

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-3435-2022 (O&M)
Date of decision:- 17.05.2022
...Petitioner(s)

Yoshika Verma

Versus

Union of India and others

...Respondent(s)

CORAM: **HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE**
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. H.K. Brinda, Advocate,
Mr. Dharampal, Advocate,
for the petitioner.
Mr. Anil Chawla, Senior Panel Counsel,
for respondent No. 1 – UOI.
Mr. Arun Gosain, Senior Government Counsel,
for respondents No. 2 to 4.
Mr. Avinit Avasthi, AAG, Punjab,
for respondents No. 5 and 6.

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RAVI SHANKER JHA, C.J. (ORAL)

This writ petition has been filed by the petitioner being aggrieved by the fact that she has been denied admission in the B.Tech., Mechanical Engineering programme (4 years) at the Indian Institute of Technology, Indore.

The brief facts leading to the filing of the present writ petition are that the petitioner had appeared in the JEE (Main) B.E./B.Tech. examination for the academic year 2021-2022 conducted by the respondent-authorities. It is her case that she got herself registered on 11.01.2021 and passed the said examination whereafter, the JEE (Advanced) examination was held on 03.10.2021, for which she got herself registered and filed all the necessary documents alongwith her OBC-NCL certificate as she wished to secure admission under the OBC-NCL category. It is stated by the petitioner that she obtained 5505 rank in the OBC-NCL category and was provisionally allotted a seat in the B.Tech. Mechanical Engineering at the Indian Institute of Technology, Indore on 27.10.2021 vide Annexure P-3. It is alleged that on account of a query being raised by the respondent-authorities, the petitioner applied for obtaining a fresh OBC-NCL certificate on 27.10.2021. It is alleged by the petitioner that, while appearing before the respondent-authorities for online document verification, she was informed that her OBC-NCL certificate was faulty and, therefore, vide her e-mail dated 31.10.2021 (Annexure P-11), she informed them that she was unable to upload her reservation certificate on account of the death of her grandmother and that she had given it for renewal and would get it on 01.11.2021 by 11.00 A.M. For, the OBC-NCL certificate

that was required to be produced by the petitioner was issued by the concerned authority on 01.11.2021 and, therefore, she filed the said certificate on 01.11.2021 and deposited the necessary fees for admission. However, the respondent-authorities did not accept the new OBC-NCL certificate produced by her on 01.11.2021 and rejected her candidature. Rather, the respondent-authorities considered her as a general candidate and found her to be less meritorious than the other candidates who had been granted admission. The petitioner has placed on record a communication dated 31.10.2021, in this regard, as Annexure P-12.

It is stated that the petitioner had earlier approached this Court by filing a writ petition i.e. CWP-623-2022 being aggrieved by the denial of admission to her, however, the same was withdrawn as the petitioner intended to pursue the matter with the respondent-authorities.

Whereafter, the petitioner approached the respondent-authorities vide a representation dated 20.01.2022 (Annexure P-16) which has been rejected by the impugned order dated 30.01.2022 (Annexure P-17).

Being aggrieved by the impugned order dated 30.01.2022, the petitioner has filed the present writ petition.

Learned counsel for the petitioner submits that she belongs to the OBC-NCL category and had duly uploaded the certificate dated 14.06.2016 (Annexure P-7) at the time of registering herself for appearing in the JEE (Advanced) examination in September, 2021. He further submits that the respondent-authorities did not object to the petitioner's certificate for a long period of time and did so when she appeared for online verification of documents. He further submits that when the respondent-authorities objected to the OBC-NCL certificate of the petitioner, she immediately applied for a fresh certificate before respondent No. 6 - Tehsildar, Rupnagar and requested the respondent-authorities to grant her time to produce the same. It is further stated that the petitioner ultimately received the said certificate from the Tehsildar, Rupnagar on 01.11.2021 and immediately submitted the same before the respondent-authorities. He further submits that the petitioner was made to suffer for no fault of hers as the OBC-NCL certificate was issued to her by the Tehsildar, Rupnagar on 01.11.2021 and in such circumstances, the respondent-

