

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6239 OF 2023

Atharva Milind Desai
Age: 18 years, residing at,
Nabarwadi, Pachekarwadi,
Tal. Kudal, Dist. Sindhudurg,
Maharashtra - 416520 ..Petitioner

V/s.

Joint Admission Board, IIT,
Through its, organizing Chairperson,
JEE (Advanced) 2023 JEE office,
IIT Guwahati, Guwahati - 781039 ..Respondent

SNEHA
NITIN
CHAVAN

Mr. S.S. Bedekar a/w Ms. Gargi Warunjikar for the Petitioner.
Mr. S.S. Patwardhan a/w Jainendra Sheth i/b Rui Rodrigues for
Respondent.

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by SNEHA
NITIN CHAVAN
Date: 2023.05.26
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CORAM : ABHAY AHUJA, AND
M.M. SATHAYE, JJ.

DATE : 24th MAY 2023
(VACATION COURT)

JUDGMENT (PER: M.M.SATHAYE,J.)

1. Rule. Rule is made returnable forthwith. Learned counsel for sole Respondent, waives service. Taken up for final disposal by consent.

2. By this petition, filed under Article 226 of the Constitution of India, the Petitioner is seeking direction to the sole Respondent to accept the examination form and examination fees of the Petitioner

immediately and further direction to the said Respondent to permit Petitioner to appear for and attempt JEE Advance examination 2023 to be held on 04.06.2023.

3. Heard learned counsel for the Petitioner and learned counsel for the sole Respondent, who have assisted the Court with the averments in the petition and reply along with documents produced in support of the respective cases.

4. It is the case of the Petitioner that he has qualified HSC examination in the year 2022 and has since being pursuing studies in order to appear for JEE exam. It is contended that the Petitioner was not able to fill the examination form of JEE Advanced Examination of this year 2023 within the stipulated time frame provided by the Respondent, due to network connectivity glitches. It is further contended that it is one of the criteria to appear for JEE Advanced examination that the candidate must have appeared for HSC or equivalent examination in the present year or in the last preceding year. Therefore, the Petitioner being HSC qualified in the year 2022, would be eligible to appear for JEE Advanced only upto present year 2023. It is therefore contended that if he misses his chance in the present year, he would not be able to attempt JEE Advanced examination again. It is contended that he is otherwise eligible to appear for JEE Advanced examination having secured 92.2535616 percentile which is more than the cut-off score required.

5. It is submitted on behalf of the Petitioner that he resides in rural area where there are frequent internet as well as power outage issues and as such he was not in a position to register himself in the given time frame. On these grounds, the Petitioner has approached this Court.

6. A detailed affidavit-in-reply is filed on behalf of the Respondent affirmed on 15.05.2023, contending *inter alia* that this year, IIT Guwahati is the organizing institute for JEE Advanced Examination, which has published an information brochure and the conduct of the examination is strictly governed by provisions of the said brochure. It is contended that clause 13 of the said brochure deals with online process and it mandatorily requires the eligible candidate to register for appearing in JEE Advanced 2023 on the online portal within time frame/period set out, which was from 30.04.2023 (Sunday 10.00 IST) to 07.05.2023 (Sunday, 17.00 IST).

7. It is contended that the Petitioner has approached this Court with unclean hands, inasmuch as the login logs maintained by National Informatics Centre (NIC), which provides technical support to the Respondent, shows that the Petitioner did not login into his account at all, during the said time frame provided. It is contended that it is evident from the said login details (produced alongwith the Reply) that the Petitioner logged in for the first time on 08.05.2023 at 12:30:25.297, which is clearly after the said time frame for registration was over. Therefore, it is contended that the Petitioner's case that he was attempting to fill the form during the said time frame, is patently

false. The Respondent has annexed the login trail of the Petitioner to its reply. It is further contended that in the said time frame around 194,055 candidates have registered successfully on the portal.

8. It is further contended by the Respondent that as per clause 33 of the said brochure which deals with queries and grievances, it is laid down that for any grievance or query relating to JEE Advanced Examination of this year, the candidate must write to the organizing Chairperson at the address supplied. However, the Petitioner has not raised any grievance regarding any glitches being faced by him during the said time frame. It is further contended that the said brochure also provides telephone numbers, which can be contacted, in case of any grievance or query, however, the Petitioner has not availed of this facility too. It is submitted that the Petitioner approached Respondent for the first time on 08.05.2023 by way of an email requesting another chance to register, which was immediately responded by the Respondent by informing him that since the online registration is strictly governed by information brochure with no exception and the time line for completing the registration has been in public domain, no exception can be made.

