

\$~77, 78, 79, 81, 83, 84

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

Reserved on: 17th May, 2019

Date of pronouncement: 29th May, 2019

+ W.P.(C) 12219/2018 & CM APPL. 19621/2019, 19622/2019

RITIKA JAIN Petitioner

Through: Mr. Mukesh Gupta and Mr.
Abhinav Agnihotri, Advs.

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY &
ANR Respondents

Through Mr. Mukul Talwar, Sr.Adv with
Mr. Jasbir Bidhuri, Adv for R-1.
Mr. R. K. Saini and Mr. Deepak Vohra,
Advs.

+ W.P.(C) 12780/2018 & CM APPL. 19629/2019, 19630/2019

SAURABH PUJARI Petitioner

Through

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY &
ANR Respondents

Through: Ms. Anita Sahani, Adv for R-1

+ W.P.(C) 12807/2018

ABRA SHAH & ANR Petitioners

Through: Mr. Dev P. Bhardwaj, Adv.

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY &
ANR Respondent

Through: Mr. Mukul Talwar, Sr.Adv with
Mr. Jasbir Bidhuri, Adv for R-1.
Ms. Anita Sahani, Adv.

+ W.P.(C) 12810/2018

RISHAV SHARMA Petitioner
Through Mr. Rakesh Wadhwa, Adv with
Ms. Prarthana singh, Adv for the petitioner

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY
AND ANR. Respondents
Through: Mr. Mukul Talwar, Sr. Adv
with Mr. Jasbir Bidhuri, Adv for R-1.
Ms. Anita Sahani, Adv.

+ W.P.(C) 12815/2018 & CM APPL. 49698/2018

SH. SHUBHAM CHAUDHARY Petitioner
Through:

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY
AND ANR Respondents
Through: Mr. Mukul Talwar, Sr.Adv with
Mr. Jasbir Bidhuri, Adv for R-1.
Ms. Anita Sahani, Adv.

+ W.P.(C) 13441/2018 & CM APPL. 19636/2019

RASHI GUPTA AND ORS. Petitioner
Through:

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY
AND ANR. Respondents

Through: Mr. Mukul Talwar, Sr.Adv with
Mr. Jasbir Bidhuri, Adv for R-1.
Ms. Anita Sahani, Adv.
Mr. R. K. Saini and Mr. Ankit Singh, Adv.
for R-2

+ W.P.(C) 12527/2018 & CM APPL. 19634-19635/2019

RAGHAV AND ORS Petitioners

Through:

versus

GURU GOBIND SINGH INDRAPRASTHA UNIVERSITY
AND ANR Respondents

Through: Mr. Mukul Talwar, Sr.Adv with
Mr. Jasbir Bidhuri, Adv for R-1
Ms. Anita Sahani, Adv.
Mr. R. K. Saini and Mr. Ankit Singh, Adv.
for R-2

+ W.P.(C) 12767/2018 & CM APPL. 19656-19657/2019

KARTIK KAUSHIK & ANR Petitioners

Through:

versus

GURU GOBIND SINGH INRAPRASTHA UNIVERRSITY &
ANR Respondents

Through: Mr. Mukul Talwar, Sr.Adv with
Mr. Jasbir Bidhuri, Adv for R-1.
Ms. Anita Sahani, Adv.

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

% **J U D G M E N T**

1. The controversy involved in all these writ petitions being common, they have been heard jointly, and are being disposed of by

this common judgment. For the sake of convenience, reference would be made to the facts obtaining in W.P.(C) 12219/2018 (*Ritika Jain v. Guru Gobind Singh Indraprastha University*).

2. The petitioner (Ritika Jain) is a student studying in the 4th semester in the Maharaja Agrasen Institute of Technology (hereinafter referred to as the “MAIT”), which is affiliated to the Guru Gobind Singh Indraprastha University (hereinafter referred to as the “GGSIPU”). She is pursuing her B. Tech. Course, which commenced with the academic session 2017-2018. She has successfully completed her first year, comprising the first and second semesters, of the said course, in the discipline “Electronics and Communication Engineering (ECE)”.

3. The other streams/disciplines, in which B.Tech programmes are conducted by the MAIT, leading to award of B.Tech degrees by the University, are the streams of Computer Science and Engineering (CSE), Information Technology (IT), Electricals and Electronics Engineering (EEE), and Mechanical and Automation Engineering (MAE). All these courses stand approved by the All India Council for Technical Education (AICTE). The petitioner was admitted to the B.Tech Course in the ECE Discipline, consequent to clearing the Common Entrance Test (CET) conducted by the University for the said process and undergoing counselling thereafter.

4. The MAIT conducts the B.Tech Courses in two shifts. The first shift is from 07:00 AM to 01:30 PM and the second shift is from 02:00

PM to 08:30 PM. The second shift has been operating on the basis of the permission granted, for the said purpose, by notification dated 28th April, 2009, issued by the Directorate of Higher Education, Government of NCT of Delhi.

5. It is not denied that the petitioner has cleared all the papers of her first and second semesters and has no back papers left to clear.

6. On 9th August, 2018, the University issued the following notice:

“Guru Gobind Singh Indraprastha University
Sector 16 C, Dwarka, New Delhi-110078

ADMISSION BRANCH

IPU-7/Acad./Migration-2018/2018-19/4712

09/08/2018

NOTICE

SUBJECT: Migration (Change of Shift Mutual Migration, Intra University, Inter University) of the students admitted in 1st Semester in the Academic Session 2017-18

In pursuance of Provisions in Ordinance 7 (Migration of Students) GGSIPU Act, No. 9 of 1998, Candidates seeking Migration (Change of Shift, Mutual Migration, Inter university, Inter University) in various programmes in Guru Gobind Singh Indraprastha University are required to submit the following:

1. Migration Application
2. No Objection Certificate (NOCs) from both the Institutes
3. Copy of Result of first year (both semesters)

4. Copy of Result of class 12th qualifying examination documents as per the eligibility criteria.

The above documents may be submitted between 09th August 2018 to 17th August, 2018 (11 am to 3 pm) only on University working days in Admissions Branch, Administrative Block, GGSIPU Dwarka.

Candidates desirous of seeking Migration should also fulfil the eligibility Criteria for programme applying for Migration as laid down in the Admissions Brochure for the Academic Session 2017-18

As per Amended provision of Migration Ordinance 7: No migration is permitted into the Medical Colleges of the Guru Gobind Singh Indraprastha university from any Institution/College.

Issuance of No objection certificate (NOCs) from the institute does not imply cancellation of Admission from the particular college. It only means consent for migration given by the College. Submission of Migration application does not imply that migration will be carried out.

Migration will be effective from 3rd Semester for the Academic Session 2018-19.

Enclosed- Copy of Ordinance 7, GGSIPU Act 09 of 1998.

