

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

KANCHAN
VINOD
MAYEKAR

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Date: 2021.11.27
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WRIT PETITION NO. 7958 OF 2021

Sakhi Satyan Mishra

..... Petitioner

VERSUS

**Commissioner and Competent Authority,
State Common Entrance Test Cell,
Maharashtra State & Ors.**

..... Respondents

Mr.Rahul D.Motkari for the Petitioner.

Mrs.P.N.Diwan, A.G.P. for the State – Respondent nos. 3 to 5.

Mr.S.S.Patwardhan for the Respondent nos. 1 and 2.

Mr.Nitin S. Dhumal for the Council of Architecture.

**CORAM: R. D. DHANUKA AND
ABHAY AHUJA, JJ.**

DATE : 26th NOVEMBER, 2021

P.C:-

We allow learned counsel for the Council of Architecture to intervene on the oral application to assist the Court.

2. Rule. Mr.Patwardhan, learned counsel for the respondent nos. 1 and 2 waives service. Mrs.Diwan, learned A.G.P. waives service for the respondent nos. 3 to 5. By consent of parties, petition is heard finally.

3. By this petition filed under Article 226 of the Constitution of India, the petitioner has prayed for writ of mandamus directing the respondents to consider the scores of JEE along with NATA for admission process of B.Arch for the academic year 2021-22 and to amend the admission notice dated 1st November, 2021 and 16th November, 2021.

4. It is the case of the petitioner that for the academic year 2020-21, the admission notice issued by the respondent no.2 for 'B.Arch course' decided the eligibility criteria for getting admission which provided that the candidate should obtain qualifying marks in NATA or JEE (Main) B.Arch whereas for the academic year 2021-22, the admission notice dated 1st November, 2021 as well as 16th November, 2021 prescribed the eligibility criteria modifying without sufficient notice and providing that the candidate should obtain qualifying marks in NATA.

5. It is submitted by the learned counsel for the petitioner that by such short notice without prior publicity, the Council of Architecture could not have amended the eligibility criteria.

6. Learned counsel invited our attention to the order passed by the Madras High Court in Writ Petition No. 23163 and 23164 of 2021 on 25th October, 2021 granting interim relief by permitting the students who had taken both the NATA as well as JEE (Main) 2021 to participate in the counselling for B.Arch course subject to the final result of the said petitions.

7. Mr.Patwardhan, learned counsel for the respondent nos. 1 and 2 on the other hand submits that the admission notice issued by the respondent no.2 on 1st November, 2021 and revised on 16th November, 2021 was pursuant to the amendment carried out by the Council of Architecture vide notification dated 11th August,2020 which notification was issued pursuant to the amendment carried out in the Council of Architecture (Minimum Standards of Architectural Education) Regulations, 2020 and passed by the Parliament.

8. Mr.Patwardhan also invited our attention to the order passed by the Madras High Court on 27th October, 2021 thereby vacating the said *ad-interim* order dated 25th October, 2021 relied upon by the learned counsel for the petitioner after considering the statutory notification

issued by the Council of Architecture which came into effect from 1st November, 2020 which provided the qualification for the Aptitude Test in Architecture as per Appendix 'D'. A perusal to Appendix 'D' shows that a candidate must pass the Aptitude Test in Architecture conducted by the Council. The Aptitude Test that is conducted by the Council is the National Aptitude Test in Architecture (NATA).

9. Mr.Dhumal, learned counsel for the Council of Architecture invited our attention to the Regulations of the Council of Architecture (Minimum Standards of Architectural Education) Regulations, 2020 and more particularly Rule 4 and Appendix-D, clause 1(2) and would submit that the said rule was amended as far back as on 11th August, 2020 providing that the admission should not be granted to the candidates who have passed the Aptitude Test of Architecture conducted by the Council of Architecture i.e. NATA.

10. Learned counsel would submit that after issuance of notification dated 1st November,2021, three tests are already conducted by the Council of Architecture on the basis of the rule of the minimum eligibility criteria of NATA. Our attention is also invited to the

notification dated 18th August, 2021 issued by the State of Maharashtra giving effect to the resolution passed by the Council of Architecture and amending the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admission to the Full Time Professional Undergraduate Technical Courses) (Amendment) Rules, 2021 prescribing the similar eligibility criteria.

11. Learned counsel for the petitioner in rejoinder would submit that if the Council for Architecture would have published this amendment in advance, the petitioner would have taken cognizance thereof and would not have appeared for such NATA test.

12. A perusal of the record produced before this Court would clearly indicate that the Council of Architecture had given wide publicity by issuing notice on 24th July, 2021 followed by examination notice for NATA 2021 on 25th July, 2021. The Council of Architecture has already brought amendment after giving wide publicity which amendment is passed by the Parliament. The State of Maharashtra has also given effect to the said amendment by amending rules in the year 2021 much prior to the said notification dated 1st November, 2021. We

are thus not inclined to accept the submission of the learned counsel for the petitioner that there was no wide publicity given to the said rules by the Council of Architecture.

13. A perusal of the writ petition also clearly indicates that the petitioner has not impugned any of these notifications including the validity of the rules prescribing the eligibility criteria of NATA and not deleting the scores of JEE.

14. Writ petition is totally devoid of merits and is accordingly dismissed. Rule is discharged. No order as to costs.

[ABHAY AHUJA, J.]

[R.D.DHANUKA, J.]