



\$~43

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 13th SEPTEMBER, 2022

IN THE MATTER OF:

+ **LPA 527/2022**

SHYAM SUNDER

..... Appellant

Through: Mr. Manan Bansal, Mr. Navjot Singh,
Advocates

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr. Raj Kumar Yadav, Ms. Sanskriti
Mishra, Ms. Rishika Chahar,
Advocates for UoI
Mr. Devvrat Yadav, G.P. for UoI
Mr. Apoorv Kurup, Ms. Nidhi Mittal,
Ms. Aparna Arun, Mr. Ojaswa
Pathak, Advocates

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

SUBRAMONIUM PRASAD, J

CM APPL. 40328/2022 (Exemption)

Allowed, subject to all just exceptions.

LPA 527/2022 & CM APPL. 40327/2022

1. The Appellant seeks to challenge the Order dated 31.08.2022 passed by the learned Single Judge in W.P.(C) 12565/2022. The learned Single



Judge by the order impugned herein has dismissed the writ petition filed by the Appellant herein.

2. The facts of the case reveal that the National Testing Agency, i.e. Respondent No.2 herein, issued a notification in the month of February/March 2022, notifying the application for the JEE (Main), 2022 Examination for entrance to various engineering colleges in the country.

3. It is stated that Appellant's son filled up the JEE (Main), 2022 Examination form and while filling up the form, he applied under the General category as there was no option for Backward Class (BC) category in the application form. It is stated that the Appellant belongs to the Nai Community, which is a Backward Class in Haryana and would come under the Other Backward Classes (OBC) category in other States.

4. The form was filled up on 14.03.2022. It is stated that the *bona fide* mistake occurred while filling up the form by Appellant's son as he was under the impression that there was no option for the Backward Class category candidates and, therefore, he could not apply for any of the reserved category seats. Consequently, he applied under the General category.

5. It is stated that since a number of representations were received by Respondent No.2, as a onetime measure, Respondent No.2 issued a public notice dated 06.04.2022, permitting the applicants to correct the particulars. The Appellant's son unfortunately did not avail of the opportunity. Admit card was issued and Appellant's son was to appear in the examination on 25.06.2022. After the results were declared, it is stated that Appellant's son realized his mistake and sent a representation, however, his representation was not considered.



6. The Appellant, therefore, approached this Court by filing a writ petition bearing W.P.(C) 12565/2022 and prayed for issuance of a writ of mandamus, directing the Respondents to allow the Appellant to get the benefit of OBC Category and his name to be shown in the OBC Category List.

7. The learned Single Judge by the order impugned herein dismissed the writ petition holding that an opportunity had been granted by Respondent No.2 to the applicants to correct their particulars and this opportunity had not been availed by the Appellant's son.

8. The learned Single Judge was of the opinion that the Appellant's son had been negligent, and, therefore, is not entitled to any concession from the High Court. The learned Single Judge also held that a number of candidates take part in the examination and, after the ranks have been declared, allowing the writ petition would entail redrawing the ranking, which will have the effect of upsetting the entire selection process. Aggrieved by the said order, the Appellant has filed the instant appeal challenging the writ petition.

9. Heard learned Counsel for the parties and perused the material on record.

10. Concededly, the Appellant's son has filled up the application form and had described himself to be a candidate belonging to the General category. Further, the material on record discloses that an opportunity had been given to all the candidates to rectify their errors, and for this purpose, a notice dated 06.04.2022 had been issued by Respondent No.2, whereby the candidates were permitted to change their category and re-upload the requisite category certificate. Unfortunately, the Appellant had not availed



of that opportunity.

11. After noticing that he had scored 91.11 percentile, Appellant's son woke up from his slumber and tried to move to the authorities for change of the category.

12. Material on record discloses that initially there was no provision for any correction in the application form and all the candidates were requested to fill the application form with care. It was categorically stated in the application form that no correction will be permitted once the application form is submitted. Nevertheless, due to numerous representations received from candidates, as a onetime measure, a public notice dated 06.04.2022 was issued by Respondent No.2.

13. A perusal of the notice dated 06.04.2022 specifies that the candidates were allowed to make corrections in their application form by 08.04.2022 and the notice stated that after 08.04.2022, no correction in particulars, whatsoever, would be entertained by Respondent No.2 under any circumstances.

14. The opportunity granted by Respondent No.2 was not availed by Appellant's son. A candidate cannot claim any right to correct the particulars filled in the application form. Though the courts have permitted candidates to correct certain *bona fide*/inadvertent mistakes, but it has been done only in extraordinary circumstances.

15. In this case, the Appellant's son has been negligent in not filling up the form correctly at the first instance and further not availing the opportunity which was extended by Respondent No.2, giving one more opportunity to correct the application form.

16. As has been rightly observed by the learned Single Judge, Respondent



No.2 prepares the result on a percentile basis, which means that these scores are normalized across multi session papers and the ranks are based on relative performance of all persons who appear for the examination in one session. The score is not the same as percentage of marks obtained and also is not an aggregate or average of individual subjects.

17. As rightly pointed out, the JEE examination is taken by lakhs of students and since the results have been declared on the basis of percentile scores, the Appellant's son cannot be now permitted to change his category as it will result in redrawing of the entire results which will have a ripple effect of upsetting the entire selection process and allocation of seats to other OBC candidates. The said examination process cannot be tinkered with lightly. Resultantly, this Court does not find any merit in the appeal.

18. The LPA is dismissed. Pending applications, if any, stand disposed of.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

SEPTEMBER 13, 2022

hsk