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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 03.08.2022

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LPA 460/2022

VAGEESH KUMAR SHIVA (MINOR) THROUGH HIS
GUARDIAN

..... Appellant

Through: Dr. K.S. Chauhan, Sr. Adv with Mr.
Ajit Kumar Ekka, Mr. Abhishek
Chauhan and Mr. R.S.M Kalky,
Advs.

versus

DELHI TECHNOLOGICAL UNIVERSITY & ORS

..... Respondent

Through: Mr. Avnish Ahlawat, SC, DTU with
Mr. Nitesh Kumar Singh, Ms. Tania
Ahlawat, ms. Palak Rohmetra, Ms.
Laavanya Kaushik and Ms. Aliza
Alam, Adv.
Mr. Udit Malik, Adv. for R-6.

CORAM:**HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD****SATISH CHANDRA SHARMA, C.J. (ORAL)**

1. The appellant before this Court has filed the present appeal being aggrieved by the order dated 13.07.2022, passed by the learned Single Judge in W.P.(C.) No. 10366/2022, titled *Vageesh Kumar Shiva Minor v. Delhi Technological University & Ors.*

2. The facts of the case reveal that the petitioner who wanted admission



in Bachelor of Designs Course (B.Des) (2022-23) in Delhi Technology University (DTU), came up before this Court by filing a writ petition, praying for the following reliefs:

“(a) Pass an appropriate order, direction or writ in the nature of certiorari or any other appropriate writ quashing the list of selected candidates for the first round of counselling, issued by the Department of Design DTU dated 04.07.2022 in the interest of justice and in the facts and circumstances of the present case and

(b) Pass an appropriate order, direction or writ in the nature of mandamus or any other appropriate writ directing the official respondents to include the name of the petitioner in the list of selected candidates for the first round of counselling for B.Des Course, at the Respondent University, in the interest of justice and/or

(c) Pass an appropriate order, direction or writ in the nature of mandamus or any other appropriate writ, holding that the list of selected candidates for the first round of counselling, issued by the Department of Design DTU on 04.07.2022 is arbitrary and illegal, in the facts and circumstances of the present case.

(d) Pass an appropriate order, direction or writ in the nature of mandamus or any other appropriate writ, reinstating the list of selected candidates for the first round of counselling, issued by the Department of Design DTU on 29.06.2022, in the facts and circumstances of the present case.

(e) Pass any such order and direction which this Hon’ble Court deems fit in the present set of facts and circumstances;”

3. The learned Single Judge has vide order dated 13.07.2022 passed in W.P.(C) No. 10366/2022 has dismissed the writ petition.

4. The undisputed facts of the case reveal that the admission to B.Des



Programme in the IIT Bombay, IIT Delhi, IIT Guwahati, IIT Hyderabad and IITDM Jabalpur are made on the basis of a Common Entrance Test examination known as Undergraduate Common Entrance Examination for Design, 2022 (UCEED-2022).

5. The marks obtained by the candidates in the UCEED-2022 are also taken into account by a large number of institutions in the country and the DTU grants admissions to the students based upon their performance in UCEED. The facts of the case further reveal that the appellant appeared in UCEED-2022 as General Category Candidate and obtained 80.32 marks. The petitioner, as he could not get admission in B.Des Programme in IIT'S, pursuant to a notification issued by DTU applied for B.Des Programme based upon his performance in the UCEED examination.

6. The application of the petitioner was considered by the respondents and he was invited to first round of counseling to be held on 08.07.2022 vide notice dated 29.06.2022. His name was placed at serial no. 6 under 'SC category', and his score was mentioned as 80.32. The DTU on 04.07.2022 informed the petitioner that he has wrongly been included in the list of candidates for the scheduled counseling on 08.07.2022 and, in those circumstances, the petitioner has rushed to this Court by filing a writ petition.

