



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 7982/2023 and CM APPL. 30681/2023**

Date of Decision: 28.07.2023

IN THE MATTER OF:

MR. ADITYA GARG
AGED ABOUT 19 YEARS,
SON OF MR. SANDEEP KUMAR GARG
RESIDENT OF FLAT NO- 1478, SECTOR-C,
PKT-1, VASANTKUNJ, SOUTHWESTDELHI
DELHI- 110070 PETITIONER

Through: Mr. Ashok Rajagopal, Ms. Madhu Tyagi
and Mr. Kunal Jain, Advocates

Versus

DELHI TECHNOLOGICAL UNIVERSITY
(ESTD. BY. GOVT. OF NCT OF DELHI VIDE ACT 6 OF 2009)
(FORMERLY DELHI COLLEGE OF ENGINEERING)
THROUGH
THE VICE-CHANCELLOR
SHRI YOGESH SINGH
SHAHBAD DAULATPUR,
MAIN BA WANA ROAD
DELHI-110042RESPONDENT

Through: Ms. Avnish Ahlawat and
Ms. Laavanya Kaushik, Advocates

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

Signature Not Verified
Digitally Signed
By: PURUSHAINDRA
KUMAR KAURAV

1. The petitioner in the instant writ petition filed under Article 226 of the Constitution of India, seeks for quashment of the notification dated 16.05.2023 calling for applications from students for internal upgradation of their allotted branch mid-semester, and also seeks for directions to the respondent-University to reopen the online portal for applications for internal upgradation for sufficient time, to permit the petitioner to apply on the said portal.
2. Learned counsel for the petitioner submits that having qualified for admission for the course of B.Tech in Mechanical Engineering, the petitioner was granted admission in the year 2022 by the respondent-University. The respondent-University has a provision for internal upgradation of the branch in the concerned course. As per the scheme of upgradation, the respondent-University was to upload the relevant information on the official website and to inform all eligible candidates, giving them sufficient time to apply for upgradation on the basis of their merit. Learned counsel for the petitioner submits that the second semester midterm examination was scheduled for 24.05.2023 and before that, on 16.05.2023, through a public notice published on the official website, the respondent-University decided to call for applications for upgradation between 17.05.2023 to 21.05.2023.
3. The petitioner's case is that in the previous years, an inconsistent procedure has been followed by the respondent-University. Learned counsel for the petitioner submits that there is no fixed time limit and no particular month in which applications are invited, which resulted in uncertainty regarding the plausible dates for applying for upgradation, hence depriving the petitioner of the opportunity of applying within the permissible time for

upgradation. He further submits that since the petitioner could not apply for upgradation of his course from Mechanical Engineering to Electrical Engineering; as a consequence, less meritorious candidates have been given the benefit of upgradation. He, therefore, submits that the substantial rights of the petitioner are adversely affected on account of the arbitrary and non-transparent procedure for upgradation being followed by the respondent-University.

4. Learned counsel for the petitioner also highlights that even if the public notice dated 16.05.2023 (*Annexure P-8*) is perused, the same would indicate that it was incumbent upon all Deans/HoDs to inform all the concerned students with respect to the dates within which the applications for upgradation were to be submitted. He, therefore, submits that if sufficient time is given to the petitioner, he would apply for the upgradation and accordingly the petitioner's case can be considered.

5. Learned counsel for the respondent-University has opposed the submissions made by learned counsel for the petitioner. The respondent-University in its initial counter affidavit had submitted that no candidate less meritorious than the petitioner had been considered for upgradation to the concerned course. On account of some factual incongruencies, this court *vide* order dated 24.07.2023 had directed the respondent-University to file the supplementary affidavit to clarify the same, which has been filed by the respondent-University.

6. The principal stand of the respondent-University appears to be that the applications were invited between 17.05.2023 to 21.05.2023 and since the petitioner did not apply for upgradation within that time span, therefore, the case of the petitioner could not be considered for upgradation.

