

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

+ **W.P.(C) 579/2023**

Date of Decision: 10.02.2023

IN THE MATTER OF:

Aditi Jain

D/o Sh. Adish Jain
R/ o 134, Mannu Apartments
Mayur Vihar, Phase-1,
East Delhi, Delhi -110091

..... Petitioner

Through: Mr. Krishan Kumar, Advocate.
versus

1. All India Council for Technical Education

Through its Chairman
Nelson Mandla Marg,
Vasant Kunj, New Delhi- 110070

.... Respondent no.1

2. Jaypee Institute of Information Technology

Through its Registrar
A-10, Sector-62,
Noida- 201309

..... Respondent No. 2

Through: Mr. Anil Soni, SC for R-1/ AICTE

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petitioner has approached this court with the prayer to direct the respondents to admit the petitioner in B.Tech course (Bachelor of Technology in Computer Science) under supernumerary seats as per

policy of respondent no.1-All India Council for Technical Education (AICTE).

2. The case of the petitioner is that in the month of June, 2022, the respondent no.1-AICTE announced a policy for two supernumerary seats for gifted children/ talented students in the course of B.Tech in each institute throughout the country. The petitioner has applied for admission in respondent no.2-Jaypee Institute of Information Technology (JIIT) on 28.08.2022 under the said policy.

3. On 23.09.2022, the petitioner received an email from respondent no.2 informing her that her case is being considered under the supernumerary seats as per the policy of respondent no.1-AICTE and therefore, the petitioner was to supply necessary documents in that regard. The petitioner thereafter furnished all the necessary documents on 09.11.2022. On 16.12.2022, the petitioner further received an email from the office of the respondent no.2 informing her that all documents/certificates were forwarded to respondent no.1-AICTE for its approval and update from AICTE is awaited.

4. When this court calls upon the AICTE to respond to the submissions made by the petitioner, a short affidavit has been filed on behalf of respondent no.1-AICTE.

5. The respondent no.1 in its counter affidavit has stated that in Approval Process Handbook of 2022-23, the provision for admission against supernumerary seats was made. In paragraph 12 of the counter affidavit, it has been stated that the AICTE has to device norms for selection of Gifted and Talented students under Supernumerary Quota and the AICTE will list out the institutes' names wherein this provision would be made available. In paragraph 15 of the counter affidavit, it has

been stated that the respondent has not received any documents from the college and it has been further stated that if the institute submits the proof and the same will be looked into by the respondent no.1.

6. Paragraphs 10 to 12 of the counter affidavit of respondent no.1 reproduced as under:-

“10. It is submitted that the Answering Respondent would like to apprise the Hon’ble Court as to what does “Supernumerary seats” mean in Approval Process Handbook of 2022-23 published by the Answering Respondent, the same is as under:

“Supernumerary seats” means Intake over and above the “Approved Intake” which includes TFW, OCI I Foreign Nationals/ Children of Indian Workers in the Gulf Countries, Lateral Entry, PMSSS, Kashmiri Migrants and PMSSS seats notified from time to time.”

11. It is submitted that the Approval Process Handbook of 2022-23 also contains in Chapter VII which has a provision for “Supernumerary seat” for gifted and talented students which is as under:.

“7.52 Two Supernumerary seats shall be accorded by AICTE in its approved institutions for empowering Gifted & Talented students to seek admissions against these seats, which will provide a motivating and unique opportunity for such students in line with NEP recommendations. AICTE shall devise norms for selection of Gifted & Talented Students under supernumerary quota and final admission shall be approved by AICTE. ”

12. That the Answering Respondent has yet to devise the norms for selection of Gifted & Talented students under Supernumerary Quota. The Answering Respondent has stated in point no.5.2 of the draft content (shown on the AICTE website) as yet to declare the list of Institutions eligible for admitting students under this scheme based on predetermined criteria and the ability of Institutions to nurture gifted students.”

7. Having considered the submissions made by learned counsel appearing for the petitioner and respondent no.1-AICTE, it is seen that there is no dispute with respect to the provision for granting admission against supernumerary seats. As of now, it also not disputed that the

petitioner does not belong to gifted category. There is no decision taken by respondent no.1 with respect to entitlement of the petitioner for grant of admission under supernumerary seats.

8. When substantive provision is made for granting admission, admission cannot be denied merely on the ground that the detailed guidelines with respect to the said provision are not in place. Unless there are serious objections with respect to either entitlement or otherwise, the respondent should have considered the case of the petitioner in view of the provisions which are already published in the Admission Handbook. The stand of AICTE also does not suggest any other reason in considering the case of petitioner, if relevant documents are made available.

9. In view of the aforesaid, this court finds it appropriate to issue the following directions:-

- (i) The respondent no.1 is directed to consider the present petition to be the representation of the petitioner for approval of admission by respondent no.2 against supernumerary seats;
- (ii) The respondent no.1 is also directed to get into correspondence with respondent no.2 in case, so requires.
- (iii) The respondent no.2 would be under an obligation to co-operate and make all information available to respondent no.1 to take final decision with respect to entitlement of the petitioner for approval of her admission against supernumerary seats.
- (iv) It is made clear that respondent no.1 will not deny the admission to the petitioner merely on the ground that the detailed guidelines with respect to supernumerary seats have not been

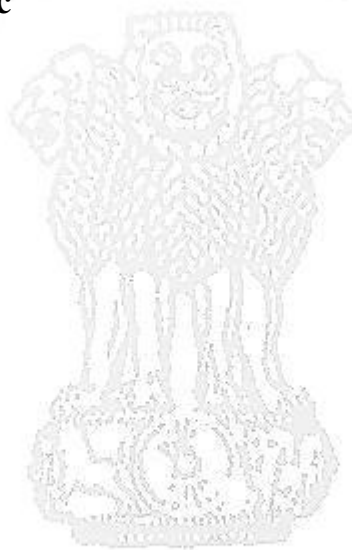
framed, if it finds that the petitioner, otherwise is entitled for admission.

(v) Let entire exercise be completed within 15 days from today.

10. In view of the aforesaid, the instant petition stands disposed of.

11. Order dasti.

PURUSHAINDRA KUMAR KAURAV, J
FEBRUARY 10, 2023/nc



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