

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-13738-2023 (O&M)
Date of decision : 25.07.2023

Keshav GuptaPetitioner
Versus
Union of India and othersRespondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. Rajinder Goel, Advocate, for the petitioner.

Mr. Arun Gosain, Senior Govt. Counsel, UOI, assisted by
Ms. Swati Arora, Advocate, for the respondents.

RAVI SHANKER JHA, CHIEF JUSTICE (Oral)

CM-11337-CWP-2023

Annexure P-12 is taken on record.

Application is, accordingly, allowed.

CWP-13738-2023

1. This petition has been filed by the petitioner, who is an aspirant to obtain admission in the Engineering course and for that purpose has appeared in the JEE (Main) and (Advanced) 2023 examinations. The petitioner has filed the petition praying for the following reliefs :

“a writ of certiorari for quashing the impugned information dated 20.06.2023 (Annexure P-11) sent through e-mail by respondent No.3, whereby, the request made by the petitioner dated 20.06.2023 (Annexure P-10) sent through e-mail to respondent No.3 has been declined;
a writ of mandamus directing the respondents to consider the candidature of the petitioner against the General EWS category for admission to Joint

Entrance Examination (Advanced) 2023 for Indian Institutes of Technology;
any other writ order or direction which this Hon'ble Court may deem fit in the facts and circumstances of the case be issued in favour of the petitioner and against the respondents."

2. The petitioner had applied for the JEE (Main) 2023 examination under the General category. He also appeared in the JEE (Advanced) 2023 examination as a General category candidate, which was held on 04.06.2023 and the result of which was declared on 18.06.2023. On 20.06.2023, he applied for change of his category from General to Economically Weaker Section (EWS). The said request was rejected by the authorities on the same day vide communication (P-11) clearly stating that in view of clause 3, page No.8 of the Information Brochure of JEE (Advanced) 2023, the category of a candidate, which was mentioned by him and was made available by the JEE Apex Board at the time of his JEE (Main) 2023 examination, would be final and shall remain the same in JEE (Advanced) 2023 examination, and no request for change of category is permissible.

3. The petitioner being aggrieved by the communication (ibid) has filed this petition.

4. Learned counsel for the petitioner submits that the petitioner had inadvertently mentioned his category as General in his application for appearing in the JEE (Main) examination 2023. In the JEE (Advanced) examination 2023 as well, he appeared as a General category candidate. It is only after declaration of the JEE (Advanced) examination result on 18.06.2023 that he realized the mistake and sought for change of his category by applying on 20.06.2023. Learned counsel submits that

this is a mistake that occurred inadvertently, which may be permitted to be corrected and, therefore, the respondents may be directed to consider the petitioner under the EWS category.

5. The submission made by learned counsel for the petitioner has been vehemently opposed by learned counsel for the respondents, who submits that in view of relevant clause in the Information Brochure of JEE (Advanced) 2023, which was made available to all the candidates on 22.12.2022, and re-published on 16.03.2023, all the candidates were aware that the category filled up in the examination form by a person at the time of JEE (Main) examination, would remain unchanged and would be the same for the JEE (Advanced) examination, as no request for change of category was to be entertained. He submits that this was well within the knowledge of the petitioner at the time, he applied for the JEE (Main) examination 2023, and as no student, including the petitioner, has been permitted to change his category after the declaration of JEE (Advanced) result, the authorities with a view to maintain uniformity in the examination process as also in compliance of and in accordance with the Business Rules published in the Information Brochure of JEE (Advanced) 2023, have rejected the claim of the petitioner.

6. We have heard learned counsel for the parties at length.

7. The relevant portion of clause 3 of the Information Brochure of JEE (Advanced) 2023, prohibiting any change in the category is to the following effect :

“The category of a candidate as entered in the database, which will be made available by the JEE Apex Board [which conducts the JEE (Main) 2023 examination], will be final and

shall remain the same in JEE (Advanced) 2023 examination. Requests for change of category will NOT be entertained.”

8. From a perusal of the aforesaid, it is evident that the authorities, well in advance, had informed all the students that the category made available to the JEE Apex Court, which conducts the JEE (Main) 2023 examination, would be final and shall remain the same in JEE (Advanced) 2023 examination, and no request for change of category would be entertained. Evidently, the facts of this case make it clear that the petitioner being well aware had mentioned his category as General, while making the information available to the JEE Apex Board at the time of applying for JEE (Main) 2023 examination, and, as the facts envisage, applied for the first time for change in the category from General to EWS after declaration of JEE (Advanced) 2023 examination result on 18.06.2023, i.e. on 20.06.2023, which has been rejected by the authorities on the same day, vide the impugned communication (P-11).

9. Evidently, in view of the aforesaid facts, contention of the petitioner that General category was mentioned by him due to inadvertence does not appear to be correct and the change sought to be made is an after-thought and was asked for when he realized that he would not be able to obtain admission in the Institution of his choice.

10. Learned counsel for both the parties have fairly stated that certain clauses of the Brochure relating to JEE (Advanced) 2022 were considered by this Court in the case of **Yoshika Verma Vs. Union of India and others** (CWP-3435-2022, decided on 17.05.2022) and the claim of the petitioner therein for change of category was rejected, which

has been upheld by the Supreme Court vide order dated 22.07.2022 rendered in Petition for Special Leave to Appeal (C) No. 11464/2022.

11. The requirement of sticking to the category that has been mentioned by a student at the initial stage of JEE (Main) examination is based on a clear principle and foundation that a candidate must be careful and has to be sure about his category at the time of filling up the form for JEE (Main) examination and the prohibition for change in the category is to ensure that there is uniformity in consideration of cases of all the candidates, as changing the category in between the examination process would evidently lead to chaos. If the prayer made by the petitioner is acceded to at this stage, it would open a Pandora's box and would encourage other students as well to change their category, which has specifically been prohibited by the respondents vide clause 3 of the Information Brochure of JEE (Advanced) 2023, which is not under challenge. This Court in *Yoshika Verma's* case (supra) has observed as under :-

“We are also of the considered opinion that rules and instructions governing admission have to be strictly and uniformly applied to all candidates and they cannot be diluted by the Courts or permitted to be treated as mere technicalities. The Courts or the authorities must ensure that admissions in violation of the rules or instructions governing admission are not ordered or made on the grounds of equity or sympathy. We are constrained to say so as all candidates have to be provided equal treatment and a level playing field by uniformly and strictly implementing the stipulations prescribed by the rules or instructions so as to maintain the sanctity and purity of the

admission process and, therefore, those violating the rules or instructions cannot be permitted to obtain admissions on the grounds of misplaced sympathy or equity thereby rendering the rules otiose or meaningless. In taking this view, this Court relies upon the decisions of the Supreme Court in *N.M. Nageshwaramma Vs State of Andhra Pradesh and another* 1986 (Supp) SCC 166; *A.P. Christians Medical Educational Society Vs Government of Andhra Pradesh and another* (1986) 2 SCC 667 and *Maharshi Dayanand University Vs Surjeet Kaur* (2010) 11 SCC 159.”

12. Confronted with the aforesaid aspect, learned counsel for the petitioner also fairly concedes that the issue involved in this petition stands squarely covered by the decision of this Court in **Yoshika Verma’s** case (supra), which has been affirmed by the Supreme Court.

13. In these circumstances, we do not find any reason to entertain this petition to grant permission to the petitioner to change his category at this stage.

14. Petition being meritless stands dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

July 25, 2023
ndj

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No