

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.2616 OF 2022

Liladhar s/o Sahebrao Sukhdeve
Aged about 19 years,
Occupation – Education,
R/o. H.N. 562, Ramji Ambedkar Nagar,
Near Buddha Vihar,
Dawlameti, Amrawati Road,
Nagpur

...PETITIONER

VERSUS

1. The State of Maharashtra,
through the Directorate of
Technical Education,
Maharashtra State,
Fort, Mumbai
2. The Commissioner,
State Common Entrance Test Cell,
Maharashtra State,
8th Floor, New Excelsior Building,
A.K. Nayak Marg,
Fort, Mumbai
3. The Board of Examinations,
Rashtrasant Tukdoji Maharaj
Nagpur University,
through its Member Secretary,
having its office at
LIT Campus, Amravati Road,
Nagpur

4. The Joint Director,
Technical Education,
Divisional Officer,
Nagpur
5. The Principal Government
Engineering College,
Sector 27, New Khapri,
Nagpur

...RESPONDENTS

Shri Sanket Walde, Advocate h/f Shri A.M. Gedam, Advocate
for the petitioner.

Shri N.R. Rode, Assistant Government Pleader for
respondent Nos.1, 4 & 5/State.

Shri N.A. Gaikwad, Advocate for the respondent Nos.2 & 3.

CORAM : A.S. CHANDURKAR AND
SMT. URMILA S. JOSHI-PHALKE, JJ.

DATED : JUNE 20, 2022.

JUDGMENT (Per Smt. Urmila S. Joshi-Phalke, J.)

RULE. Rule is made returnable forthwith.

2. Heard finally with the consent of both the parties.

3. By way of this writ petition, the petitioner is seeking
relief by way of directions to the respondents to grant him

admission to appear for the IVth semester examination of Computer Engineering.

4. As per the contention of the petitioner, he is the citizen of India and residing in the State of Maharashtra and he is disabled person. As he was fulfilling the eligibility criteria declared by the Government of Maharashtra for the State Common Entrance Test Cell he filled up the form for admission and he was admitted for the first year Computer Engineering Course. He appeared for the Ist and IInd semester of Computer Engineering Course and passed the examination. He has submitted his examination form to respondent No.3 through respondent No.5. Respondent No.5 has accepted his examination form.

5. On 09/02/2022, respondent No.5 - the Principal of Government Engineering College, New Khapri, Nagpur issued a letter informing the petitioner that his admission has been cancelled. As per the contention of the petitioner he fulfilled eligibility criteria for the admission for Computer Engineering Course. His documents are scrutinized and thereafter he was admitted. Now the action of cancelling his admission by

respondent No.5 is illegal, unfair and arbitrary one. Hence, directions be issued to the respondents to grant him permission to appear for IVth semester examination. He is also seeking the direction that the respondents be directed to allow him to attend the classes of Computer Engineering and others. In response to the notice, respondents have raised objection and submitted that the petitioner is not fulfilling the eligibility criteria and, therefore, his admission is cancelled. No interference is called for. Hence, petition deserves to be dismissed.

6. Shri Sanket Walde, learned Counsel for the petitioner submitted that as per the eligibility criteria the candidate should be an Indian National and the candidate must must have passed HSC or its equivalent examination with Physics and Mathematics as compulsory subjects along with one of the Chemistry or Biotechnology or Biology or Technical Vocational subject or Computer Science or Information Technology or Informatics Practices or Agriculture or Engineering Graphics or Business Studies and obtained at least 45% marks (at least 40% marks, in case of Backward class categories, Economically Weaker Section or Persons with Disability candidates belonging to Maharashtra State

only). He fulfilled the said criteria, therefore, admission was given to him. He appeared for the Ist and IInd semester examination and suddenly his admission was cancelled. Thus, the action on the part of the respondents especially respondent No.5 is illegal and arbitrary. In support of his contention, he relied upon the decision of the Hon'ble Apex Court in the case of **Rajendra Prasad Mathur vs. Karnataka University and anr. 1986 (Supp) SCC 740** wherein it is observed that the admission should not now be disturbed because if they are now thrown out after a period of almost four years since their admission their whole future will be blighted. Learned counsel further submitted that same ratio is applicable in respect of the present petitioner and, therefore, the directions be issued to the respondents to grant him permission to appear for the IVth semester examination and his admission be continued.

