-obstante clause which empowers institutions to prescribe minimum standards of architectural education, subject to the condition that the said standards do not fall below the standards prescribed by the Council of Architecture. In other words, on the revision of the minimum standards for architectural education by the Council of Architecture in terms of the Official Gazette dated 06.06.2017, that came into force for the academic session 2019-20 and was duly publicized by the respondent No.1/NTA, vide public notice dated 25.09.2018, all institutions conducting admissions in the first year of the B. Arch course were required to adhere to the said minimum standards.

32. However, the public notice dated 25.09.2018 announcing the revised eligibility conditions prescribed by the Council of Architecture for admission to the B.Arch and B. Planning program only lays down the minimum prescribed standards of architectural education. The said public notice does not automatically dilute/water down or do away with the eligibility criteria for admissions prescribed by the respondent No.2/JoSAA and declared by the respondent No.1/NTA in the Information Bulletins for the First Attempt published in September 2018 or in the Information Bulletin for the Second Attempt published on 08.02.2019. This is where the non-obstante clause in the 1983 Regulations gains significance inasmuch as

it empowers institutions to prescribe a different minimum standards as long as they do not fall short of what has been prescribed in the 1983 Regulations.

33. That the Council of Architecture being a regulatory body, has prescribed the minimum eligibility criteria under the 1983 Regulations, cannot take away from the fact that a higher benchmark of excellence can be prescribed for admission to Institutions, who have agreed to participate in the JEE (Main) Examination, 2019 conducted by the respondent No.1/NTA wherein, a more stringent criteria has been prescribed by the respondent No.2/JoSAA in the Information Bulletin for JEE (Main) 2019, First Attempt and Second Attempt which remained unaltered all along. Candidates attempting the said entrance examination were still expected to secure at least 75% marks in the 12th standard examination or be in the top 20 percentile in the 12th class examination conducted by the respective Boards.

34. When examined in the aforesaid background, we have no manner of doubt that the requirement of 50% aggregate marks in Physics, Chemistry and Mathematics and 50% marks in aggregate of the 10+2 examination prescribed by the Council of Architecture on revising the eligibility criteria laid down in the 1983 Regulations for the B.Arch course for the academic session 2019-20 onwards, cannot proscribe the respondent No.2/JoSAA from setting a higher benchmark in the examination conducted for joint seat allocation in the NIT's, IIT's and CFTI's, which had all along remained consistent and a candidate had to secure minimum of 75% marks in the 12th class examination or to be in the top 20 percentile for general category candidates and 65% marks for candidates in the SC/ST categories, as contained in the two Information Bulletins published in September, 2018

and 08.02.2019, respectively.

35. We are not persuaded by the argument advanced by learned counsel for the appellant that the public notice dated 25.09.2018, issued by the respondent No.1/NTA would have the effect of automatically overriding the eligibility criteria laid down in the Information Bulletins issued by the respondent No.1/NTA; nor do we find any merit in the submission made by him that the respondent No.2/JoSAA is not vested with the authority to fix the eligibility criteria in terms of the Business Rules circulated by it for joint seat allocation for the academic year 2019-20, as publicized on 16.06.2019.

36. The Notification dated 21.08.2018 issued by the MHRD, UOI clearly states that the JAB is the final authority for formulating policies, rules and regulations for conducting the JEE (Mains) twice a year, it being an expert body that has been entrusted with the duty of conducting the JEE Main-2019 examination in IITs/NITs and other CFTI's. Towards this end, JAB is required to take all necessary steps as it may think fit for making admissions in the participant institutions which would include prescribing the eligibility criteria that may even be more rigorous than the minimum prescribed standard set down in the 1983 Regulations, with the object of advancing the cause of higher education in India. Just because the Council of Architecture has prescribed a minimum standard for admission in the B.Arch course cannot in any way inhibit the JAB from fixing an additional and more stringent eligibility criteria for candidates who elect to participate in the Common Seat Allocation Process regulated by the JEE (Main) 2019 examination. Moreover, the need of allowing a higher eligibility criteria was duly examined by the Committee of eminent persons appointed by the IIT Council and the Committee's report had been duly approved by the

Chairman, IIT Council for conducting the JEE (Mains) 2017 examination and ever since then, it has been applied for the succeeding years, without any exception.