SD/-
(Pravin Chandra)
Incharge Admissions”

7. Ordinance 7 of the Ordinances governing the University, to which the afore-extracted notice dated 9th August, 2018 refers, reads thus :

“ORDINANCE 7: MIGRATION OF STUDENTS

In pursuance of the provisions of Section 27 of Guru Gobind Singh Indraprastha University Act 1998 (9 of 1998), the Board of Management of the Guru Gobind Singh Indraprastha University, hereby makes the revised Ordinance 7 relating to Migration of students.

1.0 No Migration shall be allowed from other University/Colleges to the University Schools of Studies, University maintained colleges or affiliated institutions i.e. no inter-university migration shall be allowed in normal circumstances. It can be allowed in special circumstances by the Vice-Chancellor, on the recommendations of Sub-Committee, comprising of three members of Academic Council, constituted by the Vice-Chancellor subject to the condition that the applicant student/candidate must have cleared each paper of both the semester of 1st Year/or all the paper of the 1st year as it applies for a particular programme. It must be ensured that there should not be any gap between the 1st Year and the 2nd Year of a particular programme meaning thereby that the pursuance of the programme remains continuous.

However, under no circumstances a student/candidate who has compartment in any one paper of the 1st year or either of the 1st or 2nd semester of the 1st year shall be permitted for migration.

2.0 Migration (inter-se) from the University Schools of Studies, maintained institutions or affiliated institutions shall, however be considered as under:

- a) No migration shall be allowed during 1st year of studies except on extreme compassionate grounds, with the prior approval of Academic Council.
- b) Migration from University School of Studies to University maintained institution or affiliated institutions and vice-versa or from one institution to another

institution in the same programme/discipline in the 2nd year/3rd semester can be considered in respect of the following cases:

(i)(a) Mutual migration of the student(s) in the same programme/discipline may be allowed when 'No Objection' is conveyed by both the Deans/Directors/Principals, concerned of the University School of Studies/respective institutions, as applicable. Such migration shall be allowed with the approval of the Registrar of the University.

(b) In case applicants seeking migration from affiliated institutions to University School of Studies are more than the vacancies available, migration will be allowed on the basis of merit.

(ii) Under genuine circumstances migration of the students from the University School of Studies to another institution and vice-versa or from one institution to another institution in the programme/discipline may be allowed provided that the 'No Objection Certificate' is issued by the University School of Studies/institution where he or she is studying in the previous semester and also vacancy exists in the institution/University School of Studies where he or she is seeking migration. Such migration shall be allowed only with the prior approval of Vice-Chancellor.

(iii) In case of migration of the student from one affiliated institution to another institution, the fee structure shall remain unchanged. However, in case of migration from affiliated institutions to University Schools of Studies, the candidate is required to pay the fee as prescribed in the University Schools of Studies for the same programme/discipline.

3.0 Under exceptional circumstances or in order to take care of unforeseen situations, the Academic Council may consider any relaxation in this Ordinance for reasons to be recorded in writing.

The above ordinance has come into force with effect from the date of the approval by the Board of Management.”

8. The last date for submission of applications, as invited by the Notice dated 9th August, 2018 (*supra*) was extended till 21st August, 2018 by Notice dated 19th August, 2018, issued by the University.

9. The petitioner desired to change the discipline in which she was studying, i.e., Electronics and Communication Engineering (ECE), to Computer Science and Engineering (CSE), along with a change of shift, from the first shift to the second shift. She, therefore, desired a change both of the branch as well as the shift, in which she was studying. It is not in dispute that the curriculum as well as the papers given, for the first year of the ECE and the CSE Courses, are the same.

10. As is apparent from a reading thereof, the notice dated 9th August, 2018, referred to a No Objection Certificate (NOC) having to be obtained from both the institutes, when a student desired to shift/migrate from one institute to the other. However, as the desire of the petitioner was to migrate/shift from the morning shift to the afternoon shift of the MAIT, NOC, for the migration of the petitioner from the ECE Programme in the first shift, to the CSE Programme in the second shift, being conducted in its institution, was granted, by the MAIT, *vide* letter dated 20th August, 2018. The MAIT stated, in the

said letter, that it had “No objection if she migrated from B.Tech (ECE) first shift to B.Tech (CSE) second shift at MAIT subject to the fulfilment of the conditions of the GGSIPU for the academic session 2018-2019”.

11. All other requisite documents were also submitted.

12. On 3rd October, 2018, the Sub-Committee of the Academic Council of the GGSIPU met. The minutes of the said meeting are of considerable significance and may, therefore, be reproduced thus:

“Minutes of Sub-Committee of Academic Council to deliberate on change of shift to be considered as migration cases, vide meeting held on 03.10.2018.

The meeting of the duly constituted Sub-Committee of the Academic Council to look into issue of change of shift in an Institute/College to be as migration case(s) was held on 08.10.2018 in the Chamber of Director-Academic Affair.

The following members were present:-

1. Prof. P.C. Sharma, Director(Academic-Affairs)-Chairperson
2. Prof. Kanwal D.P.Singh, Dean USLLS
3. Prof. Neena Sinha, Dean USMS
4. Prof. Arvinder Kaur, Dean USICT
5. Prof. Pravin Chandra, Incharge Admissions.

The members perused the file for migration in the academic session 2018-19 and after interaction with the officers of Admission Branch called in the meeting observe the following:

- The Admission Branch of the University had put up the file in this regard, Migration of Students for the

Academic Session 2018-2019 along with details etc., and for constitution for a committee through proper channel and the same was approved and the committee constituted vide approval dated 08.08.2018 of the Vice Chancellor (Pg1/N-2/N of the Migration file-Academic Session 2018-19).

- The up gradation of students in B.Tech Programme is done as per approval of the Academic Council and BOM, the same is placed in another file and orders already issued as per approval of competent Authority. The up gradation of the students in B.Tech Programme is restricted in same shift as per regulation and such no shift change is allowed in up gradation process.
- The migration ordinance (Ordinance 7) allows migration across institutions only.
- The Admission branch, taking in account the desire of students to change shifts/streams in the programme, have been treating shifts as different entities and had been considering this request of Shift change /Stream change(only in B.Tech) in a programme as under migration cases in the past years with due approval of the competent authority.

That the Sub Committee on perusal and deliberations recommends the following on the issue:-

1. For the academic session 2018-19, no shift change in any programme be allowed to be considered as under the Migration process.
2. As the applications for migrations have already been invited by University long time back and also academic session has begin from August 2018, if any student has obtained NOC(s) from their respective Institute after submission of request for migration, the issuance of NOCs by the Institute may be considered as on genuine

circumstances for academic session 2018-19.

3. The Up gradation Regulation may be amended for consideration in the next academic session 2018-19 and onwards and to include/allow shift changes in the same Institution also after comprehensive review and to be applicable to all programmes of studies.