her is wholly erroneous, particularly, when she had made a specific request vide her e-mail dated 31.10.2021 for granting her time to produce the same. He further submits that there is no dispute that the petitioner belongs to the OBC-NCL category and, thus, it was only a matter of submission of proof and in such circumstances, in view of the law laid down by the Supreme Court in *Dolly Chhanda Vs. Chairman, JEE and others* (2005) 9 SCC 779 as well as by the Delhi High Court in W.P. (C) No. 2889/2011 titled as *Union Public Service Commission Vs Gyan Prakash Srivastava* (decided on 16.05.2011) and Writ Petition (Civil) No. 7255 of 2019 titled as *Shidore Shital Mhatardeo Vs National Board of Examination and another* (decided on 10.10.2019), the denial of admission to her is contrary to law and deserves to be quashed.

Learned senior government counsel, appearing for respondents No. 2 to 4, per-contra submits that the admission to the course is governed by the strict time schedule which has been adhered to by the authorities in view of the law as it stands today. He further submits that from a perusal of the revised schedule of events of JoSAA 2021 (online reporting) (P-4), which was notified by the respondent-authorities, it is evident that the online reporting of candidates, who had been allotted seats, for fee payment/uploading of document/response by them to the query(ies), was done between 27.10.2021 to 30.10.2021. He further submits that this period was subsequently extended by the respondent-authorities upto 31.10.2021. A perusal of the list of dates and the schedule contained therein (Annexure P-4) itself makes it clear that the last date to respond to the queries was 31.10.2021 by 5.00 P.M. He further submits that the Information Brochure notifying JEE (Advanced) 2021 examination, which was published on 25.06.2021 and thereafter re-published on 16.09.2021, prescribes the documents that are required to be submitted by a candidate while getting himself/herself registered for appearing in the examination. He has taken us through clause 15 of the Information Brochure (Annexure P-20) which clearly states that the candidates seeking admission under OBC-NCL category should have been issued the OBC-NCL certificate on or after 01.04.2021, whereas, she filed an old certificate dated 14.06.2016. He further submits that when the said fact was noticed by the respondent-authorities conducting online document verification,

extend the time for submitting the document upto 01.11.2021. However, as the online verification of documents closed on 31.10.2021, no further communication was accepted by the respondent-authorities. He further submits that the petitioner's claim for admission in the B.Tech. Mechanical Engineering programme (4 years) at the Indian Institute of Technology, Indore was considered by the respondent-authorities in view of the documents filed by her and as her OBC-NCL certificate was not found to be in conformity with the requirement, as notified in the Business Rules for Joint Seat Allocation for the Academic Programs offered by the IITs, NITs, IIST, IIITs and other-GFTIs for the academic year 2021-2022 (Annexure P-21), her candidature was changed from OBC-NCL category to that of General and her claim for admission was accordingly considered in that category. However, as the petitioner had obtained less marks than the last general category candidate, her provisionally allocated seat under the OBC-NCL category was cancelled. He further submits that the respondent-authorities have thoroughly examined the matter and concluded that the petitioner cannot be granted any special treatment as regards her admission to the B.Tech Mechanical Engineering Programme (4 years) as the OBC-NCL certificate was obtained by her after the cut-off date. He further submits that as many as 4285 candidates were admitted in various IITs in the OBC-NCL category and as many as 27 OBC-NCL seats including the petitioner's were cancelled on account of non-submission of certificates and were rolled back into the general category. The petitioner cannot be singled out for granting her any special treatment differently from the other twenty six similarly situated OBC-NCL candidates. He further submits that the respondent-authorities have also considered the decision of the Supreme Court in the case of *Dolly Chhanda Vs Chairman, JEE and others* reported as AIR 2004 SC 5043, which has been relied upon by learned counsel for the petitioner. According to the respondent-authorities, the facts of the case (*ibid*) differ from that of the petitioner, inasmuch as Dolly Chhanda was denied admission on account of wrong certificate being issued by the authorities concerned i.e. the Zila Sainik Board and there was no mistake on her part as she was made to suffer on account of a mistake committed by the certificate issuing authority. He further submits that the last date for admissions in the Indian Institute of Technologies was 20.11.2021 and, therefore, at this belated

stage, no relief can be granted to the petitioner. Moreso, the present situation has resulted on account of the delay on the part of the petitioner and on account of no fault that can be attributed to the respondent-authorities.