7. It is specifically stated in the supplementary affidavit by the respondent-University that there were 965 applicants who had applied for upgradation against 57 available seats. The inter-se merit of the candidates was decided on the basis of their marks. Since the petitioner did not apply, therefore, there was no ground for consideration of the case of the petitioner. It is stated that as of now, no seats remain vacant and therefore, the petitioner cannot be allowed to upgrade his branch. Even otherwise, according to the respondent-University if any seats remained vacant, the same will have to be offered to all eligible candidates and cannot be made available to the petitioner.

8. I have considered the submissions made by learned counsel for the parties and perused the record.

9. The notice for upgradation was published by the respondent-University on their official website on 16.05.2023. The same states that the opening of link for online choice filling at the official website would be between 17.05.2023 (10:30 AM) to 21.05.2023 (05:30 PM). The schedule for final upgradation would further indicates that the display of upgraded list was to take place on 24.05.2023. The respondent-University in its supplementary affidavit has stated that the timeline for acceptance of applications for upgradation was strictly adhered to. The notice was published on the University website, and hence was easily available for the information of all the students on the public domain. The public notice dated 16.05.2023 is reproduced hereunder:

*"FINAL UPGRADATION FOR CANDIDATES ADMITTED THROUGH
JAC DELHI 2022*

The university is going to conduct the final upgradation of the allotted branches to all the B. Tech. 2nd semester students who were admitted through JAC Delhi counselling 2022 on the basis of J EE 2022 CRL and

Signature Not Verified
Digitally Signed
By: PURUSHAINDR
KUMAR KAURAV

currently studying in 2nd semester. Therefore all such students who are interested in branch upgradation are requested to re-submit online fresh choices of branches by clicking on the link available at www.dtu.ac.in as per the schedule mentioned below.

It may be noted that the choices filled by them earlier at the time of online registration/counselling under JAC Delhi-2022 will become NULL AND VOID. The currently allotted branch of those students who are not interested to participate in this upgradation process will remain unchanged. The internal upgradation of branches will be done only as per seat available in various branches of DTU only. This upgradation will be done only in respective category/subcategory/region of the student. No request for any change in category/sub-category/region will be entertained in this regard.

Accordingly, all those students, who are willing to participate in the internal upgradation of branches in the university are required to re-submit fresh choices through their JAC 'Candidate login', link of which is provided on website www.dtu.ac.in.

Schedule of final upgradation

17-05-2023 (10:30 AM) Opening of link for online choice filling at www.dtu.ac.in

21-05-2023(05:30 PM) Closing of online choice filling.

24-05-2023 (05:00PM) Display of upgraded list on www.dtu.ac.in

Choices filled can be edited/modified during this period ONLY and will lock automatically after 21-05-2023 (5:30PM).

Important Instructions:

1. No request for re-submitting the choices shall be entertained after the above-mentioned date and time.
2. Option for re-submitting the choices, once exercised, will not be changed later under any circumstances.
3. Candidates are advised to fill their current allotted branch at the bottom of the choices. If current allotted branch is not at bottom of choices, all choices filled below the current allotted branch will be ignored and will not be considered for upgradation.
4. Those who want upgradation, must fill fresh choices otherwise their current branch will be final and no upgradation will be done for them.
5. Branch once upgraded, shall be final, and no request in this regard will be entertained by the university.
6. There will not be any change in branch in respect of those students who do not exercise the option of refilling the choices for this upgradation of branches in DTU.
7. Upgradation will be done immediately after closing of choice filling and upgraded list will be displayed on www.dtu.ac.in on 24-05-2023.

Signature Not Verified
Digitally Signed
By: PURUSHAINDR
KUMAR KAURAV

8. In case of any difficulty in choice filling, candidates can email to DTUJAC_Branch_Upgradation@dtu.ac.in. For password resetting in Candidate login of JAC, please follow 'Forgot Password' link on login page.