4. The Migration Ordinance may be made more comprehensive or a suitable Regulation be framed for providing detailed procedure to be followed for migration as per provisions in the said Ordinance.

Sd./- Prof. Kanwal D.P.Singh, Dean US LLS	Sd./- Prof. Neena Sinha, Dean, USMS
Sd./- Prof. Arvinder Kaur, Dean USICT	Sd./- Prof. Pravin Chandra, Incharge Admissions
Sd./- Prof. P.C. Sharma, Director (Academic Affairs)- Chairperson	

13. Despite the grant of NOC by the MAIT, there was no response from the GGSIPU. The petitioner, therefore, addressed a reminder, dated 11th October, 2018, to the GGSIPU and followed up the matter by filing W.P. (C) No. 11722/2018 before this Court. *Vide* order dated 30th October, 2018 the said writ petition was disposed of, by this Court, recording the statement, of the GGSIPU, to the effect that the fate of the petitioner's representations, for permission to change the

shift/branch, would be made known, to him/her, within two days.

14. Following thereupon, the impugned order came to be passed, by the GGSIPU, on 2nd November, 2018, rejecting the request of the petitioner on the following grounds:

(i) NOC was required to be submitted from “both the Institutions”, in case of migration, whereas, in the present case, the NOC had been submitted only from one institution.

(ii) Upgradation/change of branch/stream, within an institution was allowed only by the Upgradation policy/regulations applicable to the GGSIPU for the B.Tech. program, which already stood completed, for the 2018-2019 academic session.

(iii) The duly constituted Sub-Committee of the Academic Council of the GGSIPU considered, and examined, the issue of change of shift, under the provision of migration of students as per Ordinance 7 of the GGSIPU, in its meeting held on 3rd October, 2018, and, after due deliberation, recommended that “... no shift stage, in any program, be allowed to be considered as under the Migration Process...”, as Ordinance 7 allowed migration only across institutions. This recommendation, of the Sub-Committee of the Academic Council was approved by the Vice-Chancellor of the GGSIPU. Accordingly, no request for shift change in an institution would be considered by the

GGSIPIU. All requests, for change of shift in the same institution/college, for the 2018-2019 Academic Session had therefore, been rejected, by the GGSIPIU, not being covered under Ordinance 7, which related to migration of students.

The impugned communication also draws attention to the caveat, contained in the notice dated 9th August, 2018, read with letter dated 19th August, 2018, whereby applications for migration were invited, in which it was clearly stated that issuance of NOC, from the Institute did not imply cancellation of admission from the particular college, but only implied that consent of migration had been given by the College, and that the submission of an application for migration application did not imply that migration would be carried out. In any event, it was noted, interests of students were not affected, as they were already studying in the same institution.

15. Aggrieved by the above communication, dated 2nd November, 2018, the petitioner has invoked the extraordinary jurisdiction of this Court, conferred by Article 226 of the Constitution of India, by means of the present writ petition. It has been pointed out, in the writ petition, that there could be no question of obtaining NOC from two institutes, as the change of shift, being sought by the petitioner, was from the morning shift, to the evening shift, of the same Institute. Though the morning and evening shifts, of the MAIT, had been allotted different Institute codes, the authorised signatories of the two shifts were the same, and the signature of such authorised signatory having been appointed on the NOC, it was fallacious to contend that the NOC was

only of one Institute. It is also sought to be urged that the GGSIPU is estopped from contending that change of shift/branch was not permissible under Ordinance 7, in view of the notice, dated 9th August, 2018, which specifically invited applications for change of shift. The GGSIPU could not, therefore, it is sought to be contended, argue that Ordinance 7 applies only to migration across different institutions. In any event, the GGSIPU was considering the morning and evening shifts as separate institutes, so that this objection, too, could not sustain on facts.

16. Upgradation, it is sought to be contended by the petitioner, covered cases of change of discipline/branch in the same shift, whereas, in the present case, the change of discipline/branch, as sought, was accompanied by a request for change of shift. The requisite conditions, entitling the petitioner for the said request, as contained in the Admission Brochure for the 2017-2018 academic session, as well as the notice, dated 9th August, 2018 *supra*, inviting applications for change of shift, it is contended, stand fulfilled by the petitioner.

17. The petitioners have, finally, sought to contend that, in earlier years, the GGSIPU had been acceding to requests for change of shift and branch/discipline and that, therefore, there was no justification for the GGSIPU adopting a contrary stance in the present year.

18. In its counter-affidavit, the GGSIPU has categorically reasserted its stand that change of branch amounts to

upgradation/change of discipline within an institution, and is only allowed under the upgradation policy of the GGSIPU and the Regulations applicable in that regard, which permit upgradation only on the basis of the marks, i.e. the Semester Grade Point Average (SGPA) obtained by the students in the first Semester of the B.Tech. Programme. The petitioner, it is submitted, did not possess the requisite SGPA, for upgradation to the CSE Branch, and was indirectly attempting to obtain such upgradation by the present writ petition, under the guise of change of shift. This, it is asserted, was completely impermissible.

19. It is further asserted, in the counter-affidavit, that, in fact, *vide* notice dated 10th May, 2018, the GGSIPU had invited applications for upgradation/change of Branch in the B.Tech. Programmes, from students who would be promoted to the third Semester in the 2018-2019 academic year. The said notice, it is pointed out, specifically stated that upgradation/change of Branch would be done strictly on the basis of the SGPA obtained by the students in the first semester of the said programme, subject to availability of vacancies. It was also pointed out, in the said notice, that, up to a maximum of 5% of the sanctioned intake of the 2017-2018 academic session, in which the students had been admitted, would be filled on the basis of upgradation/change of Branch, subject to availability of vacancies. A copy of the said notice, dated 10th May, 2018, issued by the GGSIPU, has been annexed to its counter-affidavit, and merits reproduction, in extenso, thus:

“Guru Gobind Singh Indraprastha University
Sector 16 C, Dwarka, Delhi-110078,
Website: www.ipu.ac.in

No. IPU-7/JR(Admissions) Upgradation-B.Tech/2018-19/2741

Dated: 10/5/2018

NOTICE

Subject: Upgradation /Change of Branch of the students admitted in 1st Semester in the academic session 2017-18 in the B.Tech (Engineering programme) on the basis of the basis of their performance in 1st semester, Upgradation/Change of Branch will be effective w.e.f the 3rd semester which will commence from the Academic Session 2018-19.

Attention of the students of B.Tech, studying in University Schools of Studies, affiliated Colleges/Institutes of Guru Gobind Singh Indraprastha University, who will be promoted to the third semester in the academic session 2018-19, is drawn to the University Rules as per which the upgradation of discipline is permitted within the same School/College/Institute. The Upgradation/Change of branch will be done strictly on the basis of the marks, i.e. SGPA obtained by the students in the first semester of B.Tech. programme subject to availability of vacancies in the same session. Applicants may note that upto maximum 50% of the Sanctioned intake of the Academic Session in which the students have been admitted in the session 2017-18 shall be filled through Upgradation/Change of Branch in each discipline/programme in the same institute subject to availability of the vacancies. If the existing vacancies are less than 5% in any branch of engineering, then the actual number of vacant seat(s) shall be filled through Upgradation/Change of branch.

