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

Date of Decision: 10th October, 2022

+ **W.P.(C) 14176/2022 & CM APPL. 43338/2022**

SNEHA

..... Petitioner

Through: **Mr. Gaurav Dhingra, Advocate.**

versus

UNION OF INDIA AND ORS

..... Respondents

Through: **Mr. Arjun Mitra, Advocate for R-2.
Mr. Manish Kumar, SPC with
Mr. Vinod Tiwari, GP for R-1.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. Petitioner cleared the Joint Entrance Examinations and secured All-India rank of 21912, and rank 5647 in OBC category, on basis whereof she sought admission in Indian Institute of Technology, Indore in mechanical engineering programme. Upon being provisionally allotted a seat in said institute, she was required to submit relevant documents for verification and pay a 'seat allocation fee'. Her grievance arises on account of her inability to pay the seat allocation fee owing to a technical glitch on the web portal of Respondent No. 2 – Joint Seat Allocation Authority [*“JoSAA”*] on 26th September, 2022 (*i.e.*, the last date of payment). In such circumstances, fearing loss of seat, she has invoked the jurisdiction of this Court, seeking



following prayer:

“(a) Respondent No. 2 to accept the Seat Acceptance Fee and admit the petitioner in the allotted seat for B. Tech Course in IIT-Indore for the academic year 2022”

2. Pursuant to order dated 06th October, 2022, JoSAA has e-filed its counter affidavit *vide* diary No. 1681476/2022, copy whereof has been sent to the Court Master and is taken on record.

3. Mr. Gaurav Dhingra, counsel for Petitioner, states that Petitioner attempted to pay seat acceptance fee through net-banking mode but the transactions did not go through, due to a technical glitch on JoSAA's portal. Additionally, he places reliance on 'Schedule of Events of JoSAA 2022 (Online Reporting)' [annexed as Annexure P-1] wherein time for payment of said fee was revised from 17:00 hours to 20:00 hours on 26th September, 2022. This extension, he submits, can be assumed to be necessitated by technical glitches faced by candidates in payment of fee/ online reporting in absence of any other plausible explanation by Respondents. A concession therefore, be made for Petitioner and her application should be accepted considering the technical difficulty, which is not attributable to her. Petitioner is a meritorious candidate belonging to economically weaker segment of the society, who is being prejudiced for no fault of hers.

4. *Per contra*, Mr. Arjun Mitra, counsel for JoSAA, controverts Petitioner's case and points out that no proof of alleged attempts has been annexed with the petition. Without prejudice thereto, he states that assuming Petitioner did face issues as alleged, the admission scheme being non-



discretionary, no exception can be made for her. That apart, even if Petitioner does cross this hurdle, her application would still be rejected in light of fatal defects in her application viz. the caste certificate. Mr. Mitra explains that Petitioner's caste does not fall in the notified central list and OBC certificate annexed to her application does not comply with the norms set by JoSAA. Since Petitioner appeared as an OBC candidate in Joint Entrance (Main) Examination [*hereinafter*, "**JEE (Mains)**"] (basis which eligibility for seat in NIT+ institute is determined), as well as the Joint Entrance (Advance) Examination 2022 [*hereinafter*, "**JEE (Advance)**"] (which determines eligibility for admission in IITs), her candidature is liable to be rejected as she is not an eligible OBC candidate.

5. The Court has heard counsel for the parties. As pointed out by JoSAA, sufficient and adequate notice was given to all candidates to submit requisite documents and pay the fee timely. As per the notified schedule of events, period for online submission of documents and fee payment commenced on 23rd September, 2022 and ended at 20:00 hours on 26th September, 2022. In response to JoSAA's queries, Respondent No. 3 – National Informatics Centre [*"NIC"*] communicated details of Petitioner's payment attempts [annexed as Annexure R-2/2 with the counter affidavit], as follows:

"Dear Sir,

Details are as follows for your queries.

a. As per the log, candidate attempted the payment 4 times . Response for all the attempts are as follows.

S.No	Customer Id	Response
1.	2203200651432220400 (BillDesk)	Response Date & Time: 26-09-2022 17:10:36 Transaction Status: Failure (0399)



2.	2203200651432220401 (ICICI)	txn_status=0396 txn_msg=AWAITED txn_err_msg=PENDING tpsl_txn_time=26-09-2022 17:11:23
3.	2203200651432220402 (BillDesk)	Response Date & Time: 26-09-2022 17:23:45 Transaction Status: Pending/Abandoned (0002)
4.	2203200651432220403 (BillDesk)	Response Date & Time : 26-09-2022 17:29:21 Transaction Status: Pending/Abandoned (0002)

we executed the double verification for multiple times, but did not get the successful transactions. A complete log is enclosed herewith.

b. There are 543 candidates, who made payments during 5.00 pm to 8:00 pm during on September 26, 2022.

c. System are working as designed. There was no technical failure/glitch reported.

Regards”

6. It appears that Petitioner made four attempts of payment on 26th September, 2022 between 17:10 PM to 17:29 PM. There is no explanation as to why she waited till the last date/time to complete the formalities. Further, it has been pointed out that on 26th September, 2022, a total of 7702 successful transactions took place on JoSAA's portal, 543 of which, took place during the extended time period (between 17:00 hours and 20:00 hours). If there were indeed a server error attributable to JoSAA, it would have affected all similarly placed candidates, and not just Petitioner.

7. No proof of text messages generally received during banking transactions such as one-time password [“OTP”] and the like, has also been annexed. On specific query of the Court, Mr. Dhingra is unable to confirm whether Petitioner received any OTP for processing the transaction or a failure message while attempting alleged net banking transactions. In these circumstances, and in absence of screenshot(s) or any other proof of any



technical failure, the allegations of Petitioner remain uncorroborated and contradicted by Respondents' electronic records, which the Court has no reason to doubt. Moreover, when alleged technical glitches occurred, Petitioner did not reach out to the designated grievance redressal cell of JoSAA, details whereof have been provided in '*Business Rules for Joint Seat Allocation for the Academic Programs offered by the IITs, NITs, IIST, IIITs and Other-GFTIs for the academic year 2022-23*' [hereinafter, "**JoSAA Rules**"]. Only one representation was made on 26th September, 2022 at 21:50 PM – much after the closing hours of web portal at 20:00 PM. It was incumbent upon Petitioner to be proactive and promptly seek assistance from designated authorities.

8. That apart, there is also considerable merit in Mr. Mitra's submissions that Petitioner's candidature has to be cancelled in light of the discrepancy in her caste certificate. As per Rule 5(v) of JoSAA Rules, seats of OBC Non-Creamy Layer [*"OBC-NCL"*] candidates are allotted to those candidates whose backward class finds mention in the central list. The said Rule reads as under:

"Category tag OBC-NCL: This is assigned to Indian nationals who belong to the Non-Creamy Layer of Other Backward Classes (OBC-NCL) and are NOT Persons with Disabilities. Candidates must produce a valid OBC-NCL certificate to be assigned this tag. The backward class MUST be in the Central List of OBCS."

9. In addition to JoSAA Rules, candidates are required to abide with stipulations mentioned in Information Brochure of JEE (Advance) whereunder, clauses 3 and 15 lay down rules pertaining to OBC-NCL certificates. Clause 15 states that OBC-NCL certificates must be issued after



1st April, 2022, whereas, Petitioner's certificate was issued prior to said date.

10. Undisputedly, Petitioner's caste – MAHATO is not mentioned in the central list and thus, her candidature was based on a wrong certificate. Therefore, even if Petitioner had made the payment on time, her candidature as OBC-NCL would have been rejected. Insofar as certificate having been issued before 1st April, 2022, the Court does not find the same to be an incorrigible error, and it could have been remedied when an objection would have been raised to that effect at the time verification of documents. However, MAHATO class not being a part of the central list is a fatal error which would deprive Petitioner of her candidature under the said category. Now that Petitioner does not qualify as an OBC candidate as per Respondents' rules, for admission purposes, she would fall in the 'general category' and as such her result/rank in JEE (Mains) would have to be redrawn. On this aspect, Mr. Mitra submits that since Petitioner had secured 71.8024074 and cut-off score for general category is 88.4121383, she cannot be said to have cleared JEE (Mains) and seek admission on the basis of her score in JEE (Advance) and thus, cannot be allotted a seat in Indian Institute of Technology, Indore.

11. Under the scheme of examination, JoSAA Rules and Information Brochure, no discretion is vested in JoSAA to make an exception, even if some seat(s) were to become available. Mr. Mitra points out that seat allotted to Petitioner has now been allotted to some other candidate, and although there may be scope for new vacancies arising in subsequent rounds of counselling, JoSAA cannot accommodate the Petitioner since she does



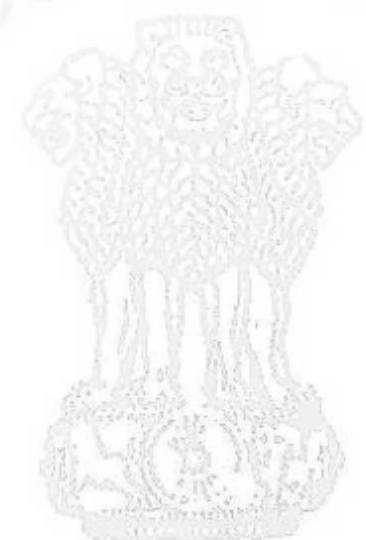
not meet the eligibility criteria. It is well-settled position of law that procedure stipulated in information brochure/prospectus is binding upon all candidates – who consent to abide by them while filling the form for such examinations. Thus, the Court finds no basis to issue a mandamus to the contrary and compel Respondents to defy their established norms/rules.¹

12. For the foregoing reasons, no merit is found in the present petition and the same is dismissed along with pending application(s).

OCTOBER 10, 2022

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SANJEEV NARULA, J



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¹ See: *Maharshi Dayanand University v. Surjeet Kaur*, (2010) 11 SCC 159.