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

*Reserved on: 14.12.2022
Pronounced on: 24.12.2022*

+ **W.P.(C) 15464/2022 & CM APPL. 48067/2022**
NISHANT

..... Petitioner

Through: Mr. Kaushal Yadav, Mr. Ritul
Tandon and Mr. Nandlal Mishra,
Advts.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr. Arjun Mitra, Adv. for R-3.
Mr. Jitendra Tripathi, SPC with Mr.
Anirudh Shukla, GP for UOI.
Mr. Sanjay Khanna, SC with Ms Pragya
Bhushan, Mr. Karandeep Singh and Mr.
Tarandeep Singh, Advts. For R-2.
Mr. Mrinmayee Saho and Mr. Sandeep
Mahapatra, Advts. for R-5/JNU.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J.

1. The petitioner, who belongs to the OBC (Non-creamy layer) category took JEE(Mains) 2022 Examination, on the basis of which he was allotted a seat at Respondent no.4/Indian Institute of Information Technology, Vadodara, Gujarat, in Round-I of seat allocation, by Respondent no.3/Central Seat Allocation Board [in short 'CSAB'].
2. On allocation of the seat, the petitioner was required to submit his documents for online verification. Accordingly, on 01.11.2022, the petitioner

submitted his following certificates online:

- (i) Educational certificates,
- (ii) OBC certificate dated 01.09.2021 indicating that the petitioner belongs to 'Khati community' which is recognized as backward class under the Central List.
- (iii) OBC-NCL certificate dated 04.08.2022.

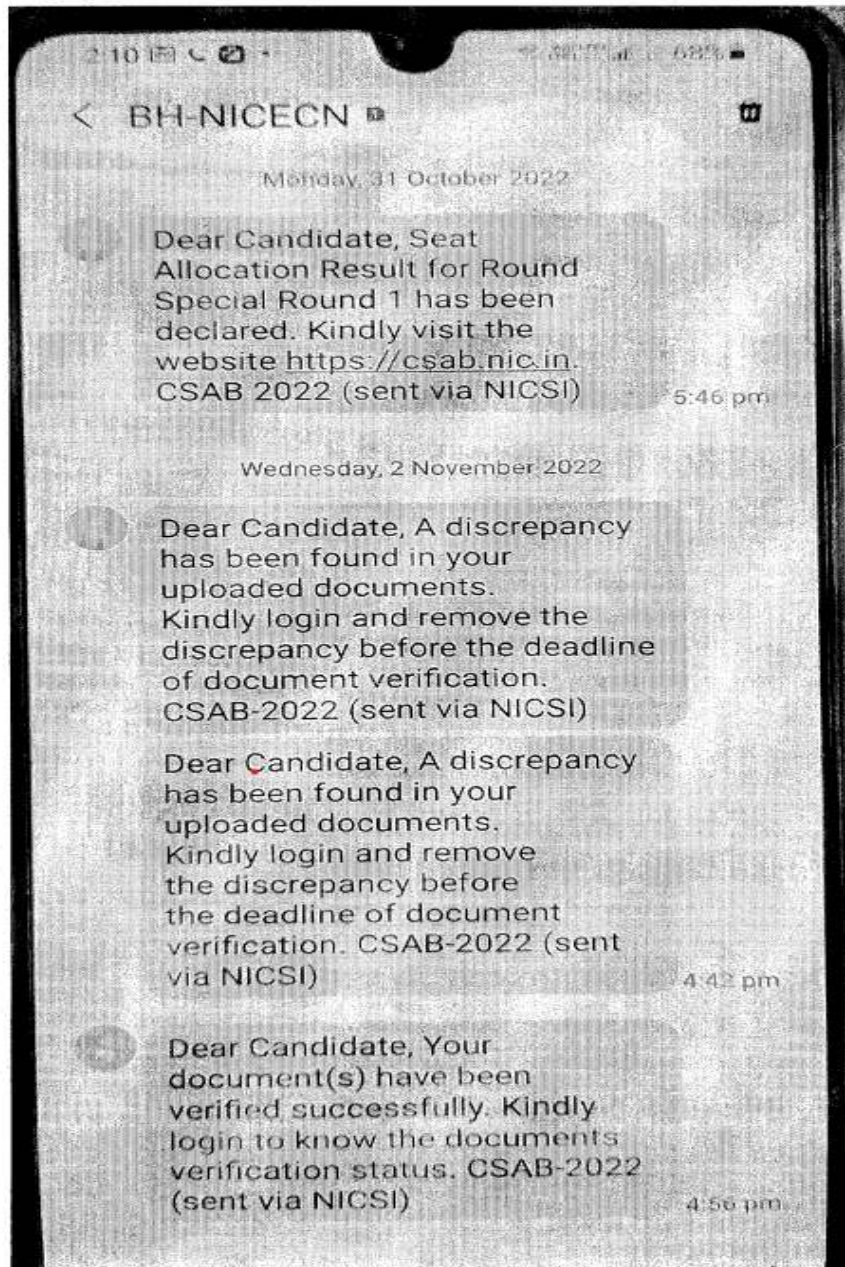
3. The OBC-NCL certificate dated 04.08.2022 [Annexure P-7(colly), page 40], issued by the Tehsildar Rewari, was not depicting the caste of the petitioner.

4. The petitioner received e-mail communication from Respondent no.3/CSAB on 02.11.2022 at about 04:42 pm stating that discrepancy has been found in his uploaded documents and the petitioner was called upon to login on the portal of R-3/CSAB and remove the discrepancy. The e-mail communication reads as under:



5. Simultaneously, the petitioner also received text message on 02.11.2022

at 04:42 pm stating that discrepancy has been found in the uploaded documents and asking the petitioner to remove the discrepancy in the documents before the deadline, which reads as under:



6. The petitioner also received a communication 02.11.2022 from the document verifying centre, which in the present case is respondent no.5/Jawahar Lal Nehru University, intimating the petitioner about the

cancellation of his seat with the remark that “Caste is not mentioned in the uploaded certificate. Category change from OBC to General”. The document verification date was mentioned as 02.11.2022, 04:45 p.m. Communication from document verifying centre reads as under:

Central Seat Allocation Board
NITs, NEST, NITs and Other-GFTIs for the Academic Year 2022-23
Seat Cancellation Letter

Verifying Centre : Indian Institute of Information Technology(IIT),
Vadodra, Gujarat

Round Number : Special Round I

Documents Verifying Center: Jawaharlal Nehru University, Delhi

Document Verification Date : 02/11/2022 16:45:00 PM

SEAT CANCELLED

Candidate Details		JEE(Main) Application Number : 228218191628		Date of Birth : 30-09-2002	
Candidate Name : ARUNAWAR		Father Name : RAJESH KUMAR			
Mother Name : ASHA DEVI		Category : General			
Person with Disability (PwD) : NO		State of Eligibility : HARYANA			

Rank Lists	
Rank List	JEE(Main) (B.E./B.Tech.)
CRL Rank	33501

Seat Allotment Details	
Institute Name	Indian Institute of Information Technology (IIT), Vadodra, Gujarat
Academic program	Information Technology (4 Years, Bachelor of Technology)
Allotted category	OBC-NCL
Seat Pool	GENDER-NEUTRAL
Allotted Quota	A
Choice No.	3
Round No.	Special Round I
Allotted based on	JEE(Main) (B.E./B.Tech.)
CRL Rank	33501

Candidate Details After Documents Verification	
Category :	GENERAL
Gender :	MALE
State of Eligibility :	HARYANA
Does the Candidate satisfy Minimum Eligibility criteria for JEE(Main) (B.E./B.Tech.) ?	YES
Passing Place of Class XII (Equivalent) :	WITHIN (NDA)
Remark :	Caste is not mentioned in the uploaded certificate. Category changed from OBC to General

Changes After Documents Verification	
Particulars	As per Form Submission
Category	OBC-NCL
After Documents Verification	General
The above mentioned allotted seat is CANCELLED due to :	
Category Changed from OBC-NCL to GENERAL	

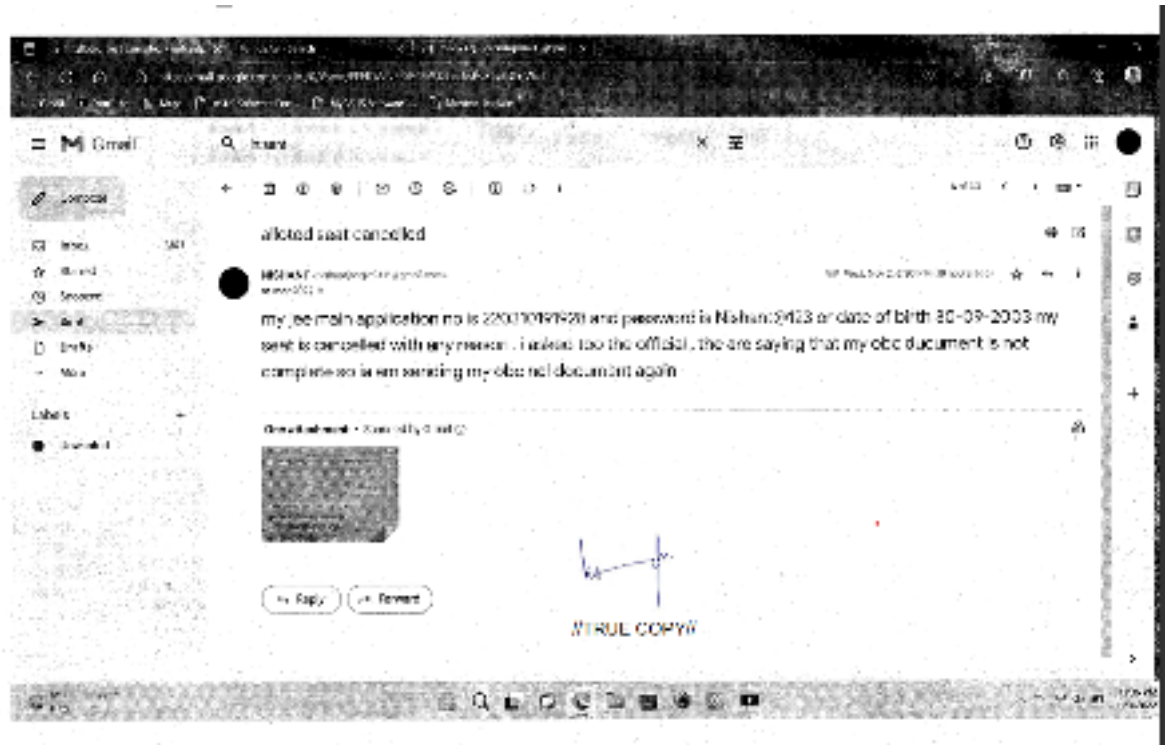
Note :

1. You are eligible for JEE(Main) (B.E./B.Tech.) seats in further rounds of Seat Allotment.

(CSAB 2022)
Date : 2/11/2022

Again, the petitioner received another communication few minutes later at 04:57 p.m from Respondent No. 3/CSAB stating that petitioner's documents have been verified successfully.

7. It is the case of the petitioner that the rectified OBC-NCL certificate was sent by him through mail to CSAB on the same day i.e. 02.11.2022 at 06:30 pm [Annexure P-8 (colly) at page 45], which reads as under:



The submission of the said certificate was followed by a video call on 03.11.2022 by the petitioner with the concerned officials of CSAB, who orally instructed to upload a fresh OBC-NCL certificate. Accordingly, the petitioner once again uploaded the rectified certificate on the portal of respondent no.3/CSAB.

8. Sequel to above, the petitioner received an intimation from CSAB that no seat has been allotted to the petitioner in Round-II.

9. Mr. Kaushal Yadav, the learned counsel for the petitioner submits that the seat allotted to the petitioner has been cancelled only for the reason that the petitioner failed to upload the documents before the deadline i.e., 02.11.2022 at 05:00 p.m. He submits that an intimation received on 02.11.2022 at 04:42 p.m mentioned the details of the portal to be visited by the petitioner to removing the discrepancy but the same did not indicate any timelines nor any timelines were mentioned in the text message. He further submits that the petitioner was also misled by the subsequent e-mail received at 04:57 pm on the same day

stating that petitioner's documents have been verified successfully. The learned counsel further contends that notwithstanding this subsequent mail, the petitioner, as an abundant caution, attempted to upload the rectified OBC-NCL certificate 05:00 pm but the same could not be done as the portal had been blocked. He submits that under these circumstances the petitioner had mailed OBC-NCL certificate on the official mail id of respondent no.3-CSAB at 6:30 pm on 02.11.2022 itself. He further submits that as the rectified OBC-NCL had been sent by the petitioner on the same day, the seat allotted to the petitioner ought not to have been cancelled by the respondents.

10. The learned counsel placed relied on the decision of Supreme Court in *Dolly Chhanda vs. Chairman, JEE and Ors*, (2005) 9 SCC 779, to contend that the discrepancy as regard his OBC-NCL certificate was removed with promptitude, therefore, the seat allotted to the petitioner could not be cancelled.

11. Mr. Arjun Mitra, the learned counsel for Respondent no.3-CSAB, on the other hand, refutes the above contentions of the petitioner and contends that the text message filed by the petitioner at page 44 of the writ petition clearly informs the petitioner that the petitioner was required to login and remove the discrepancy before the deadline of document verification, which according to the learned counsel for the petitioner was by 02.11.2022 by 05:00 p.m. He submits that the deadline was clearly mentioned in the information brochure, therefore, the petitioner cannot now contend that he was not aware of the deadline. He further submits that as the petitioner did not respond to the query raised by the reporting officer, therefore, the seat was cancelled and the category of the petitioner was changed. He submits that the rectified OBC-NCL certificate sent at 06:30 p.m on 02.11.2022 was sent only through email and was not submitted on the portal. According to the learned counsel, the

portal had been closed on 02.11.2022 at 17:00 hours.

12. In response to the query raised by the court, as to whether the seat of any other candidate belonging OBC-NCL certificate has been cancelled in an identical situation, the respondent no.3 has filed an additional affidavit stating that two candidates higher in rank than the petitioner's rank had their seats cancelled due to submission of invalid OBC-NCL certificate. He further adds that in all 116 candidates had their seats cancelled in two special rounds of seat allocation by CSAB, of which 69 were on account of invalid OBC-NCL certificates or non-submission of valid OBC-NCL certificates.

13. Mr. Mitra, relied upon the judgment of Punjab and Haryana High Court passed in CWP. No.3435/2022 dated 17.05.2022 entitled *Yoshika Verma vs. Union of India & Ors.*, to contend that the stipulations prescribed by the rules or instructions have to be strictly implemented so as to maintain the sanctity and purity of the admission process and those violating the rules or instructions cannot be permitted to obtain admission on the grounds of misplaced sympathy or equity thereby rendering the rules otiose or meaningless.

14. I have heard the learned counsel for the parties and have perused the documents on record.

15. The authenticity of the OBC-NCL document which was sent through email by the petitioner on 02.11.2022 at 06:30 p.m has not been disputed by the respondent no.3. The only objection raised is that the said document was not uploaded on the website portal of the Respondent No.3/CSAB before the deadline i.e., 02.11.2022 at 05:00 p.m.

16. This objection, in my considered opinion, is not sustainable as the email communication from CSAB which called upon the petitioner to login on the portal to remove the discrepancy in the uploaded documents was received by

the petitioner only at 04:42 pm i.e., just 18 minutes before the closure of the portal, which admittedly, closed on 02.11.2022 at 17:00 hours. Even the text message which called upon the petitioner to remove the discrepancy before the deadline was also received by the petitioner at 04:42 pm. Mere 18 minutes were highly insufficient for the petitioner to remove the discrepancy. It is just possible that when the mail or text message is received by the candidate, he may not have immediate access to the computer system or to the documents to be uploaded, for the purpose for removing the discrepancy. It is expected of any seat allocating authority to afford reasonable opportunity to the candidates to remove the discrepancy in the documents. Such opportunity has to be meaningful. It is trite that exercise which defeats fair opportunity is nothing but empty formality. Therefore, the cancellation of seat allotted to the petitioner on the ground that the petitioner failed to remove the discrepancy before the deadline is not justified.

17. I also don't find merit in the submission of the learned counsel for the respondent no.3/CSAB that since seats of two other candidates who were higher in rank than the petitioner were also cancelled due to submission of invalid OBC-NCL certificates and that there were number of other candidates whose seats were cancelled on the ground of non-submission of valid OBC-NCL certificates, therefore, no relief ought to be granted to the petitioner also. I have examined the documents placed on record by the respondent no.3 along with an additional affidavit dated 16.12.2022, filed on 20.12.2022. It is not borne out of the said record as to how much time was afforded to the said candidates, whose OBC-NCL certificates were found to be invalid and whether they removed the discrepancy in the documents, if yes, in how much time? In the absence of such details case of the petitioner cannot be compared with the

such other candidates.

18. At this stage, I may advantageously refer to the following observation from the judgment of *Dolly Chhanda* (supra) wherein it has been laid down that every infraction of rule relating to submission of proof of eligibility need not necessarily result in rejection of candidature.

“7..The general rule is that while applying for any course of study or a post, a person must possess the eligibility qualification on the last date fixed for such purpose either in the admission brochure or in application form, as the case may be, unless there is an express provision to the contrary. There can be no relaxation in this regard i.e. in the matter of holding the requisite eligibility qualification by the date fixed. This has to be established by producing the necessary certificates, degrees or marksheets. Similarly, in order to avail of the benefit of reservation or weightage, etc. necessary certificates have to be produced. These are documents in the nature of proof of holding of particular qualification or percentage of marks secured or entitlement to benefit of reservation. Depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it will not be proper to apply any rigid principle as it pertains in the domain of procedure. Every infraction of the rule relating to submission of proof need not necessarily result in rejection of candidature.

19. This being the legal position, each case of removal of discrepancy after the deadline has to be seen on its own facts. In the present case, the time period of 18 minutes made available to the petitioner cannot, by any stretch of imagination, be construed as reasonable for removal of discrepancy in the documents.

20. I have also carefully considered the judgment of Punjab and Haryana High Court In *Yoshika Verma* (supra) relied upon by the learned counsel for respondent no.3. From the facts of the aforesaid judgment, it is evident that the petitioner therein, was provisionally allotted a seat in the B.Tech on 27.10.2021. At that stage, the petitioner was not having any valid OBC-NCL

certificate and on query being raised by the respondent authorities therein, she applied for OBC-NCL on 27.10.2021. During her online document verification, she was informed that her OBC-NCL certificate was faulty and, therefore, vide her email dated 31.01.2021 she informed the respondent authorities that she was unable to upload her reservation certificate on account of the death of her grand-father and that she had given it for renewal and would get it on 01.11.2021 by 11:00 a.m. Eventually, the petitioner therein, uploaded her new OBC-NCL certificate on 01.11.2021 which was not accepted by the respondent authorities and accordingly, her candidature was rejected as the deadline was on 31.01.2021 at 5:00 pm. It is in this factual backdrop, the Punjab and Haryana High Court observed that rules and instructions governing admission are to uniformly applied to all candidates and they cannot be diluted by the courts or permitted to be treated as mere technicalities. The facts of the said case are clearly distinguishable from the facts of the present case. As noted above, in the present case the petitioner has not been afforded any meaningful opportunity to remove the discrepancy in the uploaded documents and the discrepancy in the OBC-NCL certificate of the petitioner was notified only at the fag end of the period stipulated for removal of such discrepancy. The delay, in notifying the discrepancy, in fact, was occasioned by the respondent nos.3 and 5, therefore, no fault can be attributed to the petitioner for removing the discrepancy by submitting the rectified OBC-NCL certificate 90 minutes after the deadline. In any case, the rectified certificate was submitted by e-mail by the petitioner with promptitude within a period of one and a half hours after the expiry of the deadline. Therefore, the said judgment will not enure to the benefit of respondent no.3, in the facts of the present case.

21. There is also merit in the contention of the petitioner that he was misled

by the communication dated 02.11.2022 received at 04:57 P.M, which said that his documents have been successfully verified. Anyone could be misled by such a mail. There was no reason for the R-3/CSAB to send such an email when mail of discrepancy had already been sent. This mail also possibly led to delay on the part of the petitioner to remove the discrepancy.

22. In view of the foregoing discussion, the present petition is allowed and the communication dated 02.11.2022 [Annexure P-8 (colly.), page 41] and communication dated 03.11.2022 [Annexure P-10 (colly.), page 50] are quashed. While issuing notice on 10.11.2022, this court finding *prima facie* case in favour of the petitioner, had directed the respondent no.4/IIT, Vadodra to keep one seat reserved in the OBC category of Bachelor of Technology (Information Technology) for the petitioner. Accordingly, the respondent nos. 3 and 4 are directed to re-allot the seat and grant admission to the petitioner in Bachelor of Technology (Information Technology) course for the present academic session forthwith, and for this purpose, if required, the respondent are directed to create a supernumerary seat.

23. The present petition, along with the pending application, is disposed of.

न्यायमेव जयते

VIKAS MAHAJAN, J.

DECEMBER 24, 2022/dss