Upgradation/Change of branch means change of discipline/branch of the programme by a student in the

same college in the same shift on the basis of merit e.g. a student studying in IT in a particular college can be upgraded/change of branch to any other branch like CSE, ECE, MAE, etc. in the same College/Institute/School subject to availability of vacancies and at a limit of maximum 5% of the sanctioned intake. It may be noted that Change of shift (e.g. from second shift to first in the same institute or from one institute to the other) is not covered under the process of Upgradation/Change of Branch.

The students of second semester (B.Tech.) who will be joining 3rd Semester in the session 2018-19 and are desirous of Upgradation/Changing their branch/Programme, within the same institute, may apply through the Dean/Director/Principal of the concerned School/Institute to Joint Registrar(Admissions), Administrative Block, Guru Gobind Singh Indraprastha University, Sector 16C, Dwarka, Delhi-110078 in the performa enclosed. The applications must reach to the office of the Joint Registrar(Admissions), latest by 4.00 p.m. of **31st May, 2018(Thursday)**. Any application received after 04.00 p.m. of **31st May, 2018(Thursday)** will not be entertained. Status of all the applications received in time will be displayed on the University's website on **07th June, 2018 (Thursday)**. The cases approved for upgradation/change of branch/programme will be notified on 21st June, 2018(Thursday) at 5.00 p.m. on the University's Website: www.ipu.ac.in.

It is informed that under no circumstances, those who have once applied for Upgradation/Change of Branch and have been subsequently upgraded to any Branch/Stream as per the options exercise by the candidate shall be allowed to withdraw their application. An affidavit to this effect is also required to be submitted by the students along with their application form.

Deans/Directors/Principles are requested to forward a compiled list of all applicants along with the applications of the students seeking Upgradation/Change

of branch, certifying that the details filled by the students have been checked and found correct (both hard & soft copies).

Under no circumstances any individual application for Upgradation/Change of Branch will be sent by Deans/Directors/Principle of the School/Institute/College unless there is only one applicant available in the School/Institute/College seeking Upgradation/Change of branch.

Sd/-
Dr. Nitin Malik
Joint Registrar (Admissions)

Copy to:

1. Controller of Examination, GGSIPU for kind information.
2. AR to Vice Chancellor for kind information to Hon'ble Vice Chancellor
3. SO to Pro Vice Chancellor, GGSIPU for kind information to Pro Vice Chancellor.
4. AR to Registrar, GGSIPU for kind information of Registrar.

Sd/-
Assistant Registrar (Admission)"

20. The petitioner, it is pointed out, applied for upgradation/change of Branch. It is seen that, in the said application, the petitioner gave, as her first preference for upgradation/change of Branch, "CSE – 1st shift", and, as her second preference, "IT – 1st shift". The petitioner, being low on merit on the basis of her SGPA in the first semester, the GGSIPU submits, in its counter-affidavit, that her request for change

of branch/upgradation could not be acceded to. Having thus failed to secure upgradation to the CSE Branch, of her choice, on merit, for want of requisite SGPA, the petitioner has chosen, the GGSIPU alleges, to obtain such upgradation by the circuitous route of filing the present writ petition, relying on the notice, dated 9th August, 2018, issued by the GGSIPU inviting applications for migration, in terms of Ordinance 7.

21. The GGSIPU also reiterates the decision, taken in the meeting of the Sub-Committee of the Academic Council, to the effect that requests for change of shift could not be regarded as requests for “migration”. This, it is submitted, was highlighted by the requirement, in Ordinance 7, for obtaining of NOCs from both the Institutes, where migration was sought. Clearly, this implied that migration could only be between institutes, and not within one Institute/College.

22. In fact, the counter-affidavit seeks to contend that the petitioner is using the *modus* of Article 226 of the Constitution of India to secure a backdoor entry into the CSE Branch, having failed to obtain such entry on the basis of her SGPA.

23. Detailed arguments were advanced on behalf of the petitioners by Mr. Mukesh Gupta, learned counsel, on behalf of the respondent college, by Mr. R.K. Saini, learned counsel and on behalf of respondent University, by Mr. Mukul Talwar, learned Senior counsel, instructed by Ms. Anita Sahani, learned counsel.

24. Learned counsel of either side essentially reiterated the contentions advanced in their respective pleadings, to which detailed allusion already stands made hereinabove.

25. Learned counsel for the petitioners emphasized the fact that, in the past, applications for change of shift and branch/discipline, simultaneously, had been entertained, and invited attention, in this regard, to a communication dated 5th October, 2016, addressed by GGSIPU, to the Director, MAIT, informing the latter that, consequent to their migration to MAIT, the said students named therein had been allotted new university Enrollment Numbers. A list of as many as 154 students followed, of which several were cases in which there was change of shift as well as branch/discipline. It was emphasized that, having thus entertained requests for change of shift and branch in the immediately preceding year, if a decision had been taken, not to entertain such applications in the 2018-2019 academic session, the said decision ought to have been made known to students clearly and unambiguously. Else, the student had a legitimate expectation that, they were entitled to apply, in respect of the notice, dated 9th August, 2018 (*supra*) for change of shift and branch.

26. The observation, that NOC from both institutions had not been taken, was, it was submitted, totally vitiated by non-application of mind, as the migration that was sought was from the morning to the evening shift of the same institution, the authorized signatory for both the shifts being one and the same. As such, the question of taking two NOCs did not arise. Insofar as the stand, of the GGSIPU, to the effect

that “migration” did not include change of shift, was concerned, learned counsel for the petitioners disputed the very right of GGSIPU to urge such a stand, which, according to them, flew in the face of the Notice dated 9th August, 2018 (*supra*), which clearly invited applications for change of shift, treating it as migration.

27. The fact that the meeting of the Sub-Committee, on which the GGSIPU sought to rely, was held two months after applications had been invited from candidates seeking change of shift, was also emphasized by learned counsel appearing for the petitioners. It was pointed out that the academic session had started on 1st August, 2018, and it was not open to the GGSIPU to sleep over the applications of the students for change of shift/branch and, at a belated stage, reject the same.

28. In such circumstances, learned counsel for the petitioners would exhort this Court to apply the philosophy propagated by it in paras 45 to 47 of its judgment dated 7th January, 2019 in W.P.(C) 11903/2018 (*Prachi v. GGSIPU*) and connected cases. The said passages read thus:

“45. The court finds itself, in a case such as this, at crossroads. Are the provisional admissions, granted to all the petitioners, to be declared illegal, based on the 2007 Act and the 2007 Rules, even though such a declaration would be contrary to the Admission Brochure of the GGSIPU, the undertaking, to which the students were required to subscribe at the time of being granted provisional admission, as well as the communication, dated 30th August, 2018, (*supra*) of the GGSIPU itself?