37. The other submission made by the learned counsel for the appellant that the eligibility criteria for the JEE (Mains), 2019 examination has been changed midstream, is also found to be devoid of merits. The eligibility criteria laid down in the Information Bulletins, First Attempt and Second Attempt published in September 2018 and February 2019 respectively, remained consistent and unchanged. Merely because the respondent No.1/NTA had issued a public notice on 25.09.2018, informing the public at large that the minimum eligibility criteria prescribed for the B.Arch/B. Planning courses had been revised by the Council of Architecture on account of the amendment to Regulation 4(1) of the 1983 Regulations published in the Official Gazette on 06.06.2017, cannot take away from the fact that all candidates attempting the JEE (Mains), 2019 examination for the subject course conducted by the respondent No.1/NTA for the participant Institutions across the country, were all along aware of the fact that they were required to fulfill a higher eligibility criteria prescribed by the respondent No.2/JoSSA for admission, which was more stringent than what may have been prescribed by other non-participant institutions offering the B.Arch course.

38. In the above context, we may usefully cite the decision in University Grants Commission and Anr. v. Neha Anil Bobde (Gadekar) reported as **2013 (10) SCC 519** where the Supreme Court opined that once the UGC, an Expert Body in exercise of its statutory powers, had laid down a qualifying criteria, for conferring eligibility for lectureship by conducting the National

Eligibility Test (NET) for the relevant year and it had prescribed a qualifying criteria for Lectureship eligibility based on the recommendations made by an Expert Committee constituted by it in terms of a Notification issued prior to conducting the NET examination, 2012, the same could not be treated as a change in the rules of the game for the reason that the said Notification was already in public domain. Applying the said logic to the instant case, we are of the opinion that merely because a candidate would have attained the minimum prescribed qualifying marks in terms of the revised 1983 Regulations, notified on 06.06.2017 and issued by the respondent No.1/NTA vide public notice dated 25.09.2018, would not be a ground for determining his eligibility for qualifying in the JEE (Mains) 2019 as the respondent No.2/JoSAA being an expert body, had prescribed a higher benchmark as declared in the Information Bulletin, First Attempt and Second Attempt published in September, 2018 and 08.02.2019, respectively, well before the examinations were conducted.

39. It is noteworthy that the JAB is an expert body that has been entrusted with the task of conducting the JEE (Main) 2019 for admission in specific institutions. It has to be treated as the final authority for laying down policies, rules and regulations for conducting the JEE Mains twice a year. Towards this end, JAB is equally duty bound to lay down the eligibility criteria as it may consider appropriate, for joint seat allocation in IITs/NITs and other CFTI's participating in the JEE (Main), 2019, which could be more rigorous than one prescribed by the Council of Architecture. No interference is called for from the courts for the JAB to discharge the said function. The view expressed above, finds resonance in the following

observations made by the Supreme Court in Neha Anil Bobde (supra):-

“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.” (emphasis added)

40. The submission made by learned counsel for the appellant that the Business Rules issued by the respondent No.2/JoSAA on 16.6.2019, have been applied retrospectively is also found to be meritless. On the contrary, the Information Bulletin, First Attempt issued in September, 2018 and the

Information Bulletin, Second Attempt issued in February, 2019 remained unchanged insofar as the eligibility criteria laid down for admission in the participating Institutions through Central Seat Allocation Process was concerned. Both the said Information Bulletins had stated in so many words that a candidate ought to have secured at least 75% marks in class 12th examination or be in the top 20 percentile in the 12th class examination conducted by the respective Boards. Moreover, the eligibility criteria prescribed by the respondent No.2/JoSAA in the Business Rules issued on 16.06.2019 is no different, as is reflected on a perusal of Annexure 2(b) referred to in Chapter III and reproduced in para 20 hereinabove. It is also relevant to note that all candidates were informed that any allocation of a seat was made provisionally and was subject to verification of the original documents and upon ensuring that the candidate meets all the eligibility norms, as stipulated in para 44 of the Business Rules read in consonance with the undertaking required to be submitted by each candidate along with an affidavit, which is nothing but a reiteration of the same eligibility criteria, as mentioned above.

