

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5276 OF 2021

Nitisha Sanjay Jagtap

.. Petitioner

Versus

Union of India through
Ministry of H. R. D. and another

.. Respondents

Mr. Ravibhushan P. Adgaonkar, Advocate for the Petitioner.
Mr. R. R. Bangar, Standing Counsel for Respondent Nos. 1 and 2.

**WITH
WRIT PETITION NO. 5313 OF 2021**

Vaibhav Subhashrao Bangar

.. Petitioner

Versus

Union Public Service Commission,
through its Under Secretary,
Civil Services Examinations (Mains)
New Delhi

.. Respondent

Mr. Sachin S. Deshmukh, Advocate for the Petitioner.
Mr. R. R. Bangar, Standing Counsel for Respondent No. 1.

**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATED : 01st April, 2021.

PER COURT :

. The petitioners in both these writ petitions had appeared for U.P.S.C. (preliminary) exam. The petitioners were successful in clearing U.P.S.C. (preliminary) exam. The petitioners thereafter filled in the

form for U.P.S.C. main (written) exam. The petitioners appeared for U.P.S.C. main (written) exam. The result of other candidates excluding petitioners for U.P.S.C. main (written) exam was declared. The petitioners were intimated that their candidature stand cancelled. The petitioners have assailed the communication cancelling their candidature for U.P.S.C. main (written) exam.

2. Mr. Deshmukh and Mr. Adgaonkar, learned counsel for the petitioners submit that the candidature of the petitioners is cancelled solely on the ground that on the date of filling in application for main exam, the petitioners did not have the degree certificate with them. The learned counsel further submit that, the examination of the petitioner in Writ Petition No. 5313 of 2021 for B.A. (Economics) final year is held in October 2020 and the result was declared on 03.12.2020. Whereas, the petitioner in Writ Petition No. 5276 of 2021 had appeared for final exam of B.A. (Psychology) in October 2020 and the result was declared on 03.12.2020. The last date for filling in application for U.P.S.C. main (written) examination was 11.11.2020. The petitioners' result was declared only on 03.12.2020. The U.P.S.C. main exam was held from 08.01.2021 to 17.01.2021. Prior to appearing for the main examination, the petitioners were possessing the result of the final year examination. The petitioners had passed the final year qualifying

examination. The learned counsel referred to Rule 7 and 11 of the Central Services Examination Rules, 2020 (hereinafter referred as 'CSE Rules 2020'). According to the learned counsel, examination of the qualifying course were not held in April-May 2020 and were postponed to October 2020 because of COVID-19 pandemic situation. The said aspect needs to be considered by the respondents. It is submitted by the learned counsel for the petitioners that the proof of passing the qualifying examination has been submitted to the respondents.

3. Mr. Bangar, learned counsel for the respondents submits that the U.P.S.C. is bound by the CSE Rules 2020. The U.P.S.C. is a constitutional body. Rule 7 of CSE Rules 2020, would not assist the petitioners in as much as the relaxation to produce the degree certificate is available at the time of preliminary examination only and not at the time of the main examination. The U.P.S.C. received various representations from candidates including the petitioners expressing their difficulties in submitting proof of passing essential educational qualification due to delay / non declaration of the result in the on going COVID-19 pandemic situation. The matter was referred to DoP&T. The DoP&T vide their communication dated 05.01.2021 intimated that civil services examinations 2020 shall be conducted strictly as per CSE Rules 2020. In view of that, the non submission of valid proof of passing

requisite educational qualification prior to the prescribed date results in cancellation of the candidature. The Commission has taken action in accordance with the rules. No illegality has been committed. The learned counsel further submits that the petitioners have an alternate remedy before the Central Administrative Tribunal. In view of the alternate remedy, the writ petitions may not be entertained.

4. We have considered the submissions canvassed by the learned counsel for respective parties.

5. Rule 7 of the CSE Rules 2020, requires that the candidate must hold a degree of any of the Universities incorporated by an Act of the Central or State Legislature in India or other educational institutions established by an Act of Parliament or declared to be deemed as a University under Section 3 of the University Grants Commission Act, 1956 or possess an equivalent qualification. Note I of Rule 7 of the CSE Rules 2020 provides, relaxation to the extent that a candidate who had appeared for an examination the passing of which would render them educationally qualified for the Commission's examination, but have not been informed of the result, as also the candidates who intend to appear for such a qualifying examination will also be eligible for admission to the preliminary examination. Note I of Rule 7 of the CSE Rules 2020 further clarifies that all candidates who are declared

qualified by the Commission for taking the Civil Services main (written) examination will be required to produce proof of passing the requisite examination along with their application for main examination, failing which such candidates will not be admitted to the main examination and such proof of passing the requisite examination should be dated earlier than the due date (closing date) of detail application of Civil Services (main) examination. Note II of Rule 7 of the CSE Rules 2020 gives powers to the U.P.S.C. to treat a candidate who does not have qualification as stated in the CSE Rules 2020 as a qualified candidate provided that he has passed examination conducted by other institution the standard of which in the opinion of Commission justifies his admission to the examination. The powers under Note II of Rule 7 of the CSE Rules 2020 can be exercised by U.P.S.C. in exceptional cases.