46. The approach of the court, in a case such as this, has to be necessarily circumspect. The court is required to be informed, every instant, of the declaration, in the preamble to our Constitution, that we, the people of India, have solemnly resolved, to secure, to ourselves, justice, social, economic and political. The laws of this country and, indeed, the entire justice-dispensation system in place, is geared and intended at attainment of this solemn constitutional goal. The law cannot be so applied, by a court – especially a writ court - as would compromise justice. Justice cannot be allowed to be sacrificed at the altar of the “Law”.

47. Dispensation and administration of justice is, unquestionably, the highest to which the judicial authority can aspire to; and such dispensation and administration of justice is, ordinarily, required to be achieved by application and enforcement of the extant law, for the simple reason that law is, axiomatically, intended to be an instrument to effectuate administration of justice. On the flip side, it would also not be appropriate, or even legal, for the Court to turn its back to the 2007 Act and the 2007 Rules which, in law, are undoubtedly entitled to greater weight than the Admission Brochure.”

29. Learned counsel for the petitioners sought to capitalize on the submission, of learned Senior counsel for GGSIPU, to the effect that the change in branch/discipline amounted to upgradation, which could take place only in the same shift. Learned counsel for the petitioners would seek to contend that this submission, of the GGSIPU, indicated, in fact, that, inasmuch as the change of branch had been sought, by the petitioners, across shifts, it could not be treated as upgradation.

30. Further, regarding the submission of learned counsel for the

GGSIPU, to the effect that the petitioner had failed to secure the requisite SGPA for change of branch from ECE to CSE, learned counsel for the petitioners would submit that the SGPA obtained was relevant only to requests for change of branch in the same shift. Where, on the other hand, change of branch was being sought across shifts, as in the present case, the petitioners were already placed in disadvantage in having to move from the evening to the morning shift and could not, therefore, be subjected to requirement of obtaining any minimum SGPA.

31. Learned counsel for the petitioner also relied on a communication, dated 8th September, 2017, from the GGSIPU to the Director/Principal, MAIT, the subject of which was “Change of Stream and Shift Migration in B Tech Programme in the Academic Session 2017-18”. Especial attention was invited, by learned counsel, to the first para of the said letter, which reads thus:

“This is in reference to applications so received from the following students regarding change of Stream and Shift as per the notified notice for applying for the same till 8/8/2017. This is to inform you that the Competent Authority is pleased to approve the request of the following student/students for Change of Stream/Shift in **B.Tech Programme** in the 3rd Semester in your School/Institute, subject to completion of formalities within a fortnight from the date of issue of this letter to enable the University to issue the fresh Enrolment Number, list is enclosed for reference please.”

This was followed by a list of fifty-seven students, of which twenty-three students were permitted to change shift and branch. This, submits learned counsel, completely belied the submission, of the

GGSIPIU, that change of branch, across shifts, was not allowable.

32. Learned counsel for the petitioner also emphasised the fact that, in its meeting held on 3rd October, 2018 (*supra*), the Sub- Committee of the Academic Council, even while recommending that, for the 2018-2019 academic session, no shift change in any program be allowed to be considered as under the migration process, nevertheless also recommended that, as applications for migration had been invited by the GGSIPU a long time back, and the academic session had begun in August 2018, if any student had obtained NOC from the respective institutes after submission of requests for migration, “the issuance of NOCs by the Institute may be considered as on genuine circumstances for academic session 218-2019”, even while recommending, further, that the upgradation Regulation be amended for consideration in the next academic session 2019-2020, and from the said session onwards, to include/allow shift changes only in the same Institution and to be applicable to all programs of studies.

33. In this backdrop, learned counsel for the petitioner would urge that, for the academic session 2018-2019, the requests, of the petitioner, for migration/change of shift in branch, could not be rejected.

34. As against this, Mr. Mukul Talwar, learned Senior counsel appearing for the GGSIPU drew attention to the third recommendation of the Sub-Committee of the Academic Council, pursuant to the meeting dated 3rd October, 2018, which referred to allowing shift

changes only in the same institution, i.e. intra-university. He also pointed out that the said minutes indicated that the matter of change of shift was still under consideration. In fact, Mr. Talwar pointed out, the very first recommendation, in the said Meeting, which clarified that no shift change was possible under the migration policy of the GGSIPU. In these circumstances, he confirmed that the GGSIPU had not allowed any change of shift in the 2018-2019 academic session. Mr. Talwar further sought to submit that Ordinance 7 of the Ordinances applicable to the GGSIPU, properly understood, did not allow change of shift and that, therefore, even if, in the past, they had been allowing change of shift, treating it as migration, that could not create any estoppel against the GGSIPU, as there could be no estoppel against the statute. Equally, he submitted, the principles of promissory estoppel and legitimate expectation would also not apply. Mr. Talwar reiterated the stance, of the GGSIPU in its counter-affidavit, to the effect that the petitioner, and as also the petitioners in the other writ petitions, were seeking, by a circuitous “backdoor” route, to secure upgradation to a discipline, to which they could not obtain admission on merit, for want of requisite SGPA. This, he submits, could not be tolerated at all.

35. Mr. Talwar submits, therefore, that the writ petitions are totally devoid of merit, and warrant dismissal.

36. I have applied myself to the submissions advanced by learned counsel, and perused the record.

Analysis

37. It is seen, from the above factual narration, that, as far back as on 10th May, 2018, the GGSIPU issued a Notice (extracted in para 19 hereinabove), drawing the attention of the B.Tech. students, studying in colleges/institutes affiliated to it, and who were to be promoted to the third semester in the 2018-2019 academic session, to the fact that (i) upgradation was permissible only within the same School/College/Institute, (ii) upgradation/change of branch was to be effected strictly on the basis of the SGPA obtained by the students in the first semester, and would be subject to availability of vacancies, with a maximum limit of 5% of the sanctioned intake, (iii) upgradation/change of Branch meant change of discipline/Branch of the programme by a student in the same College in the same shift on the basis of merit, and (iv) change of shift alone did not, *ipso facto*, amount to upgradation/change of branch.