Learned State counsel, appearing for respondents No. 5 and 6, has filed an affidavit of the Tehsildar, Rupnagar dated 12.05.2022 who has issued the OBC-NCL certificate to the petitioner. It is stated that the petitioner, for the first time, had applied for granting her the OBC-NCL certificate on 27.10.2021 vide Annexure P-10 which was approved/prepared by the then Tehsildar on the very next day i.e. 28.10.2021 and was sent to Sewa Kendra, Rupnagar for its delivery. However, the petitioner failed to collect the same. It is further stated that the certificate was even uploaded on the website of the Sewa Kendra, Rupnagar on 28.10.2021. It is further stated that some person on behalf of the petitioner collected the certificate belatedly on 01.11.2021. It is submitted that in such circumstances, the authorities concerned have promptly acted on the application for issuance of the OBC-NCL certificate filed by the petitioner on 27.10.2021.

We have heard learned counsel for the parties at length.

To appreciate the rival contentions of learned counsel for the parties, it is necessary to take into consideration the relevant provision for the candidates seeking admission under the OBC-NCL category contained in clause 15 of the Information Brochure, on which reliance has been placed by learned counsel for the respondents, which is to the following effect:-

“For candidates seeking admission under the OBC-NCL category

OBC-NCL certificate (FORM-OBC-NCL) should have been issued on or after April 01, 2021 in consonance with the latest guidelines of the Government of India. If any OBC-NCL candidate fails to submit OBC-NCL certificate (issued on or after April 01, 2021) at the time of online registration, the candidate has to upload a declaration (declaration in lieu of OBC-NCL certificate) to that effect. Visit <http://www.ncbc.nic.in> for latest guidelines and updates on the central list of State-wise OBCs.”

The schedule of events notified by the respondent-authorities

clearly specified that the online verification of documents would be done

between 27.10.2021 to 30.10.2021 and undisputedly this period had been extended upto 31.10.2021 (5.00 P.M.). It is also undisputed that the last date as per the schedule prescribed by the respondent-authorities for responding to the queries was 31.10.2021 (5.00 P.M.) which had not been extended.

Rule XIV (30) of the Business Rules notified by the Joint Seat Allocation Authority (JoSAA) does not permit any change in the personal and other details submitted by a candidate in his/her registration form including the category and reads thus:-

“XIV Change of Personal and other details

30. At the time of registration in JoSAA website, candidates will NOT be allowed to change their personal details such as name, father’s/mother’s/guardian’s name, date of birth, class XII (or equivalent) examination board and (birth) category. But candidates can change their state of eligibility, nationality place of passing class XII and gender (subject to conditions specified below in pt. 66).”

Rule XVIII (40) of the Business Rules prescribes the procedure for confirmation and provisional offer of seat and is to the following effect:-

“XVIII Provisional offer of seat and its confirmation

40. It is the candidate’s responsibility to login to JoSAA portal and check if a seat is allocated in a given round of seat allocation. Schedule of JoSAA activities is available in Annexure 3 of this document. If the candidate is allocated a seat, following steps of “Online Reporting” are required to be carried out, in order to accept the allocated seat before the last date/time specified for the given round, i.e., the round in which seat is allocated. Please refer to Annexure 3 for the timeline. The allocated seat will be either confirmed/cancelled on completion of document verification.

Step 1: Accept the seat

A candidate who has been allocated a seat needs to download the “provisional seat allocation letter”. The candidate needs to accept the seat allocated and opt for any one of the options ‘freeze’, ‘slide’ or ‘float’, for the choice of academic program for

subsequent round(s), if any, of joint seat allocation (see section XX).

Step 2 : Upload the documents

The candidate must upload the required documents (as per Annexure 3) on the JoSAA portal.

Step 3 : Pay the seat acceptance fee

The candidate must pay the seat acceptance fee for continuing with the JoSAA process till the end to avail the seat in IITs or NIT + system. Admission fee varies across the institutes/category of candidates. At the time of seat acceptance, candidates have to remit only the seat acceptance fee in the same round in which the seat is allotted.