7. The petitioner came up before the learned Single Judge stating that the admission brochure for B.Des 2022-23 provides for admission based upon UCEED-2022 score and he is a member of Scheduled Caste category, for which 53.69 is the cut-off score and he has scored 80.32 marks which is



much above the cut-off score and, therefore, he could not have been denied his legitimate right to participate in the counseling. Various other grounds were raised before the learned Single Judge, however, the learned Single Judge has dismissed the writ petition. The learned Single Judge, in paragraphs 8 to 13 has held as under:

“8. The Court has given anxious consideration the contentions advanced by counsel for the parties. The undisputed facts, which have emerged, are as follows: Petitioner appeared for UCEED-2022 under ‘Open category’, the qualifying marks whereof, are 85.05. Petitioner’s score is 80.32, which is less than the qualifying marks under the ‘Open category’. This is the reason that Petitioner’s UCEED scorecard annexed with the petition mentions that the Petitioner has “not qualified”. The same is evident from a bare perusal of the scorecard which reads as under:







SCORE CARD



UCEED2022

Undergraduate Common Entrance Exam for Design



IIT Bombay
Organizing Institute

NAME	VAGEESH KUMAR SHIVA		
ROLL NUMBER	1028443		
REGISTRATION NUMBER	U2208819		

Number of Candidates Appeared	10610	Number of Candidates Qualified	3627
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	OPEN	OBC-NCL / EWS	SC / ST	PeD
Qualifying Marks	85.05	76.54	42.52	42.52

	TOTAL MARKS	MARKS OBTAINED
PART - A	240	20.32
NAT	72	25.00
MSQ	72	25.00
MCQ	96	27.32
PART - B	60	N/A
TOTAL	300	N/A

CATEGORY	RANK
NOT QUALIFIED	

DATE OF ISSUE: 14 March 2022

VALID UPTO: 13 March 2023



CHAIRMAN
UCEED 2022

NOTE

1. Marks obtained in Part-A were used for shortlisting Part-B papers for evaluation (refer UCEED 2022 Information Brochure).
2. Marks obtained in Part-A are used for qualifying the candidates.
3. Marks are calculated based on total marks. Total marks = Marks in Part-A + Marks in Part-B.
4. This Score card is valid only if verified against the original result received from the UCEED-OECD Office, IIT Bombay.
5. For categories other than General, the valid category certificate should be produced in original along with Score Card at the time of admission.
6. For PeD category, * indicates that the candidate has availed compensatory time.

OIN: N832764

9. The scorecard also mentions certain conditions under the heading note, which reads as under:

“NOTE

1. Marks obtained in Part-A were used for shortlisting Part-B papers for evaluation (refer UCEED 2022 Information Brochure).
2. Marks obtained in Part-A are used for qualifying the candidates.
3. Marks are calculated based on total marks. Total marks = Marks in Part-A + Marks in Part-B.



4. *This Score card is valid only if verified against the original result received from the UCEED-CEED Office, IIT Bombay.*

5. *For categories other than General, the valid category certificate should be produced in original along with Score Card at the time of admission.*

6. *For PwD category, *indicates that the candidate has availed compensatory time.”*

10. *The afore-noted note explains the process of shortlisting candidates for the purpose of allocating ranks. At this juncture, it must be noted that the examination scheme for UCEED-2022, constitutes two parts – Part-A for 2 hours and 30 minutes and Part-B for 30 minutes. UCEED 2022 Information Brochure gives further clarity regarding the Part-B exam, the relevant portion whereof, reads as follows:*

“Part-B (Total marks: 60; Maximum time: 30 minutes)

- Part-B consists of ONE question that is aimed at testing the candidate’s drawing skills, which will require subjective evaluation. The question in PartB will be displayed on the computer screen and the answer has to be written / drawn in the answer book provided by the invigilator only. In case of PwD candidates availing the use of scribe, assistance in attempting Part-B is not permitted, as the question is aimed to evaluate the candidate’s drawing skill.*

- Part-B answer booklets will be collected at the end of the examination.*

- Part-B question is mandatory.*



- *The entire paper (both Part-A and Part-B) must be finished within the time stipulated for each part.”*