38. In response to the above Notice dated 10th May, 2018, the petitioner applied, on 14th May, 2018, for “upgradation/change of branch”, from ECE to CSE, albeit within the first shift. This choice was indicated, by the petitioner, in the application form, against the entry “Name of the program for Upgradation/Change from the present programme in order of preference”. The petitioner also submitted, along with the said application, an affidavit, dated 14th May, 2018, specifically stating, in so many words, that she had applied “for upgradation in third semester of B.Tech. Programme”, that she “was aware that upgradation process is on the basis of performance (SGPA)

in first semester of B.Tech. programme and subject to availability of vacant seats in the stream” and that she was “(exercising) her option for upgradation/change of stream from present stream i.e. ECE to the stream of B.Tech. programme in order of the preference indicated by her, which was, firstly, to “CSE – first shift” and, secondly, to “IT – first shift”. In fact, a reading of the affidavit discloses that, all throughout, the petitioner was aware of the fact that upgradation and change of stream/branch, in the vocabulary of the GGSIPU, meant one and the same thing. In view thereof, the submission, of Mr. Saini, to the effect that, as the various streams had not been “graded”, there could be no question of “upgradation”, while otherwise superficially attractive, cannot pass muster, in the facts of the present case.

39. The result of the applications for upgradation was declared, by the GGSIPU on 29th August, 2018. The petitioner was unsuccessful in obtaining upgradation/change of branch to CSE, as she did not possess the requisite SGPA. The petitioner accepted this, having never chosen to challenge it or to express any grievance therewith.

40. On 9th August, 2018, the GGSIPU brought out the Notice, inviting applications from candidates “seeking migration (change of shift, mutual migration, intra-University, inter-University) in various programs”, which forms, as it were, the petitioner’s *Brahmastra*.

41. I am in entire agreement with the submission, of learned counsel appearing for the petitioner, that, in the face of this Notice, it is not open to the GGSIPU to contend that change of shift was not

permissible, or even that it did not amount to migration. It is not necessary, for this purpose, to advert to Ordinance 7, or enter into any interpretive exercise thereof. Once the Notice, issued by the GGSIPU, invited applications for change of shift, which was parenthesized, with mutual migration and inter-University and intra-University migrations, as another category of “migration”, the applying students could hardly be expected to be required to refer to Ordinance 7, to ascertain whether, in fact, change of shift was “migration”, or not. Indeed, the issue of whether change of shift did, or did not, amount to “migration”, is really tangential to the issue at hand. Ordinance 7, therefore, does not really impact the issue at hand. The GGSIPU is clearly bound by the representation held out, by it, to the students by the Notice dated 9th August, 2018 (*supra*) and is, therefore, estopped from seeking to contend that “change of shift” did not amount to migration. Even if Ordinance 7, which dealt with “migration”, were to be interpreted as not bringing, within its fold, change of shift, the Notice, dated 9th August, 2018 (*supra*), indisputably invited applications from students desiring a change of shift. Once, pursuant, and in response, to the said Notice, students applied for change of shift, it was, clearly, not open to the GGSIPU to reject the application on the ground that “change of shift” did not amount to “migration”, as conceptualized in Ordinance 7, or that any change, which was sought, had to be within the same shift.

42. The minutes of the Meeting of the Sub-Committee of the Academic Council of the GGSIPU, which was held on 3rd October, 2018, specifically “to deliberate on change of shift to be considered as

migration cases” (as per the wording of the Agenda item for the said meeting), underscore this position. A reading of the minutes reveals that the meeting was constituted “to look into issue of change of shift in an Institute/College to be as migration cases(s)”, for the 2018-2019 academic session. The minutes further revealed that, in fact, the applications for change of shift had been put up in the “file for migration”, as is apparent from the recital, in the minutes of the meeting, to the effect that “the members perused the file for migration in the academic session 2018-2019”. Having examined the issue, however, the members of the Academic Council observed that (i) “the upgradation of the students in B.Tech. Programme is restricted in same shift as per regulation and as such no shift change is allowed in upgradation process”, (ii) “Ordinance 7 allows migration across institutions only” and (iii) “the Admission Branch, taking into account the desire of students to change shifts/streams in the program, have been treating shifts as different entities and had been considering this request of Shift change/Stream change (only B.Tech.) in a programme as under migration cases in the past years with due approval of the competent authority”. However, for the 2018-2019 academic session, it was specifically recommended that “no shift change in any program be allowed to be considered as under the migration process”. Even so, in order to do justice to the students, who would have applied, it was recommended that “as the applications for migrations have already been invited by University long time back and also academic session has begun from August 2018, if any student has obtained NOC(s) from their respective Institute after submission of request for migration, the issuance of NOCs by the Institute may be considered as

on genuine circumstances for academic session 2018-19”. Keeping in mind the observations contained in the minutes of the meeting, it was further resolved that the “upgradation Regulation may be amended for consideration in the next academic session 2019-20 and onwards and to include/allow shift stages in the same institution also after comprehensive review and to be applicable to all programs of studies”.

43. What follows, from a reading of the minutes of the aforesaid meeting of the Academic Council, held on 3rd October, 2018, is that, the Academic Council was of the view that the Ordinances applicable to the GGSIPU did not allow change of shift, in the “upgradation process”. Even so, given the fact that much time had elapsed since the invitation of applications for migration, it recommended, *ex facie* as a matter of indulgence, that, in the event that the students had obtained NOC from the Institute, their cases could be considered favourably, as they were genuine in nature.

44. The recommendation of the Sub-Committee was, clearly, wholesome. The Notice, dated 9th August, 2018 (*supra*), unequivocally invited applications from students who wanted change in shift. Acting on the basis thereof, students actually applied for change in shift. Even if, therefore, the invocation, of Ordinance 7, by the Notice, for inviting applications from students who wanted change in shift, were to be treated as misguided for any reason, the GGSIPU would, nevertheless, be bound by its implied assurance, in the Notice, to entertain applications from students who sought change in shift.

Educational institutions are bound by the clauses in terms in the notices, Admission Brochures, Information Bulletins, and other like documents, which act as the necessary interface between the institutions and the students aspiring to seek admission thereto. Aspiring students cannot be expected to ferret out, and browse, the Ordinances governing the Institution or the University, to which they are seeking admission, or conduct any research into the statutory instruments governing such Universities or Institutions. Even if, therefore, any clause, or stipulation, in the Admission Brochure, Information Bulletin, notice inviting applications for admission, or any other such like document, on the basis of which students apply, were contrary to the statutory instruments governing the Institution or the university in question, the institution or University would, nevertheless, be bound by the terms of the Admission Brochure, Information Bulletin or notice, and could not legitimately seek to resile therefrom, by seeking refuge in its Ordinances or statutes.

45. The Notice, dated 9th August, 2018, clearly invited applications from students who wanted change in shift. The GGSIPU was bound thereby. It was not open, therefore, for the GGSIPU to reject the applications of the students, who wanted change in shift *alone*, on the ground that such change in shift was not contemplated by Ordinance 7. I have no hesitation, therefore, in rejecting this stand of the GGSIPU.

46. At the same time, there is no reference, in the Notice dated 9th August, 2018 (*supra*), of the GGSIPU, to any change of branch.