9. It is urged by Ld. Counsel for the Respondent that the said brochure and rules of conduct of JEE Advanced Examination is binding on the Petitioner, just as it is binding on the Respondent and therefore, the time-lines provided are sacrosanct in nature

and no exception can be made. It is further urged that if an exception is made for the Petitioner, it will not only set a bad precedent but would also have an adverse cascading effect at a pan India level thereby diluting the sanctity of timelines and the merit selection process. The Respondent has relied upon the law laid down by the Hon'ble Supreme Court in *Maharshi Dayanand University V/s. Surjeet Kaur*¹, which is followed by Delhi High Court in the case of *Pallavi Sharma V/s. College of Vocational Studies*².

10. We have given our anxious consideration to the submissions of both the sides and considered the record.

11. It is not in doubt that IITs, NITs and other institutes, for which the Respondent conducts entrance examinations, are centers of technical studies par excellence, in India. The process of finding the best talent in this Country, as employed by the Respondent is based on discipline, which is of utmost importance in the field of education.

12. It is not disputed that as per the information brochure and rules governing conduct of the JEE Advanced Examination of this year, the time frame provided for registration was from 30.04.2023 to 07.05.2023, which is about 8 full days starting from 10.00 a.m. of the first day till 5.00 p.m. of the last. This is sufficiently long period for all the candidates to complete registration, even assuming difficulties such as internet glitches and power outages. The candidates who are

1 (2010) 11 SCC 159

2 2015 SCC Online Del 10249

placed in a less advantageous situation, such as the Petitioner, also have sufficient time to reach places having better connectivity and power supply.

13. Perusal of the login details of Petitioner supplied by NIC, produced by Respondent, shows that on 08.05.2023 (immediately next day after the said time frame of 8 days was over) the Petitioner has successfully logged in as many as 9 times on the required portal. These login details are not disputed by the Petitioner. We have no reason to doubt information supplied by NIC. It that be so, we fail to understand why the Petitioner was not able to login on 8 previous days, when the window for registration was open. There is no explanation as to what changed between 07.05.2023 and 08.05.2023, that enabled the Petitioner to login successfully on the next day after said time frame. In addition, we must record that the login details provided by NIC also do not show any single login attempt prior to 08.05.2023. In that view of the matter, it is not possible to accept the contention of the Petitioner that he was simply unable to register for the JEE Advanced Examination of this year within said time frame.

14. One more aspect is necessary to be mentioned. It is not the case of the Petitioner that he attempted to contact the Respondent as provided in the brochure when he faced any problem or glitch during the 8 days time frame, either by email or even by a call. It is a matter of record that immediately on the next day, after the time frame, the Petitioner was able to send an email requesting another chance. If that be so, there is no explanation why the Petitioner could not send an email or call on the contact details/numbers available in public

domain during the 8 days time frame. This year 2023 being Petitioner's last chance to appear for JEE Advanced, as contended by him, he should have been even more careful during the said time frame of 8 days.

15. The Rules laid down for participating in JEE Advanced examination, of which the said brochure is part, are binding on all the participants as the candidates have entered in the process by submitting to the said Rules. It is obvious that the applicable rules are binding on the Petitioner. The Petitioner not having availed the procedure of grievance redressal as provided in the Rules, has entailed the consequence of non registration. We are fully alive to the principle highlighted by the Hon'ble Supreme Court in the case of ***Maharshi Dayanand University*** (supra) that a direction of this Court cannot result in the authority violating its own Rules and Regulations.

16. We are therefore of the considered view that in the facts and circumstances of the present case, such discipline should not be disturbed by us in the larger interest of lakhs of aspiring meritorious students of this country. This is not a fit case to exercise our extraordinarily writ jurisdiction under Article 226 of the Constitution of India.

17. In the result, the petition is dismissed. No order as to costs.

(M.M.SATHAYE, J.)

(ABHAY AHUJA, J.)