6. Note IV of Rule 7 of the CSE Rules 2020 pertains to candidates who have passed the final professional M.B.B.S. or any other medical examination, but have not completed their internship by the time of submission of their applications for the Civil services (main) examination, those candidates are provisionally admitted to the examination, provided they submit along with their application a copy of certificate from the concerned authority of the University /

Institution that they had passed the requisite final professional medical examination. In such cases, the candidates will be required to produce at the time of their interview original degree or a certificate from the concerned competent authority of the University / Institution that they had completed all requirements (including completion of internship) for the award of the degree.

7. Under Note IV of Rule 7 of the CSE Rules 2020, it appears that, same is inserted considering the practical difficulty of candidates passing final professional M.B.B.S. examination, wherein they have to undergo compulsory internship. Relaxation is provided in their cases.

8. Rule 11 of the CSE Rules 2020 further cast obligation on the candidates applying for the examination that, they should ensure that they fulfil all the eligibility conditions for admission to the examination. The said rule further clarifies that the admission of the candidates at all the stages of the examination for which they are admitted by the Commission viz. preliminary examination, main (written) examination and interview test will be purely provisional, subject to their satisfying the prescribed eligibility conditions. Their candidature is liable to be cancelled at any time before or after the preliminary examination, main (written) examination and interview test, if, it is found that the candidate do not fulfil any of the eligibility conditions.

9. In the present cases, the petitioners had passed the preliminary examination. The petitioners were also admitted to the main (written) examination. At the time of declaration of the result of the main (written) examination, the candidature of the petitioners is cancelled. The sole reason for cancellation of the candidature of the petitioners as observed supra, is that at the time of filling in the application form for main (written) examination the petitioners did not possess the proof of passing the qualifying examination.

10. The Court can take a judicial notice of the fact that because of the extraordinary situation prevailing due to COVID-19 pandemic, the schools and colleges were closed for much part of the year 2020. The examinations of the degree courses could not be held in time. As contended by the petitioners, the final year examination of their qualifying examination ought to have been held in April-May 2020, however, same were postponed because of the exceptional circumstances of COVID-19 pandemic and they were eventually held in October 2020 and for that matter nobody can be faulted with. It was because of the circumstances beyond the control of the normal human being, the exams could not be held in time. The exams are held on 23.10.2020. As contended by the petitioners, the petitioners have passed the qualifying examinations viz. B.A. (Economics) by the

petitioner in Writ Petition No. 5313 of 2021 and B.A. (Psychology) by the petitioner in Writ Petition No. 5276 of 2021 and they possess the mark sheets on the date prior to the conduct of main (written) examination.

11. The CSE Rules 2020 are to be adhered to and examinations are required to be conducted in tune with the rules. Rule 7 Note II of the CSE Rule 2020 gives powers to the U.P.S.C. in exceptional cases to treat a candidate who does not have the qualifications as detailed in the rules as a qualified candidate. Under Note IV some leverage is given to the candidates who have passed the final professional M.B.B.S. exam or any other medical examination, but have not completed internship by the time of submission of application for Civil Services (main) examination. They can be provisionally admitted to the examination and at the time of interviews, these candidates are required to produce original degree or a certificate from the concerned competent authority of the University / Institution that they have completed all requirements (including completion of internship). The rules take care of exceptional circumstances wherein the U.P.S.C. can relax the condition.

12. We certainly do not want to imply that the exception should be treated as a rule. Note II of Rule 7 of the CSE Rules 2020 certainly has

to be invoked in exceptional cases. The present scenario is nothing less than an exceptional circumstances. The examinations of final year B.A. (Psychology) and B.A. (Economics) were to be held in April-May 2020, could not be conducted and were postponed till October 2020. The institutions could not hold the examination because of the extraordinary and exceptional circumstances prevailing at the relevant time and such circumstances have again re-emerged, however, during the period of October and November when the COVID-19 pandemic was showing downward trend the examinations were held. The circumstances are exceptional circumstances wherein the U.P.S.C. was required to exercise his discretion and powers of relaxation.

13. The petitioners as observed above have already appeared for main (written) examination. Before appearing for the main (written) examination they already possessed the certificate of passing qualifying examination.

14. In view of all the aforesaid facts taken cumulatively, in our opinion the cases of the petitioners need to be considered.

15. In the light of the above, we pass the following order.

ORDER

1. The order cancelling the candidature of the petitioners only on the ground that they had not submitted the proof of passing the qualifying examination on the date of submission of application for main (written) examination is set aside.
2. The respondents shall consider the candidature of the petitioners.
3. The respondents shall declare the result of the petitioners' main (written) examination after verifying that the petitioners have submitted proof of having passed the qualifying examination, and if, the petitioners are found eligible upon declaration of result of the main (written) examination shall consider for interview as per the rules.
4. The result shall be declared immediately as it is stated that 05.04.2021 is the last date for filling in the form for interview test. The respondents may take steps accordingly.
5. Parties to act upon authenticate copy of this order.
6. Writ petitions are allowed in above terms. No costs.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

PS.B.