7. On the other hand, Shri N.R. Rode, learned Assistant Government Pleader for respondent Nos.1, 4 and 5 and Shri N.I. Gaikwad, learned Counsel for respondent Nos.2 and 3 invited our attention towards the eligibility criteria and submitted that as per the said eligibility criteria the petitioner must have 40% marks in all three subjects i.e. Physics, Mathematics, Chemistry or

Biotechnology or Biology. It further requires that candidate must pass Technical Vocational subject or Computer Science or Information Technology or Informatics Practices or Agriculture or Engineering Graphics or Business Studies. Present petitioner did not fulfill the same and, therefore, his admission is cancelled. They further invited our attention towards Annexure-C which is the application form filled up by the petitioner while taking admission in the engineering college. It appears that while filling the form especially filling the qualification details he filled his marks out of 80 instead of 100 and, therefore, percentage was shown as 43.75% in the subjects i.e. Physics, Mathematics, Chemistry and Biology. Hence, mark list shows that he got 35 marks out of 100 in Physics, Mathematics, Chemistry and Biology. Thus he has not fulfilled the said criteria of eligibility. After giving him opportunity his admission was cancelled. So there is no arbitrary action on the part of the respondents, hence, the writ petition deserves to be dismissed.

8. After perusal of the record, it appears that admittedly, the petitioner has applied for the admission in the Computer Engineering Course. The eligibility criteria declared by the

Government of Maharashtra as per Information Brochure shows that candidate should be an Indian National. He must have passed HSC or its equivalent examination with Physics and Mathematics as compulsory subjects along with one of the Chemistry or Biotechnology or Biology or Technical Vocational subject or Computer Science or Information Technology or Informatics Practices or Agriculture or Engineering Graphics or Business Studies and obtained at least 45% marks (at least 40% marks, in case of Backward class categories, Economically Weaker Section or Persons with Disability candidates belonging to Maharashtra State only). In the above subjects taken together and the candidate should have appeared in all the subjects in MH-CET, 2020 and should obtain non-zero score in MH-CET, 2020. The mark list of the petitioner is at Annexure-B which shows that the petitioner has obtained 35 marks out of 100 in Mathematics and Statistics, Physics, Chemistry and Biology. Thus he has not fulfilled the criteria of 40% as he belongs to Backward Class category. As per the said eligibility criteria, he must obtain 40% marks in all these three subjects which he could not get. Moreover, additional criteria which is mentioned in the eligibility criteria column that the person appearing for the examination must have appeared for the

examination of the Technical Vocational subject or Computer Science or Information Technology which the petitioner has not fulfilled.

9. It further appears from the record that he applied for the admission by filling the application form online. While filling the form, in the qualification column, he has mentioned his marks out of 80 and, therefore, percentage was shown as 43.75%. Thus he has not shown the said marks out of 100 and, therefore, in the screening he was held as a qualified candidate but subsequently this fact came to the notice of the respondents and, therefore, respondent No.5 – the Principal, Government Engineering College issued a letter dated 03/12/2021 and explanation was called. No explanation was given by the petitioner for the same and, therefore, his admission was cancelled.

10. The facts of the cited case Rajendra Prasad Mathur vs. Karnataka University and anr. (supra) referred by the learned Counsel for the petitioner shows that as the candidates had almost completed the course, therefore, Hon'ble Apex Court has taken said view.

11. After perusal of the entire record, it appears that the petitioner was not meeting the eligibility criteria. He filled up the incorrect information, therefore, during screening his admission form was treated as a valid, subsequently during scrutiny it appeared to the respondents that he is not qualified as per the eligibility criteria and, therefore, after giving him opportunity of hearing his admission was cancelled. Thus action on the part of the respondents is not arbitrary and unjust. The respondents have followed the principles of natural justice by giving him an opportunity, therefore, the petitioner is not entitled for any relief. Hence, writ petition deserves to be dismissed.

12. We proceed to pass the following order:

(a) The writ petition is hereby dismissed with no order as to costs.

13. Rule stands discharged.

(SMT. URMILA S. JOSHI-PHALKE, J.)

(A.S. CHANDURKAR, J.)