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IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 09.08.2021
PRONOUNCING ORDERS ON : 10.08.2021

CORAM

THE HONOURABLE JUSTICE MR.N.ANAND VENKATESH

W.P.No.16124 of 2021
and
WMP Nos.17054 and 17055 of 2021

Minor M.Meyyammal ...Petitioner
rep.by Father & Guardian M.M.Meyyappan

.Vs.

1.Government of India,
Rep.by its Joint Secretary to Government,
Ministry of HRD, New Delhi.

2.Registrar,
Council of Architecture India Habitat Centre,
Core-6A, First Floor, Lodi Road,
New Delhi.

3.The President,
Council of Architecture,
Council of Architecture India Habitat Centre,
Core-6A, First Floor, Lodi Road,
New Delhi.

..Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 24.07.2021 in Ref: CA/5/2021/Academic-Eligibility of the second Respondent herein and quash the same and consequently direct the Respondents 2 and 3 to consider the Petitioner for admission to B.Arch Course for the academic session 2020-2022 as per Section 4(3) of the Minimum Standards of the Architectural Education Regulations 2020.

For Petitioner : Mr.ARL.Sundaresan
Senior Counsel for M/s.A.L.Ganthimathi

For Respondents: Mr.R.Siddharth
CGSC
for R 1



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Mr.Naveen R.Nath
Senior Counsel
for Mr.A.Sheik Peer
for R2 & R3

ORDER

This writ petition has been filed challenging the letter dated 24.07.2021, issued by the 2nd respondent permitting the candidates to appear for the National Aptitude Test in Architecture (hereinafter referred to as "NATA test") for a maximum of two times and for those who have already appeared for both the tests of NATA 2021, not to be eligible to appear for the third test.

2.The petitioner, who had passed her Higher Secondary Examination wanted to pursue her Architecture course. The petitioner applied for the NATA test conducted by the 2nd respondent. During the year 2021, the test was conducted twice on 10.04.2021 and 12.06.2021 and the petitioner appeared during both the tests and had obtained 65 marks and 62 marks respectively. The petitioner was informed by the 2nd respondent through the scorecard dt.22.07.2021 that the petitioner has not qualified for being considered for the course since the petitioner has not obtained the qualifying marks fixed as 70 marks.

3.Thereafter, the 2nd respondent through Impugned Letter dt.24.07.2021, made an announcement to the heads of the Architectural Institutions imparting B.Arch., course in the country that a candidate will be allowed to appear for NATA 2021 only for a maximum of two times and those who have already appeared twice, will not be eligible to appear for the third test. It was further informed through this letter that only those candidates who have not appeared in either one or both tests of NATA, are eligible to register and appear for third NATA test. The petitioner is aggrieved by this letter on the ground that the 2nd respondent does not have the power or jurisdiction to restrict the number of tests that can be taken by the candidates and in view of the bar, the petitioner will not be able to improve her marks and consequently will not be considered for admission to the B.Arch., course.

4.Mr.ARL.Sundaresan, learned Senior Counsel appearing for the petitioner, made the following submissions:

- The Council of Architecture (Minimum Standards of



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Architectural Education) Regulations, 2020 [hereinafter referred to as the "regulations"] prescribes the guidelines for admission to the Architecture Degree Course and a reading of Clause 4 of the regulations shows that the Institutions will give weightage for 50 percent marks for aptitude tests and 50 percent marks in the qualifying examination and the regulations do not prescribe any qualifying marks as stated in the scorecard issued to the petitioner.

- The Regulations and the Brochure that was issued for NATA-2021, does not restrict a candidate from taking the third test in order to improve the marks and therefore the impugned letter dt.24.07.2021, is without jurisdiction.
- The scores that were secured by the petitioner in the two tests cannot be totally disregarded and the regulations clearly state that weightage of 50 percent must be given for those marks obtained in the aptitude test and therefore, the 2nd respondent does not have the power or jurisdiction to fix the qualifying marks as 70 and thereby disqualifying the petitioner from participating in the admission for the B.Arch., course.

