



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8980/2023 and CM APPL. 34034/2023**

Date of Decision: 25.07.2023

IN THE MATTER OF:

MISS AKSHITA SABHARWAL
D/O MR. JETENDER SABHARWAL
R/O B- 1/4 22, JANAKPURI,
NEW DELHI -110058

..... PETITIONER

Through: Mr. Parmod Kumar Sharma and Mr.
Prashant Bajaj, Advocates

Versus

THE SECRETARY
DEPARTMENT OF HIGHER EDUCATION
MINISTRY OF EDUCATION,
GOVERNMENT OF INDIA,
727-C, SHASTRI BHAWAN,
NEW DELHI-110001

.....RESPONDENT NO.1

THE DIRECTOR GENERAL,
NATIONAL TESTING AGENCY,
FIRST FLOOR, NSIC-MDBP BUILDING,
OKHLA INDUSTRIAL ESTATE, NEW DELHI -110020

.....RESPONDENT NO.2

THE CHAIRMAN,
UNIVERSITY GRANTS COMMISSION
BAHADUR SHAH ZAFAR MARG,
NEW DELHI -110002

.....RESPONDENT NO.3

Through: Mr. Sanjay Khanna, Standing Counsel
alongwith Ms. Pragya Bhushan, Mr. Karandeep
Singh, Mr. Tarandeep Singh and Mr. Amit Singh,
Advocates for NTA

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KUMAR RAURAV

Mr. Apoorv Kurup, Mr. Shivansh Dwiedi and Mr.
Ojaswa Pathak, Advocates for respondent No.3

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

J U D G M E N T

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petitioner in the instant writ petition filed under Article 226 of the Constitution of India prays for directions to the respondents to conduct a re-test of the Common University Entrance Test (UG)-2023 [hereinafter CUET (UG)-2023] for the petitioner on account for her inability to appear for the exam for Psychology subject that was conducted on 15.06.2023.
2. Learned counsel appearing on behalf of the petitioner submits that the petitioner completed her Class 12th examinations in Humanities stream in 2023 and thereafter, being desirous of doing graduation in Psychology subject, filled up the form for CUET (UG)-2023. It is pointed out that as per the public notice dated 30.04.2023, the National Testing Agency (hereinafter NTA), which conducts the examination in question, specifically announced that the release of admit cards for the examination would take place three days before the actual date of examination.
3. Learned counsel for the petitioner, therefore, submits that in April, 2023, as per the information published by respondent No.2-NTA, it was stated that the dates of examination would be between 21.05.2023 to 31.05.2023 and the dates for publication of result would be between 01.06.2023 to 07.06.2023. Learned counsel for the petitioner also submits that relying upon the information which was published by respondent No.2-NTA, the petitioner had planned to go abroad for vacation alongwith her

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parents between 08.06.2023 to 17.06.2023. The petitioner accordingly went to Turkey between those dates.

4. Learned counsel for the petitioner submits that in defiance of the public notice dated 30.04.2023, respondent No.2-NTA made the admit cards available to the petitioner through e-mail only on 14.06.2023 i.e. one date before the scheduled date of examination which was on 15.06.2023. Learned counsel for the petitioner further submits that in no case could the petitioner have appeared on 15.06.2023 as she was in Turkey on 14.06.2023, the date on which she received the admit card.

5. Learned counsel for the petitioner submits that on 14.06.2023, the petitioner immediately responded to the official e-mail of respondent No.2-NTA stating therein the practical difficulty of her appearance in the said examination. The petitioner thereafter sent as many as nine e-mails/communications on different dates i.e. on 15.06.2023, 16.06.2023 and 19.06.2023, requesting respondent No.2-NTA to allow her to appear for the examination on the allotted buffer dates, which were scheduled for 21.06.2023, 22.06.2023 and 23.06.2023. Learned counsel for the petitioner submits that all those e-mails/communications were also not acted upon by the respondents and no response was received by the petitioner who has, consequentially been deprived of an opportunity to appear in the said examination arbitrarily.

6. Respondent No.2-NTA has filed the counter affidavit and they have pointed out that in terms of public notice dated 13.06.2023, it was informed to all concerned that the admit cards alongwith City Intimation Slip for CUET (UG)-2023 are being released for about 23896 candidates for the examinations scheduled on 15.06.2023, 16.06.2023 and 17.06.2023.