41. Thus, the appellant cannot be heard to state that the rules of examination have been changed mid stream to his detriment or that the public notice dated 25.09.2018 had resulted in amending the eligibility criteria by watering it down, thereby qualifying him to participate in the JEE Main 2019 examination. This would be a complete misreading of the relevant rules and regulations and in disregard to the Report of the Committee of Experts constituted by the IIT Council that was accepted as long back as on 08.04.2016 and been implemented consistently from the year 2017 onwards. This is not to say that the appellant could not have

secured admission in the B. Arch. course in any other institute that had decided not to fill up its seats by participating in the joint seat allocation process through the JEE (Main), 2019 examination. That option was always available to him.

42. We are also not oblivious to the fact that in exercise of the jurisdiction under Article 226 of the Constitution of India, the High Courts must ordinarily forebear from interfering in the eligibility criteria laid down by academic bodies since decisions taken by such bodies are in the nature of policy decisions and any interference therein, is ill-advised and unwarranted. A similar view was expressed by a coordinate Bench of this Court in the case of Siddharth Kaul and Ors. v. Guru Gobind Singh Indraprastha University [W.P.(C) 7610/2011, decided on 02.12.2011], wherein referring to an earlier decision in Ashutosh Bharti v. Ritnand Balved Education Foundation, reported as MANU/DE/0024/2005, it was observed as follows:-

“22. A Division Bench of this Court in Ashutosh Bharti v. Ritnand Balved Education Foundation MANU/DE/0024/2005 has already held that if any step is taken towards better educational method and standards, not only the Court should not come in the way but must command and encourage it. Better standards are required for learning and it can be only from experiences and different modalities. Educational Institutions are the best judges to impose appropriate restrictions and conditions. Merely because the conditions which are imposed may be found inconvenient to some students, it cannot be challenged as being arbitrary. Recently another Division Bench in Independent Schools' Federation of India (Regd.) v. CBSE MANU/DE/3352/2011 reiterated that the Courts are not experts to judge the decisions that have been arrived at by the Educational Bodies and experts and the same are policy decisions with which the Courts would be slow to interfere.” (emphasis added)

43. Coming lastly to the affidavit filed by the respondent No.1/NTA in the instant case, it has been averred that the first JEE (Mains) examination, Paper-2 was conducted on 08.01.2019, in two shifts across 255 cities in India and abroad. A total number of 1,80,052 candidates had registered for Paper-2 (B.Arch/B.Plg). 390 Examination Centres were set up across the country and abroad. 474 observers, 255 City coordinators and 25 State Coordinators had to be deployed at these Centres to oversee smooth and fair conduct of the examination, the result whereof was declared on 31.09.2019. Looking at the aforesaid humongous task undertaken by the respondent No.1/NTA, we are of the opinion that any relief granted to the appellant herein at this belated stage, only because there is one seat still available in the institute where he was granted provisional admission which was subsequently cancelled, would be to the detriment of several candidates who were refused confirmation of seat for not possessing the minimum required marks prescribed by the JAB. It is not even the case of the appellant that the respondents have entertained the request made by any other similarly placed candidate as him for relaxation of the eligibility criteria laid down by the respondent No.2/JoSAA for the subject examination. Any such concession granted to the appellant would amount to a backdoor entry which is impermissible.

44. We also find force in the submission made by Mr. Bansal, learned counsel for the respondent No.1/NTA and Mr. Mitra, learned counsel for the respondent No.2/JoSAA that there would be many similarly situated candidates as the appellant herein who have not approached the Court for relief by simply accepting the eligibility criteria as declared in the Information Bulletins and any intervention by the Court at this stage, would

adversely affect those faceless aspirants who did not seek legal recourse. Even otherwise, we are of the opinion that the rules and regulations have been applied with an even hand to all the candidates who have been admitted to the B.Arch course in 16 Institutes situated all over the country, on securing 75% marks in the 12th class examination or being in the top 20 percentile in the respective Boards, a criteria that has been consistently followed in 7 rounds of seat allocation, followed by two mop up rounds of seat allotment that finally wrapped up on 05.08.2019.

45. In view of the aforesaid discussion, we are of the opinion that the impugned judgment does not warrant any interference and is consequently upheld. The appeal is dismissed as meritless. However, in the facts of the case, there shall be no order as to costs.

HIMA KOHLI, J,

ASHA MENON, J

OCTOBER 31, 2019

NA/ajk/rkb