Non-payment of fee will be treated as a rejection of the offered/allocated seat and the candidate will no longer be able to participate in the seat allocation process.

Seat Acceptance Fee

Rs. 15,000 for candidates with the category tag SC, ST, GEN-PwD, GEN-EWS-Pwd, OBC-NCL-PwD, SC-PwD or ST-PwD and Rs. 35,000 for all other candidates (the fee includes Rs. 2000 JoSAA processing charges). The seat acceptance fee excluding JoSAA processing charges will be adjusted against the admission fee. Candidates should remit seat acceptance fee using net banking/debit card/credit card or State Bank of India e-challan.

Step 4 : Respond to queries (if any)

At the time of document verification, if the document verification officer raises any query then the candidate must respond in online mode (through candidate portal) within the stipulated time. Failure to respond to the query(ies) may lead to cancellation of the allotted seat and the candidate may be out of JoSAA 2021 process. It is responsibility of the candidate to check the online portal at regular intervals of time and respond to queries (if any) without fail within the stipulated time.

The candidates must complete all the above steps before their details are forwarded to the

reporting authorities for verification and final confirmation of the seat.

Failure to complete all the steps of “Online Reporting” for seat acceptance will be considered as if the candidate has rejected the offer and forfeited the eligibility for admissions to any of the institutes through JoSAA 2021.”

From a perusal of the aforesaid Rule XVIII (40), it is evident that the allocated seat will be either confirmed/cancelled on completion of document verification. And, as per Step 2 thereof, the candidate must upload the required documents (as per Annexure 3) on the JoSAA portal.

Rule XVIII (41) of the Business Rules reads as under:-

“41. Seat will be confirmed by IITs/NIT + system institutes after verification of the uploaded documents and ensuring that the candidate meets all the eligibility criteria. If all the documents are found to be valid and the eligibility criteria are met by the candidate, the allocated seat will be provisionally confirmed and the candidate will be notified on the online JoSAA 2021 portal.

If all the documents are found to be valid and the eligibility criteria are met by the candidate, a “provisional offer and seat acceptance letter” will be available for download on the online portal. Provisional acceptance is a conditional acceptance which means that the candidate has accepted the offer but certificate needs to be verified on joining the institute and payment of institute fee.

In case of any discrepancies in the uploaded documents, query(ies) may be raised and will be notified to the candidate on the online portal. Candidate must respond to the query(ies) (by uploading new/modified document(s), if required) within the last date/time specified for the given round [see Annexure 3 for the timeline]. The candidates are advised to check the online portal regularly for the queries, if any. Additional query(ies) may be raised in case discrepancy(ies) still persist(s). In such cases, the candidate must respond to the additional query(ies) within the last date/time specified for the given round [see Annexure 3 for the timeline]. The allocated seat will be

confirmed or cancelled based on the validity of the document(s) uploaded in response to the query(ies) and candidate meeting the eligibility criteria.

Failure to reply to the query(ies) raised would lead to seat cancellation and the candidate will be out of JoSAA 2021 process forfeiting the eligibility for admissions to any of the institutes through JoSAA 2021.”

A perusal of Rule XVIII (41) of the Business Rules clearly indicates that failure to reply to the query(ies) raised would lead to seat cancellation and the candidate will be out of JoSAA 2021 process forfeiting the eligibility for admissions to any of the institutes through JoSAA 2021.

Rule XXVI (66) of the Business Rules is to the following effect:-

XXVI Document Validity/Verification

“66. For candidates whose category document is found to be invalid or who do not produce a (valid) category document [as per the format given on JoSAA web portal], the category tag will be changed (for the purpose of seat allocation) as shown below:

<i>Category Tag</i>		
<i>Assigned</i>	<i>Changed to</i>	<i>Reason</i>
<i>GEN-PwD*</i>	<i>GEN</i>	<i>Invalid Pwd certificate</i>
<i>GEN-EWS</i>	<i>GEN</i>	<i>Invalid EWS certificate</i>
<i>GEN-EWS-PwD</i>	<i>GEN-PwD</i>	<i>Invalid EWS certificate</i>
<i>GEN-EWS-PwD*</i>	<i>GEN-EWS</i>	<i>Invalid Pwd certificate but valid GEN-EWS</i>
<i>GEN-EWS-PwD*</i>	<i>GEN</i>	<i>Both PwD certificate and GEN-EWS certificate</i>
<i>OBC-NCL-PwD*</i>	<i>OBC-NCL</i>	<i>Invalid PwD certificate but valid OBC-NCL</i>
<i>OBC-NCL-PwD</i>	<i>GEN-PwD</i>	<i>Valid PwD certificate but invalid OBC-NCL</i>
<i>OBC-NCL-PwD*</i>	<i>GEN</i>	<i>Both PwD and OBC-NCL certificates are invalid</i>
<i>SC-PwD*</i>	<i>SC</i>	<i>Invalid PwD certificate but valid SC certificate</i>
<i>SC-PwD</i>	<i>GEN-PwD</i>	<i>Valid PwD certificate but invalid SC certificate</i>
<i>SC-PwD*</i>	<i>GEN</i>	<i>Both PwD and SC certificates are invalid</i>
<i>ST-PwD*</i>	<i>ST</i>	<i>Invalid PwD certificate but valid ST certificate</i>
<i>ST-PwD</i>	<i>GEN-Pwd</i>	<i>Valid PwD certificate but invalid ST certificate</i>
<i>ST-PwD*</i>	<i>GEN</i>	<i>Both PwD and ST certificates are invalid</i>

<i>OBC-NCL</i>	<i>GEN</i>	<i>Invalid OBC-NCL certificate</i>
<i>SC</i>	<i>GEN</i>	<i>Invalid SC certificate</i>
<i>ST</i>	<i>GEN</i>	<i>Invalid ST certificate</i>

From a perusal of the aforesaid Rules, it is evident that the candidate seeking admission in the OBC-NCL category is required to submit an OBC-NCL certificate issued by the competent authority on or after 01.04.2021. It is further evident that the details in respect of the category etc. given by the candidates in the registration form cannot be changed in view of Rule XIV (30) of the Business Rules. It is further evident that the queries regarding online verification of documents were required to be answered by the candidates latest by 31.10.2021 failing which the provisional allocation of seat would be cancelled. It is further evident that the candidate whose OBC-NCL certificate is found to be incorrect would be considered as a general category candidate by changing his/her category and his/her admission shall be considered in that category.

In the light of the aforesaid provisions, when we examine the facts of the present case, it emerges that the petitioner, in the instant case, inspite of and in contravention of clause 15 of the Information Brochure got herself registered for admission against the provisionally allotted seat on the strength of the OBC-NCL certificate dated 14.06.2016. It is also evident that though the claim for category etc. could not have been changed in view of Rule XIV (30) of the Business Rules, however, during the online verification of documents, the query as regards the faulty OBC-NCL certificate was raised by the respondent-authorities, upon which the petitioner applied for issuance of a fresh certificate on 27.10.2021, and which in terms of the affidavit dated 12.05.2022 submitted by the Tehsildar, Rupnagar was prepared on 28.10.2021, but she failed to collect the same till 01.11.2021. Resultantly, the last date for answering the queries was over. It is also evident that the petitioner made a request to the respondent-authorities vide her e-mail dated 31.10.2021 for the extension of time to deposit the OBC-NCL certificate. The reason mentioned in her e-mail was the death of her grand-mother. She further stated that she had given an application for the renewal of her certificate and would get that on 01.11.2021 by 11.00 A.M. When specifically asked if there was any provision

authorities permitting change of documents uploaded by the petitioner at the time of registration or filing of fresh documents and for giving prior notice asking a candidate for rectification, learned counsels submit that there is no such provision in the rules or any requirement to do so.

