

\$~2.

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

+ LPA149/2020
BHAVYA ARORA

... Appellant

Through: Mr. Rakesh Malhotra, Adv.
versus

UNION OF INDIA & ANR.

..... Respondent

Through: Mr. Dev P. Bhardwaj, Adv. For R-1.
Mr. Amit Bansal with Ms. Seema
Dollo, Advs. For R-2.

CORAM

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

03.06.2020

%

CM APPL.11721/2020

Exemption Allowed, subject to all just exceptions.

The Court fees be paid within a week.

The application stands disposed of.

CM APPL.11722/2020

Exemption Allowed, subject to all just exceptions.

The application stands disposed of.

LPA149/2020

Issue notice. Learned counsels for the respondents accept notice. The appellant has preferred the present Letters Patent Appeal to assail the judgment dated 26.05.2020 rendered by the learned Single Judge in W.P.(C) No. 2727/2020. The learned Single Judge has dismissed the said petition of the appellant finding no merit therein. The petitioner had preferred the said writ petition to seek a direction to the respondent No.2 National Testing

Agency to allow the petitioner/ appellant herein to file his application form for participation in the NEET(UG)-2020. Admittedly, the respondent No.2, which is the examination holding body, issued a public notice on 02.12.2019, inviting online applications for NEET(UG)-2020 to be conducted by it. The last date for submission of applications was 31.12.2019 which was extended by respondent No.2 to 06.01.2020. Admittedly, the appellant failed to make his application either by 31.12.2019, or even by 06.01.2020. The reason given by him was that his father was unwell between 22.11.2019 and 17.01.2020. Before the learned Single Judge, the petitioner candidly admitted that his father was not suffering from any major ailment.

At this stage itself we may observe that, in our view, whether the petitioner's father was suffering from a major ailment or a minor ailment, in any event, could not have been a ground for granting the relief sought by the petitioner, since the last date for filing of the online application had expired on 06.01.2020. This is for the simple reason that if such like grounds for filing of belated applications were to be accepted and time extended, there would be no end to the process of finalising the applications as, every now and then, some or the other candidate would stand up from some part of the country to justify his or her not having made the application within the time granted for that purpose. If this is allowed, it would undermine the whole process of conduct of an All India Examination, wherein lakhs and lakhs of students participate each year and the entire process has to be completed in time so that the academic session can start on time.

The further submission of the petitioner before the learned Single Judge was that the respondent No.2 had extended the date for correction and

submission of applications for conduct of JEE (Main) Examination–2020. The said examination is held by respondent No.2 to select students for granting admission to the engineering courses in engineering colleges in the country. The petitioner claimed that since fresh applications were permitted to be submitted up to 31.05.2020 in respect of the JEE (Main) Examination–2020, similar treatment should have been accorded in respect of the NEET(UG)-2020 to those students who could file their applications earlier by the cut off date, which was 06.01.2020.

The learned Single Judge has considered and rejected this submission in the impugned order in the following manner:

“15. Reliance placed by learned counsel for the petitioner on the public notice dated 15.05.2020 is misplaced. The public notice dated 15.05.2020 records that various candidates had demanded for correction of their particulars and choice of centre cities in the online application form submitted in view of the COVID-19 candidates in the online application. Accordingly, there is a rationale behind the National Testing Agency permitting the extension of date for correction of the choice of centre cities in the online application forms already submitted.

16. Further parity sought by the learned counsel for the petitioner with JEE (Main), 2020 examination based on the public notice dated 19.05.2020, whereby fresh date for submission of online application has been permitted for the JEE (Main), 2020 is misplaced.

17. Public notice dated 19.05.2020, with respect to JEE (Main), 2020 examination, records that representations were received by Respondent No. 2 – (National Testing Agency) from various Indian students who were scheduled to join colleges abroad that because of the changed circumstances arising out of COVID-19 they were keen to pursue their studies in India.