Rather, the GGSIPU had, consciously, issued a separate notice, on 5th May, 2018 (*supra*), inviting applications for change in branch. The said notice categorically stated that requests for change in branch amounted to upgradation. It further stated that such change in branch/upgradation was permissible only within the same shift, and not across shifts.

47. The corollary would be that change in branch, across shifts, *was impermissible* – and not, as learned counsel for the petitioner would seek to contend, that change in branch, across shifts, may not have amounted to upgradation, but was, nevertheless, permissible. The petitioner has not drawn attention, or even made reference to any rule/regulation or instructions of the GGSIPU, which permits the request for change in branch across shifts. Ordinance 7 does not do so. Neither did the Notice, dated 9th August, 2018, call for applications for change of branch *and* shift.

48. The notice, dated 10th May, 2018 (*supra*), which specifically disallowed applications for change of branch across shifts, was never challenged. Rather, the petitioner applied on 14th May, 2018, for a change from the ECE to CSE branch, within the first shift. She failed to make the grade, as she did not possess the requisite SGPA. The GGSIPU emphatically contends that, having failed to upgrade herself from ECE to CSE on merits, the petitioner is seeking to obtain such upgradation by a “backdoor” approach, employing, for the purpose, the notice dated 9th August, 2018 (*supra*), issued by the GGSIPU. Mr. Saini, appearing for the respondent-college, emphatically refutes this

submission, by stating that the application for change of branch, of the petitioner, which was rejected on the ground of low SGPA, was for change of branch within the same shift and not for change of branch from the first shift to second shift. It is not, therefore, Mr. Saini would seek to contend, as though the petitioner was, as the GGSIPU alleges, trying to achieve, by means of the present proceedings, a change in branch which she failed to achieve on merits.

49. There is substance in the contention of the GGSIPU. Whether the petitioner is, or is not, attempting, as the GGSIPU would allege, admission to the CSE stream through a “backdoor”, having failed to do so on the basis of her SGPA, the fact remains that, if the petitioner’s request were to be allowed, she would, thereby, be admitted to the CSE stream without having qualified for such admission on merits.

50. It is not necessary for me to venture any further or comment in this regard. Suffice it to state that the notice dated 9th August, 2018 made no reference to change in branch. If, therefore, any student, applying under the canopy of the said notification, also sought any change of branch, she, or he, did so at her, or his, own peril. The GGSIPU having taken care to cover requests for change for branch by the earlier notice dated 10th May, 2018 (*supra*), and to limit such requests to change in branch within the same shift, it was well within its right in refusing to entertain requests for simultaneous change in branch and shift.

51. I am unable to appreciate Mr. Saini's submission that, a distinction should be drawn between a request for change for branch across shifts, and a request for change for branch within the same shift. There is nothing to indicate that two such independent concepts of change in branch existed. In fact, the notice dated 10th May, 2018 (*supra*) provides for change in branch only within the same shift.

52. It also clarified, leaving no scope for uncertainty, that all such requests for change in branch came within the ambit of the expression "upgradation", and that such upgradation could only be within a shift, and not across shifts.

53. Having acquiesced to the said notice – and, in the case of the petitioner in W.P.(C) No. 12219/2018 [***Ritika Jain (supra)***] having also applied, consequent thereto, and failed to upgrade herself, owing to her low SGPA – the petitioners cannot urge that they should be permitted change in branch across shifts.

54. My attention has not been invited, by any of the learned Counsel appearing for the petitioners, to any Rule, Regulation, or executive instruction, permitting students in the GGSIPU to seek change of branch across shifts, or, for that matter, to seek change of branch without securing the requisite SGPA. Nor does the writ petition refer to any such Rule, Regulation, or executive instruction. At the cost of repetition, it merits reiteration that the Notice, dated 9th August, 2018 *supra*, too, does not do so. The sole crutch on which the petitioner seeks to balance her case is, therefore, the fact that, in the

previous two academic sessions, i.e. 2017-2018 and 2016-2017, requests for change of branch, along with change of shift, had been entertained and allowed.

55. There is no gainsaying the fact that such requests had, in fact, been entertained and allowed in the previous two academic years, and, the respondents, too, do not dispute this factual position. The petitioner cannot, however, seek parity, for the 2018-2019 academic session, in view of the Notice, dated 10th May, 2018 *supra* issued by the GGSIPU, which clearly noted that change of branch/upgradation was permissible only in the same shift, and would be decided on the basis of the SGPA scored by the applicant in the first semester. The petitioner has not sought to contend that any such notice, clarifying the position, had been issued in the earlier academic years 2016-2017 or 2017-2018. The position obtaining in the 2018-2019 academic session was, by virtue of the issuance of the said Notice dated 10th May, 2018, read with the fact that the Notice dated 9th August, 2018, too, did not invite applications for change of branch, drastically different. No leverage can, therefore, be sought to be drawn, by the petitioner, from the allowing, by the GGSIPU, of applications for change of shift and branch, in the earlier academic years 2016-2017 and 2017-2018. The reliance, by the petitioner, on the said fact cannot, therefore, come to her aid.

56. In the above circumstances, the reliance, by Mr. Saini, on paras 45 to 47 of my judgment in *Prachi (supra)*, too, cannot come to the aid of his client. In *Prachi (supra)*, the Admission Brochure of the

GGSIPIU, and the covenants thereof, were clearly in favour of the petitioner-students. I had, in paras 45 to 47 of my judgment in the said case, observed that, when pitted against the provisions of the GGSIPU Act, or its Rules and Regulations, which were never made known to the students, the clauses of the Admission Brochure would be entitled to pre-eminence. I have so observed, in the present judgment as well. Applying the said test to the present case, however, there is no provision, in any instrument, whether the statutory or in the form of any of the notices issued by the GGSIPU, to support the petitioner's case that it was entitled to apply for change of shift along with change of branch, for the 2018-2019 academic session. Rather, the Notice, dated 10th May, 2018 (*supra*), expressly invited applications from students who sought change of their branch, expressly clarifying that such change was permissible only within the same shift, and not from one shift to another. The Notice, dated 9th August, 2018 (*supra*), too, did not, either expressly or by necessary implication, invite applications from students who sought change in shift along with change in branch. Students who, in response to the said Notice, chose to apply for change in shift along with change in branch, therefore, imperiled themselves by so doing. Where the Notice dated 10th May, 2018 (*supra*) and 9th August, 2018 (*supra*) were clear and unambiguous, the petitioner cannot seek to rely on the fact that, in earlier years, the GGSIPU had been allowing students to change shift and branch simultaneously.

57. Be it noted, in this connection, that it is neither pleaded by the petitioners, nor argued at the bar, that, in the said earlier years, notices,

such as the Notice dated 10th May, 2018 (*supra*) and 9th August, 2018 (*supra*), which set out, clearly, the separate, and distinct, dispensations in respect of change of branch, and change of shift, respectively, had been issued. In the face of the said Notices, however, and in the absence of any other Notice, or any provision of the applicable Regulations, permitting application for change of shift along with change of branch, i.e. permitting change of branch across shifts, it is not possible for this court, even in exercise of its equitable jurisdiction under Article 226 of the Constitution of India, to grant relief to the petitioner.