5.Mr.Naveen R.Nath, learned Senior Counsel appearing on behalf of the 2nd and 3rd respondents made the following submissions:

- The Brochure that was issued for NATA-2021, clearly stipulated that the Council will be conducting the aptitude test twice for the academic year 2021-2022 and it was also made clear that a candidate will be allowed to appear only for a maximum of two times. The petitioner was aware about the same and she cannot be allowed to turn around and claim a right to write the test for the third time.
- The 2nd and 3rd respondents had taken into consideration the pandemic situation and the difficulties faced by the candidates in not being able to take one or two tests as the case may be and therefore in the interest of the students, the third test has been organised and it was made clear that this test can be taken only by those candidates who have not appeared in either one or both tests of NATA and for those candidates who have already appeared for both the tests, they are not eligible to appear for the third test.



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- Clause 6.0 of the Brochure had made it very clear that a candidate is given the option to appear in one test or both the tests and the best marks secured in either of the tests shall be taken as the valid score for admission to the course.
- There were large number of candidates who had submitted the applications for the course and therefore the 2nd respondent had to necessarily fix a threshold mark in order to shortlist the applications. Initially, the threshold mark was fixed as 75 and later considering the difficult situation, it has been reduced to 70 marks. This threshold mark has been fixed to maintain minimum standards in Architectural Education and such a power is traceable to Section 21 of the Architects Act, 1972.
- The petitioner has taken both the tests and she was not able to get the qualifying marks and hence, she is not entitled for participating in the admission to the course and there is absolutely no legal injury faced by the petitioner.

6.This Court has carefully considered the submissions made on either side and the materials available on record.

7.This Court has to deal with two main issues that have been raised in the present writ petition and they are;

(a) Whether the petitioner can be restricted from taking the third test when there is no such specific bar contained in the regulations. and;

(b) Whether the 2nd respondent is entitled to fix a qualifying mark for participating in the admission in the B.Arch., course and the same is in violation of Clause 4 of the regulations.

8.It will be relevant to extract Clause 4 of the regulations hereunder:

"4. Admission to the Architecture degree course-(1) No condition shall be admitted to architecture course unless he has passed an examination at the end of the 10+2 scheme of examination with at least 50 per cent aggregate marks in Physics, Chemistry and Mathematics and also at least 50 per cent, marks in aggregate of the 10+2 level examination or passed 10+3 Diploma Examination with Mathematics as compulsory subject with at least 50 per cent, marks in aggregate.



(2) The candidate needs to qualify an Aptitude Test in Architecture conducted by the Council complying with the Admission Norms prescribed in Appendix-D.

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(3) The institutions shall give weightage of 50 per cent, marks for aptitude tests and 50 per cent, marks in the qualifying examination as provided in sub-regulation (1), in the matter of admissions".

9.A reading of the above Clause from the regulation shows that a candidate, who seeks for an admission to the Architecture course should fulfill the minimum requirements both in terms of the qualifying examination as well as the aptitude tests. In the present case, there is no quarrel with regard to the qualifying examination and this Court is only concerned about the marks scored in the aptitude tests by the petitioner.

10.A reading of the regulation shows that 50 percent weightage must be given for the marks secured in the aptitude tests in the matter of admission. The learned Senior Counsel appearing on behalf of the petitioner submitted that the relevant Clause does not anywhere prescribe qualifying marks and whatever marks have been scored by a candidate should be taken into consideration and 50 percent weightage must be given for those marks.

11.In the present case, the 2nd respondent had fixed the qualifying marks at 75 percent marks and thereafter had reduced it to 70 percent marks. It is also brought to the notice of this Court that totally 15,066 candidates appeared for the test. The learned Senior Counsel appearing on behalf of the 2nd and 3rd respondents submitted that considering the large number of applications that were received by the Council, it becomes unavoidable for the Council to fix a qualifying mark in order to shortlist the number of candidates, who will be considered for admission. The learned Senior Counsel justified the fixing of the qualifying marks on the ground that some reasonable procedure must be evolved to short list the candidates and at the same time fixing of the qualifying marks also ensures that meritorious candidates are considered for admission and thereby the standards are maintained. The learned Senior Counsel submitted that such a power is available to the Council by virtue of Section 21 of the Architects Act, 1972.