Thus, it becomes evident that under the scheme of examination, marks obtained in Part-A are used for shortlisting Part-B papers for evaluation, and Part-A marks are only used as a qualifying round. In case a candidate qualifies Part-A, only then is their Part-B is evaluated. Thereafter, marks obtained in Part-B are added with marks in Part-A, following which, rank is allocated on the basis of total marks. In the instant case, as noted above, since Petitioner did not obtain qualifying marks in Part-A, his Part-B paper was not evaluated. It also become evident that evaluation for Part-B, is mandatory. In the instant case, since Petitioner’s Part-B was not evaluated, owing to him not qualifying Part-A, Petitioner has been declared as ‘unqualified’.

11. The second contention pertains to the condition in DTU’s Admission Brochure, which as interpreted by Petitioner, means that admission can be granted to candidates, notwithstanding the fact that Petitioner has not qualified UCEED. Thus, in the opinion of the Court, is not permissible. Although, DTU’s Admission Brochure does not categorically use the expression “rank”; nonetheless, the same is immaterial as Petitioner has admittedly not qualified in terms of his UCEED score. Admissions to DTU are done on the basis of UCEED score, which rather, means ‘rank’ – as it becomes clear in light of the scheme of examination. The score has to be the ‘overall score’ in both Part-A and Part-B, and not just the score in Part-A – which Petitioner is strongly relying upon. The UCEED 2022 Information Brochure categorically stipulates Part-B to be mandatory, meaning thereby, that the same has to be given due weightage, and thus, if a candidate’s Part-B has not been evaluated, he cannot be said to have qualified UCEED. Pertinently, Petitioner’s score of 80.32 is falling short of the minimum qualifying marks under ‘Open category’, and this score is being wrongly compared with scores of other



candidates who appeared under 'SC category'. Petitioner did not appear in the exam under 'SC category', and had applied under 'Open category'. His score of 80.32 – may be above than the minimum qualifying marks under the 'SC category'; however, that can be of no consequence as Petitioner appeared for the said exam under the 'Open category'

12. For the forgoing reasons, the Court is unable to come to the rescue of the Petitioner.

13. Dismissed, along with the pending application.”

8. This Court has carefully gone through the documents on record and heard learned counsel for the parties at length. The undisputed facts of the case make it very clear that the petitioner appeared in UCEED-2022 Examination and has scored 80.32 marks, the documents on record make it very clear that he has appeared in the examination as an open category candidate and, for the first time, while submitting an application to DTU, he has now mentioned that he belongs to Scheduled Caste category. The petitioner could not qualify as a General Category candidate as the qualifying marks in respect of General Category candidates are 85.05 and the petitioner scored 80.32 marks which is certainly less than the qualifying marks under the Open Category. The scorecard of the petitioner is on record and it has rightly been mentioned in the scorecard that he has not qualified the examination by virtue of obtaining less qualifying marks than the cut-off prescribed in the matter. The petitioner has later on, based upon the same mark sheet/ scorecard issued in respect of UCEED-2022 Examination has applied for B.Des Course in the DTU. He has certainly not at all obtained marks above the cut-off marks fixed for the General Category.



9. It is true that for Scheduled Caste category, the cut-off marks is 53.69 but the fact remains is that he has appeared in the qualifying examination with open eyes under the open category and he cannot compare his score with other candidates who have appeared under the SC category in the UCEED Examination.

10. The Petitioner was unsuccessful in the UCEED examination and now wants admission under the Scheduled Caste category. In the considered opinion of this Court, the learned Single Judge was justified in dismissing the writ petition as the petitioner, at no point of time, before the examination or after the examination i.e. UCEED-2022 has declared his caste to be a reserved caste and now wants relaxation by stating that he is a member of reserved category and, therefore, the learned Single Judge was justified in dismissing the writ petition. This Court also does not find any merit in the appeal and the LPA is accordingly dismissed.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J.

AUGUST 03, 2022

N.Khanna