On the contrary, as is evident from the documents and the rules on record, the petitioner was required to file the OBC-NCL certificate issued on or after 01.04.2021 as per clause 15 of the Information Brochure, which was published by the authorities initially on 25.06.2021 and re-published on 16.09.2021. Therefore, she knew about the mandate and requirement of filing the OBC-NCL certificate issued on or after 01.04.2021 inspite of which she applied for and undertook online registration on the strength of the certificate issued on 14.06.2016 and did not take any steps till 27.10.2021 for obtaining a fresh OBC-NCL certificate from the concerned authorities and in fact did so only when a query was made by the respondent-authorities. It is also evident that the reason given by the petitioner for the delay in obtaining the certificate in her e-mail dated 31.10.2021 was that her grand-mother had died and she was also careless in taking any steps to retrieve and obtain the fresh OBC-NCL certificate that was prepared and uploaded by the concerned authorities on 28.10.2021 and did so only on 01.11.2021 i.e. after the cut-off date.

The emphasis for obtaining a fresh OBC-NCL certificate cannot be downplayed. The requirement of obtaining a certificate is to ensure that a person does not belong to a creamy layer. The authorities have to periodically verify this as the status of a candidate regarding his/her inclusion or exclusion from the creamy layer is subject to change. And it is in such circumstances that the authorities have prescribed and required the candidate to produce an OBC-NCL certificate issued by the authorities as recent as on or after 01.04.2021, which is in sync with the guidelines issued by the Government of India for obtaining an OBC-NCL certificate.

It is also evident from a perusal of the impugned order dated 30.01.2022 that the respondent-authorities are required to apply the rules uniformly to all the candidates. The respondent-authorities have rightly stated in the impugned order rejecting the petitioner's representation dated 20.01.2022 that there were 26 other OBC-NCL candidates whose certificates were not found to be in order and had been denied admission and in such circumstances,

no exception or concession could be made for her in ignorance of the claim of the other candidates.

We are also of the considered opinion that rules and instructions governing admission have to be strictly and uniformly applied to all candidates and they cannot be diluted by the Courts or permitted to be treated as mere technicalities. The Courts or the authorities must ensure that admissions in violation of the rules or instructions governing admission are not ordered or made on the grounds of equity or sympathy. We are constrained to say so as all candidates have to be provided equal treatment and a level playing field by uniformly and strictly implementing the stipulations prescribed by the rules or instructions so as to maintain the sanctity and purity of the admission process and, therefore, those violating the rules or instructions cannot be permitted to obtain admissions on the grounds of misplaced sympathy or equity thereby rendering the rules otiose or meaningless. In taking this view, this Court relies upon the decisions of the Supreme Court in *N.M. Nageshwaramma Vs State of Andhra Pradesh and another* 1986 (Supp) SCC 166; *A.P. Christians Medical Educational Society Vs Government of Andhra Pradesh and another* (1986) 2 SCC 667 and *Maharshi Dayanand University Vs Surjeet Kaur* (2010) 11 SCC 159.

We have also carefully considered the judgement of the Supreme Court in *Dolly Chhanda* (supra) as well as that of the Delhi High Court in *Union Public Service Commission Vs Gyan Prakash Srivastava and Shidore Shital Mhatardeo Vs National Board of Examination and another* (supra) relied upon by learned counsel for the petitioner.

From the facts of the aforesaid judgements relied upon by learned counsel for the petitioner as well as that of the present case, it is evident that the requirements contained in the above quoted Business Rules notified by the JoSAA and the Information Brochure governing admission to B.Tech course in the IITs was not present in those cases. It is also evident that, unlike the cases relied upon by the petitioner, the present case is not the one where the petitioner has been unjustifiably denied admission on the ground of violation of any rule by the respondent-authorities or on the basis of any unreasonable technicality which is not contained therein. It is clearly evident from the fact

certificate issued on or after 01.04.2021 at the time of online registration produced the old certificate which was issued way-back on 14.06.2016 and, therefore, the petitioner was and is at fault and not the authorities.

In such circumstances, we do not find any merit in the writ petition. Nor do we find any illegality, perversity or arbitrariness in the impugned order dated 30.01.2022 rejecting the petitioner’s representation. We also find substance in the submission of learned counsel for the respondents that admissions in the present case are long over and have concluded way-back on 20.11.2021 and that the academic session 2021-2022 is on the verge of completion and, therefore, in such circumstances, no claim for admission can be considered, at this belated stage.

In view of the aforesaid facts and circumstances, the writ petition being meritless stands dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

17.05.2022
Amodh Sharma

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No