12.This Court finds a lot of force in the submission made by the learned Senior Counsel appearing on behalf of the 2nd and 3rd respondents. It is always permissible for an academic body to evolve a reasonable process to be applied



across the Board for the purpose of shortlisting the number of applications to be considered for admissions to various Institutions imparting B.Arch., courses. For this purpose, the 2nd respondent had fixed the qualifying marks originally at 75 marks and later reduced it to 70 marks. This qualifying mark will ensure that meritorious candidates go through the process of admission. Insofar as the power of the Council to fix the qualifying marks, the same is traceable to Section 21 of the Architects Act, 1972 which provides that the Council may prescribe the minimum standards of architectural education. Therefore, even though the regulations do not specifically deal with the qualifying marks under Clause 4 of the regulations, such regulation is subject to the powers available under the Patent Act. In spite of fixing such qualifying marks and shortlisting the candidates, ultimately at the time of undertaking the admission process, 50 percent weightage will be given to the marks obtained in the aptitude tests. Hence, this Court does not find any mismatch between the Act and the Regulations. In view of the same, this Court does not find any lack of power or jurisdiction on the part of the 2nd respondent in fixing the qualifying marks. Issue (b) is answered accordingly.

13. Insofar as the first issue regarding the restriction placed on the candidates from taking the third test after having taken both the previous tests, it will be relevant to extract Clause 2.0 and Clause 6.0 in Brochure NATA-2021.

"2.0. About NATA 2021: With the objective of giving opportunities to a greater number of bright aspirants, Council will be conducting NATA-2021 for admission to B.Arch in the academic session 2021-2022 twice this year. Candidates who miss out the first test due to some reason or other or wish to improve upon their NATA score can register for the second test. Both the first and second test will be conducted on different dates as computer-based examinations and a candidate shall be allowed to appear for NATA 2021 for a maximum of two times.

6.0. Application Procedure:

The First NATA 2021 test is scheduled to be held on April 10, 2021 while the second NATA 2021 test shall be held on June 12, 2021.

Appearing in second test is not mandatory and is purely at the discretion of the applicants. Candidates can register themselves either for first test or second test OR both by filing in the application form appropriately.

The registration window for the second test will open for 14 days after the announcement of



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results of the test held on the first date.

Candidates opting to appear in both the first and second test may note that they will be issued with the separate score card for each test. The score card for Second test shall contain the marks secured in First & Second Test. The best marks secured in either of the Tests shall be taken as the valid score for admission to B.Arch., Course".

14.It is clear from the above Clauses that a candidate will be entitled to appear for NATA-2021 only for a maximum of two times. The best score that is secured will be taken into consideration for admission to the course. The petitioner was very much aware about these Clauses and the petitioner therefore cannot claim as a matter of right to take the third test. This Court does not find that the 2nd and 3rd respondents have changed the rules of the game after the selection process had started, as contended by the learned Senior Counsel appearing on behalf of the petitioner. Considering the pandemic situation, the 3rd test is being conducted to those candidates, who had taken only one test are have not taken both the tests. The petitioner cannot try to take advantage of this special exemption that has been granted to the candidates considering the extraordinary situation. In fact, the regulation only contemplates "an aptitude test". However, the Council taking into consideration the interest of the students is conducting two tests to give a chance to the candidates to improve their scores. The petitioner has taken advantage of the same and written both the tests. Therefore, the petitioner cannot complain that she is not being permitted to write the third test. Issue (a) is answered accordingly.

15.In view of the above discussion, this Court does not find any ground to interfere with the impugned communication issued by the 2nd respondent and the 2nd and 3rd respondents have acted well within their power and jurisdiction which does not call for any interference.

16.Accordingly, this writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

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Sub Assistant Registrar



KP

To

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1.The Joint Secretary to Government,
Government of India,
Ministry of HRD, New Delhi.

2.The Registrar,
Council of Architecture India Habitat Centre,
Core-6A, First Floor, Lodi Road,
New Delhi.

+1cc to Mr.A.Sheik Peer, Advocate, S.R.No.39266

+1cc to M/s.A.L.Ganthimathi, Advocate, S.R.No.39547

W.P.No.16124 of 2021

GPL (CO)
CB(23/08/2021)