58. The GGSIPU cannot, therefore, be said to have acted illegally, in issuing the impugned order/communication, dated 2nd November, 2018, rejecting the petitioner's requests for change of shift and branch.

59. The position, on facts, as it obtains in W.P. (C) No. 12219/2018 (*Ritika Jain v. G.G.S.I.P.U.*), also obtains in the case of all petitioners in *W.P. (C) No. 12780/2018* (*Saurabh Pujari v. G.G.S.I.P.U.*), *W.P. (C) No. 12807/2018* (*Abra Shah v. G.G.S.I.P.U.*), *W.P. (C) No. 12815/2018* (*Shubham Chaudhary v. G.G.S.I.P.U.*) and *W.P. (C) No. 12527/2018* (*Raghav v. G.G.S.I.P.U.*). The only distinction, between the case of Ritika Jain, and those of the petitioners in the other writ petitions referred to hereinabove, is that, in the other writ petitions, this Court does not have material, before it, to indicate that the petitioner is, in the said writ petitions, responded, consequent to the Notice dated 10th May, 2018 (*supra*), seeking change of branch in the same shift, and were rejected on the ground of low SGPA. That fact,

however, cannot distinguish the cases of these petitioners, *vis-à-vis* Ritika Jain, as these petitioners, too, would be bound by the terms of the Notice, dated 10th May, 2018 (*supra*) and 9th August, 2018 (*supra*). All these writ petitions, too, therefore, would be liable to be rejected, and are, accordingly, dismissed.

60. It has not been easy, for this Court, to bring itself to pen the above judgment. I am aware of the possibility of the petitioners, in the above writ petitions [as well as Petitioner No. 1 in W.P. (C) No. 12767/ 2018], being affected by this judgment, and, possibly, losing a year. In case any such eventuality arises, as the consequence of implementation of this judgment, it is clarified that this judgment would not stand in the way of the GGSIPU, if it deems it so appropriate, to adopt an empathetic approach, in respect of these petitioners, and to permit them to continue in the classes in which they are presently studying, or take any other step to ensure that they do not lose a valuable academic year. Needless to say, this caveat is only in the form of a hope, and a suggestion, and would not detract from the fact that, on merits, all the above writ petitions stand dismissed.

61. There shall be no order as to costs.

W.P. (C) No. 13441/2018 [Rashi Gupta v. G.G.S.I.P.U.]

62. The petitioners, in this writ petition, did not seek any change of branch, but merely sought change of shift. Their applications stand rejected, by an order, dated 2nd November, 2018, solely on the basis

that change of shift was not permissible, or covered by Ordinance 7 of the Ordinances governing the GGSIPU, which dealt with “migration”. In view of my findings, in paras 37 to 45 *ibid*, that it is not open to the GGSIPU to so contend, as the students applied consequent to the Notice dated 9th August, 2018, which specifically invited applications for change of shift, the decision, of the GGSIPU, to reject the petitioners applications, on the ground that such change did not amount to “migration” within the meaning of Ordinance 7 of the Ordinances governing the GGSIPU, cannot sustain. As I have held, the issue of whether applications for change of shift, simplicitor, would amount to seeking “migration”, within the meaning of Ordinance 7, or not, is really tangential to the issue at hand. Once the GGSIPU invited applications for change of shift, it could not reject their applications merely on the ground that change of shift did not fall within the ambit of “migration”, as conceptualised in Ordinance 7. The mere fact that, in the Notice, dated 9th August, 2018, applications for change of shift were invited, treating change of shift as amounting to migration, would not make any difference to this legal position. The petitioner could not be concerned with whether change of shift amounted to migration, or did not amount to migration. They applied, in response to the Notice dated 9th August, 2018, which invited applications for change of shift, and their applications were, therefore, entitled to be considered on merits, and not rejected on the ground that such applications did not fall within the ambit of Ordinance 7.

63. The order, dated 2nd November, 2018 (*supra*), impugned in this writ petition, also sought to invoke the decision of the Sub- Committee

of the Academic Council, in its meeting dated 3rd October, 2018 (*supra*). The said invocation, too, is misguided as, in the said meeting, it was recommended that, for the 2018-2019 academic session, if NOC had been obtained, the cases could be treated as genuine, in order that the students were not prejudiced.

64. In view thereof, the decision, dated 2nd November, 2018 (*supra*), impugned in this writ petition, cannot sustain in law and is, accordingly, quashed. This writ petition, therefore, stands allowed. The petitioners would be entitled to change of shift, as applied for, by them and, if they are presently studying in the “changed” shifts, would be entitled to continue.

65. There shall be no order as to costs.

W.P. (C) No. 12767/2018 [Kartik Kaushik v. G.G.S.I.P.U.]

66. In this writ petition, Petitioner No. 1 Kartik Kaushik sought change of shift and branch, whereas Petitioner No. 2, Aayushi Batra, only sought change of shift.

67. Following the above discussion, therefore, this writ petition would be allowed *qua* Petitioner No. 2 Aayushi Batra, but stands dismissed *qua* Petitioner No. 1 Kartik Kaushik.

68. There shall be no order as to costs.

69. The petitioner in this writ petition sought only change of branch, without change of shift. This application was, therefore, entitled to be considered on the basis of his SGPA, in view of the Notice dated 10th May, 2018 (*supra*), issued by the GGSIPU. The writ petition does not contain any averment, to the effect that the petitioner had scored the requisite SGPA, in his first semester, to be allowed change in shift from EEE to IT, as sought by him. At the same time, the order, whereby the petitioner's request was rejected, and which has been impugned in the writ petition, merely reads "As per approval of CA (Competent Authority) and notice dated 25th November, 2018, request was not acceded to." No reasons, for the said decision, are forthcoming, or have been communicated to the petitioner. For want of any reasons, therefore, the decision cannot sustain in law and has, therefore, necessarily to be set aside.

70. Having done so, however, the GGSIPU would have to reconsider the case of the petitioner, keeping in view the SGPA obtained by him in his first semester. In case, on the basis of the said SGPA, the petitioner qualifies for change of branch, as sought by him, from EEE to IT, he would be entitled to such change. Else, his request would be liable to be rejected.

71. The GGSIPU is, therefore, directed to re-examine the case of the petitioner, Rishav Sharma, in view of the above, and take a fresh decision thereon, within a period of one week from today. The

decision, as taken, would be communicated to the petitioner forthwith.

72. The writ petition, therefore, stands allowed to the above limited extent, with no order as to costs.

C. HARI SHANKAR, J

MAY 29, 2019
HJ