18. There is a rationale behind the National Testing Agency

modifying the schedule for JEE (Main), 2020. In my view, no parity can be drawn between JEE (Main), 2020 which is a non medical course and NEET (UG)-2020 which is for filling up of the medical seats. Further, as pointed out by learned counsel for respondent No.2, the JEE (Main) 2020 examination is an online examination whereas NEET (UG)-2020 is a paper - pen based examination.

19. NEET (UG) – 2020 is now scheduled to be held on 26.07.2020 and any change in the schedule is likely to disrupt the entire pandemic. In view of the lockdown and the pandemic of COVID-19 various students have had to shift their residence and accordingly it would have an effect on the centre cities that have been filled by the examination schedule and the date for filling up of the medical seats and commencement of the course.

20. By way of the present petition and submissions made today, petitioner seeks to enlarge the scope of the Writ Petition which is not permissible. Petitioner had admittedly not submitted the online application form before the cut off date of 06.01.2020 when there was no hardship faced on account of COVID-19 pandemic. Even otherwise, petitioner was not required to submit a physical application form and had to make an online application which could have been done from any location.”

Learned counsel for the appellant/ writ petitioner has, once again, urged before us that the respondent No.2 cannot discriminate between students desirous of taking the NEET(UG)-2020, and those desirous of taking JEE (Main) Examination–2020. He submits that the respondent No.2 should have maintained parity in the matter of granting opportunity to students – whether they wish to appear for one examination, or the other. Learned counsel submits that there is no distinction in the two classes, inasmuch, as the JEE (Main) Examination–2020 is for admission to the engineering courses, whereas the NEET(UG)-2020 is for admission to the under-graduate medical courses in the country. Both these examinations are

taken by students who clear their senior secondary examination/class 12th examination.

We have heard the submission of learned counsel for the appellant, as well as Mr. Bhardwaj, who represents respondent No.1 and Mr. Bansal, learned counsel for respondent No.2. We have also perused the impugned judgment and, in particular, the reasoning adopted by the learned Single Judge. Having considered the submissions, we are of the view that there is no merit in the present appeal. Firstly, the appellant clearly missed the bus when he failed to make his application even by the extended date i.e. 06.01.2020. The appellant preferred the writ petition in February, 2020 on the ground that his father was unwell, though, admittedly, the father's illness was not serious. In any event, even if he were seriously ill, that would not be a ground for the appellant to seek extension of the last date of submission of the application form for the reasons already discussed hereinabove.

The appellant cannot take advantage of the subsequent development which has taken place, of which he was not even aware when he failed to make his application by 06.01.2020. The subsequent development which has taken place is the COVID-19 Pandemic, which has resulted in respondent No.2 extending the last date for submission of application for JEE (Main) Examination–2020. This was for the reason that a large number of students who wish pursue engineering travel abroad every year, and for that reason many eligible students did not submit their applications for under graduate engineering courses in the country. Moreover, students desired to change their examination centres due to travel restrictions and hazards.

It is also noteworthy that the number of engineering colleges and engineering seats within the country are much larger, when compared to the

medical colleges and medical seats available within the country. Medical seats attract stiffer competition, compared to engineering seats.

The two classes of students, namely one class which is desirous to take JEE (Main) Examination–2020, and the other which is desirous to participate in the NEET(UG)-2020 examination, form two different and distinct classes, and there is a reasonable basis for these different classes not being treated similarly. As noticed above, the examination for NEET(UG)-2020 is a paper-pen examination and is scheduled for 26.07.2020. It's conduct involves making of arrangements of examination centres, invigilators, examiners and scores of other administrative personal. The Court cannot interfere with such a mammoth exercise to accommodate students who failed to submit their applications within the stipulated time.

We, therefore, reject the submission of the appellant premised on discrimination and lack of parity. We find no merit in this appeal.

Dismissed.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

JUNE 03, 2020

N.Khanna