Copy for information & necessary action to:

- 1. PA to the VC for kind information to the Hon'ble Vice Chancellor, DTU*
- 2. Registrar*
- 3. All Deans/ HODs with a request to bring to the same into notice of all concerned students.*
- 4. All Hostel Wardens.*
- 5. COO & Head Computer Centre with the request to publish the notice on DTU website."*

10. In paragraph No. 2 clauses (i) to (v) of the supplementary affidavit, the following averments have been made:-

“(i) The timeline for application for upgradation of allotted branches was issued on 16.05.2023 and online portal was opened from 17.05.2023 to 21.05.2023 (five days). Everything was in the public domain as per the existing practice for information of all. The notices are placed on DTU website for information and action from the students.

(ii) The Petitioner did not apply for upgradation process by submitting fresh choices for branch. Further after upgradation, no seat in Delhi General category and in the discipline of Electrical Engineering is vacant now. Any redressal to the Petitioner will be injustice to other students who could not apply or did not apply for upgradation but were otherwise eligible. The final list of upgraded students was displayed on (24.05.2023

(iii) That since petitioner did not apply for upgradation until the last date of for submission online application i.e., 21.05.2023. The upgraded list of eligible (965) applicants was finalized against 57) seats which fell vacant during the first year. Firstly, a tentative list of total 216 upgraded candidates was prepared which included 61 candidates of Delhi General category as per merit in JAC Delhi 2022 out of 965 applicants who submitted their fresh choices for upgradation against notice dated 16.05.2023. Copy of the tentative list is already annexed as annexure VIII. The final list of 61 upgraded General category candidates as per JAC 2022 is enclosed as R-9.

(iv) That the Petitioner was not considered for upgradation on the ground that he did not apply for the same within the prescribed time

i.e., by 21.05.2023. Applicants who apply for upgradation within the specified time period for application, are only considered for upgradation. 965 applicants applied for the upgradation till 21.05.2023

(v) That the Petitioner cannot claim upgradation/ any right, over and above the candidates who applied for upgradation, because they all applied within 5 days i.e. the time granted for all students to apply for upgradation from 17.05.2023 to 21.05.2023 and Petitioner did not apply for the same. His representation after the cutoff date is of no consequence and cannot be entertained. because there were many, who wanted to participate but, once they miss the bus they cannot claim any relief”.

11. It is thus seen that there were as many as 965 applicants who applied against an availability of only 57 seats. A tentative list of 216 candidates was prepared and the final list of 61 upgraded General category candidates was also released on 31.05.2023.

12. It is the specific case of the respondent-University that the petitioner was not considered for upgradation for the simple reason that the petitioner did not apply for the same. Therefore, the merit list was prepared on the basis of the applicants who had applied within the permissible timeline.

13. This court has failed to find any arbitrariness in the procedure followed by the respondent-University. The plain facts of the case show that the respondent-University did its duty in publishing the notice on its official website, therein establishing the timeline within which applications were to be invited from the students. Pursuant to the notice, 965 applications were received for a mere 57 available seats. The sheer number of applications received juxtaposed with the available seats shows that the notice was sufficient to constitute due intimation to the desirous candidates. It is not obligatory to intimate each and every student for upgradation. The students who are studying in the concerned course must be vigilant enough to keep

themselves updated with the information being published on the official website of the University so as to take the benefit of the relevant scheme. It is for this reason that this court does not find it necessary to intervene in the instant case.

14. Learned counsel for the petitioner has also raised a grievance that the respondent-University has proceeded to finalise the list of upgraded students notwithstanding the pendency of the instant writ petition before this court. According to the petitioner, the respondent-University should not have finalised the final list, when the matter was already pending before this court.

15. Needless to state that there was no restraint by this court upon the respondent-University not to proceed with the finalisation of the list, therefore, no fault can be found within the action of the respondent-University in finalising the list during the pendency of the instant petition.

16. In view of the aforesaid, this court does not find any substance in the instant petition. The same is accordingly dismissed alongwith pending application.

PURUSHAINDRA KUMAR KAURAV, J

JULY 28, 2023

p'ma

Signature Not Verified
Digitally Signed
By: PURUSHAINDRA
KUMAR KAURAV