

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**WPC No. 2708 of 2020**

- Abhishek Yadav S/o Srinivas Yadav, aged about 18 years, R/o Q.No. 5-G, CS-1, Sector-1, Bhilai, District durg C.G.

-----Petitioner**VERSUS**

1. Union of India, through the Secretary, Ministry of Education (formerly known as Department of Human Resources) Shastri Bhawan, New Delhi, 110001.
2. Chairman, Central Seat Allocation Board (CSAB 2020), Motilal Nehru National Institute of Technology Allahabad, Prayagraj U.P.
3. Director/ Incharge, National Institute of Technology Raipur, District Raipur C.G.

-----Respondents

For Petitioner : Mr. Shashank Thakur, Advocate

For Respondent -UOI : Mr. Ramakant Mishra, Assistant Solicitor General.

Hon'ble Shri P.R. Ramachandra Menon, Chief Justice**Hon'ble Shri Parth Prateem Sahu, Judge****Order on Board****Per Parth Prateem Sahu, J.****20/11/2020**

1. Petitioner who is an aspirant to take admission in National Institute of Technology (NIT) of Indian Institute of Information Technology (IIIT) appeared in Joint Entrance Examination (JEE Main 2020) held in the month of January 2020 by National Testing Agency as Other Backward Class (OBC Non Creamy Layer) category candidate. After declaration of result, petitioner secured 89.96670 percentile, whereas cutoff for OBC (NCL) was 72.8887 percentile. After declaration of the results of JEE (Mains), online counseling was started for allotment of seats to the meritorious candidates by Joint seat Allocation Authority (JoSAA 2020) and scheduled dates have been fixed by JoSAA vide Annexure P-3. First round of counseling was started on 17-10-2020 and the sixth round of seat allotment was on 07-11-2020. Petitioner has been allotted a seat in

second round of counseling at National Institute of Technology, Raipur in the branch Metallurgical and Materials Engineering on 21-10-2020 as per Annexure P-4.

2. As per the counseling schedule and norms after allotment of seats candidates had to submit/ upload the relevant documents on the JoSSA portal and to deposit the seat acceptance fee. Two days time was granted to the candidates to upload the documents and remit/ deposit the seat acceptance fee. Petitioner failed to deposit the seat acceptance fee within the prescribed time and on account of which he has been treated to be not eligible for further round of scheduled counseling. Petitioner tried to re-register himself for the purpose of counseling but he could not succeed, this made the petitioner to approach this Court by filing this petition with following reliefs.

“10.1 That, this Hon'ble Court may kindly be pleased to call for the entire records of the case pertaining to the present case.

10.2 That, the Hon'ble Court may be pleased to issue appropriate direction/ writ/ order thereby directing the respondent authorities to grant admission to the petitioner in NIT Raipur on the basis of the seat allotted in second round of counseling or in alternative may kindly be pleased to direct the respondents to allow the petitioner in the further rounds of counseling.

10.3 That, the Hon'ble Court may kindly be pleased to grant any other relief, as it may deem fit and appropriate.”

3. Mr. Shashank Thakur, learned counsel for the petitioner submits that the petitioner is a meritorious candidate, secured 89.96670 percentile as an OBC category candidate, he was allotted seat at NIT, Raipur in second round of counseling but unfortunately, he could not able to deposit requisite fee within time as his father is working as Head Constable in 12th Battalion of Chhattisgarh Arms Forces, Ramanujganj which is a naxal affected area. He submits that non-deposition of fees within the window

period of two days after seat allotment is not due to will full default but for the reason that father of the petitioner was at Ramanujganj whereas the petitioner was at Bhilai. It is contended that the petitioner could have been given an opportunity to participate in the next round of counseling but that opportunity was not given to him and he has been held to be not eligible to participate in the further round of scheduled counseling. Petitioner who is a meritorious candidate will lose his one year of studies and therefore, the respondents be directed to provide an opportunity to the petitioner to get admission at NIT, Raipur. At the last, learned counsel submits that respondents be directed to consider the candidature of the petitioner in mop-up round for admission on left-over seats.

4. On instructions, Mr. Ramakant Mishra, learned Assistant Solicitor General, representing the Respondents submits that as per Clause 40 of the Business Rules for joint seat allocation, every candidate is required to upload the document and to remit the fees within prescribed time. Fees could be deposited by different modes like Net Banking, Debit card, Credit card or through e-challan of State Bank of India. The ground raised by the petitioner that his father was posted at Ramanujganj hence he was unable to deposit the seat allocation fees cannot be accepted when multiple option were available under the Business Rules for depositing the fees. He further argued that all the round of counseling have now been concluded and no benefit can be extended to the petitioner at this stage. He further contended that under Clause 40 of Business rule, he has been held not-eligible to participate in scheduled counseling. The candidate who did not accept the offer of seat allotment by JoSAA, it is treated that the candidate has rejected the offer and seat allotted to him to be cancelled and accordingly on account of non-compliance with Clause 40 of Business rules, seat allotted to the petitioner at NIT, Raipur was cancelled. Petitioner had an opportunity to participate in the special round of counseling, registration of which took place from 16-11-2020 till 19-11-2020 upto

23:59:00 hour for the left-over seats of the Institutions. Petitioner has not availed the opportunity available to him under the Business rules, hence, no benefit can be extended to him at this stage.

5. We have heard learned counsel for the respective parties.
6. Admittedly the petitioner was allotted a seat in second round of counselling but he failed to comply with clause 40 of Business rules by not depositing/ remitting the seat acceptance fee. As per Clause 40, there is specific mention which is known to all the participants/ candidates that if they fail to comply with Clause 40 after allotment of seats then the seat allotted to them would stand cancelled. In view of the specific clause of Business rules for joint seat allocation, the relief sought for by the petitioner in paragraph 10.2 that he may be granted admission to NIT, Raipur on the basis of seat allotted to him in second round of counseling cannot be granted. There were number of other meritorious candidates standing below him in queue for taking admission. The submission made by Mr. Ramakant Mishra that for the students like petitioner in Business rule there is a procedure of holding special round of counseling and registration for which was held on 16-11-2020 to 19-11-2020 is not disputed by Mr. Shashank Thakur, learned counsel for the petitioner. Interest of the students like petitioner has already been taken care of in the Business rule under Clause 40.
7. Looking to the submission that special round of counseling started from 16-11-2020 to 19-11-2020 up till 23:59:00 hours, we have put specific question to learned counsel for the petitioner whether the petitioner has availed this opportunity and registered himself for special round of counseling to which he submits that he was not permitted to get himself registered. In support of his submission he pointed out the document Annexure P-5 which is a screen shot to show that he was not permitted to get himself registered. This document is filed along with the writ petition

which was filed on 02-11-2020 meaning thereby that this effort of the petitioner is of prior to the date of opening of registration for special round of counselling. No other document is placed on record by the petitioner to show that he has made an attempt to get himself registered from 16-11-2020 upto 19-11-2020.

8. It is not a case that the candidate who fails to comply with Clause 40 of Business rules after allotment of seats in any round of counseling is not having any further remedy. There was a remedy to participate in special round of counseling but the petitioner, as per the facts and circumstances of the case, appears failed to get himself registered. The persons like petitioner who are not vigilant about the proceedings of taking admission, no benefit can be extended to him by the Court under law, particularly, when the last date of registration for special round of counseling has already ended on 19-11-2020.
9. For the foregoing reasons, we do not find any merit in this writ petition which is liable to be and is hereby dismissed accordingly.

Sd/-
(P.R. Ramachandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge