

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.595 of 2022

In
Civil Writ Jurisdiction Case No.21301 of 2021

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Muskan Daughter of Rajesh Raj, Resident of Rampur Nausahan, Police
Station-Hajipur Nagar, Distirct-Vaishali.

... .. Appellant/s

Versus

1. The Indian Institute of Technology Joint Entrance examination 2021 through
Chairman J.EE (Adv) 2021.
2. The Head of Department IIT, Kharagpur.
3. The Joint seat Allocation Authority, Kharagpur.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Mrigank Mauli, Sr. Advocate
For the IIT	:	Mr. Y.V. Giri, Sr. Advocate
		Mr. Naresh Dikshit, Advocate
		Ms. Kalpana, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 09-02-2023

In the instant L.P.A., appellant has assailed the order
of the learned Single Judge dated 23.09.2022 passed in C.W.J.C.
No. 21301 of 2021.

Matter was heard at length on 15.11.2022 and the
following detailed order was passed:-

"Heard learned counsels for the
respective parties.

The appellant has assailed the order
of the learned Single Judge dated 23.09.2022
passed in C.W.J.C. No. 21301 of
2021. The grievance of the appellant Muskan is
that she is eligible candidate for the JEE



(Advance) 2021. The concerned authority has taken a decision that appellant Muskan is not eligible and it is a subject matter of litigation before this Court in C.W.J.C. No. 21301 of 2021 and it was rejected. Hence the present L.P.A. Criterion for the purpose of JEE (Advance) 2021 is Criterion No. 4 which reads as under:

“Criterion 4 – Appearance in Class XII (or equivalent) examination: A candidate should have appeared for the Class XII (or equivalent) examination for the first time in either 2020 or 2021 with the subjects Physics, Chemistry and Mathematics. Candidates who had appeared in Class XII (or equivalent) examination, for the first time in 2019 or earlier, are NOT eligible to appear in JEE (Advance) 2021.

By appearance in Class XII (or equivalent) examination, it is meant that the board concerned declared the result of a particular candidate for that year irrespective of whether or not an examination was conducted. It will be considered as an appearance even if the result of a particular candidate got withheld.”

Undisputedly, appellant Muskan passed Class XII in the year 2019 and her result was announced in the month of May, 2019. It is also submitted that appellant has appeared in the year 2020 for Class XII examination and passed with an improved result. However, perusal of the pleadings and writ application, there is no such pleadings that she had appeared for Class XII examination for the year 2020 in order to gain improved result.

Now, question for consideration is for the purpose of JEE (Advanced) 2021 examination whether the appellant is eligible or not? One of the criteria is *“A candidate should have appeared for the Class XII (or equivalent) examination for the first time in either 2020 or 2021 with the subjects Physics, Chemistry and Mathematics” with a rider that “Candidates who had appeared in Class XII (or equivalent) examination for the first time in 2019 or earlier,*



are NOT eligible to appear in JEE (Advanced) 2021."

Perusal of the records, it is crystal clear that the appellant Muskan do not fulfill the criteria that she is appearing for the first time for Class XII examination either in the year 2020 or 2021. Assuming that appellant had appeared in Class XII examination in the year 2020 or 2021 and it is not for the first time and it would be for the second time for the reasons that she had passed Class XII examination in the year 2019. Further it is to be noted that such of those candidates who have appeared for Class XII or equivalent examination for the first time in the year 2019 or earlier are not eligible to appear in JEE (Advance) 2021. The appellant Muskan had appeared for the first time in the year 2019, therefore, she has been made ineligible. In the absence of challenge to the aforesaid clause we find prima facie that appellant has not made out a case so as to interfere with the order of the learned Single Judge dated 23.09.2022.

At this stage, learned counsel for the appellant seeks time to address further in the matter. Re-list this matter on 23.11.2022. It is made clear that no further time would be granted on that date.

Copy of the L.P.A. shall be made available to learned counsel for the respondent. Further, learned counsel for the appellant is hereby directed to furnish copy of the writ petition."

Today, Mr. Mrigank Mauli, learned senior counsel reiterated the argument with reference to guideline/ brochure in so far as JEE Examination 2021. Today, additional argument is with reference to Annexure-I to the brochure under the heading **'Improvement of performance'**. Even perusal of the Clause



relating to improvement of performance read with the criteria the appellant's case would not fit into the Clause mentioned against 'Improvement of Performance'.

In the light of these facts and circumstance, appellant has not made out a case so as to interfere with the order of the learned Single Judge dated 23.09.2022 passed in C.W.J.C. No. 21301 of 2021.

Accordingly, the present L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Harish Kumar, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.02.2023.
Transmission Date	NA