7. Learned counsel for respondent No. 2-NTA, therefore, submits that on 13.06.2023 itself the admit cards were made available on the official website of the NTA and in addition, on 14.06.2023, e-mails were sent to the concerned candidates informing them about the availability of the admit cards for downloading. It is submitted that the same cannot be understood to mean that there was disobedience or non-adherence to the instructions earlier issued by the NTA. As per respondent No. 2-NTA, once the public notice was issued on 13.06.2023, it was incumbent upon all candidates to download their admit cards and to plan for their appearance in the examinations on the respective dates.

8. With respect to the buffer dates, learned counsel for respondent No.2-NTA states that the provision for buffer dates had only been created for the candidates belonging to some States/Union Territories i.e. Jharkhand/Jammu & Kashmir and Northern Eastern States etc. where the count of registered candidates was very large. Learned counsel for respondent No.2/NTA submits that since the buffer dates were not available to those candidates who had already been issued the admit cards in terms of public notice dated 30.06.2023, therefore, there was no reason to respond to the e-mails/communications of the petitioner. Learned counsel for respondent No.2-NTA, therefore, submits that when lakhs of candidates appeared in the examination without any difficulty, the inconveniences and grievances of individual candidates cannot be redressed. He submits that the public interest at large is of paramount importance and the individual interest cannot supersede the larger public interest. He, therefore, prays that at this stage, since the result of the examination has already been declared on 15.07.2023, no direction can be given to conduct a special examination for one candidate.

9. I have heard learned counsel for the parties and perused the record.
10. The notice dated 13.06.2023 (*Annexure R-2/10*) states that the release of admit cards alongwith City Intimation Slips for CUET (UG)-2023 had been initiated for about 23896 candidates scheduled for examinations on 15.06.2023, 16.06.2023 and 17.06.2023. It was also stated therein that the candidates scheduled to appear on 15.06.2023, 16.06.2023 and 17.06.2023 are required to download their admit cards using their application number and date of birth from the website w.e.f. 13.06.2023 and go through the instructions contained therein as well as in the Information Bulletin. For the sake of clarity, the public notice dated 13.06.2023 is reproduced as under:-

“

*PUBLIC NOTICE**13 June 2023*

Subject: Release of Admit Card for CUET (UG)-2023 examination scheduled on 15, 16, and 17 June 2023-reg.

In continuation to the Public Notices dated: 19 May 2023, dated: 22 May 2023, dated: 27 May 2023, dated: 02 June 2023, dated: 10 June 2023, and dated: 11 June 2023, Admit Cards along with City Intimation Slip for Common University Entrance Test (UG)-2023 are now being released for about 23896 candidates scheduled for aforesaid examination on 15, 16, and 17 June 2023.

Admit Cards and City Intimation Slip for CUET (UG)-2023 for the candidates scheduled on 21 to 31 May 2023 and 01 to 14 June 2023 have already been released for more than 26 lac candidates.

The candidates scheduled to appear on 15, 16, and 17 June 2023 are required to download their Admit Card of CUET (UG) 2023 (using their Application No. and Date of Birth) from the website [https://cuetsamarth.ac.in/w.e.f. 13 June 2023](https://cuetsamarth.ac.in/w.e.f.13June2023) and go through the instructions contained therein as well as in the Information Bulletin

The candidates are advised to carefully read the Subject-Specific Instructions and other instructions mentioned in the Question paper and abide by the same.

The candidates scheduled for 15, 16, and 17 June 2023 will appear for the subjects mentioned in their Admit Card.

The Admit Card in respect of subjects with medium opted in the application but not visible above will be displayed in due course. Some of the candidates who may have not received their Admit Card for the above dates will get them in subsequent days.

The Admit Card for the candidates whose examinations are scheduled on later dates beyond 15,16, and 17 June 2023 will also be released subsequently.”

11. The e-mail intimation given to the petitioner placed on record as (Annexure A-3) would indicate that on 14.06.2023 at 04:16 a.m., the petitioner was provided a link to download the admit card for the examination in question.

12. Learned counsel for the petitioner has tried to indicate that on 13.06.2023, when the general public notice was issued, no link was provided for downloading the admit card. According to him, the admit card could only be downloaded, once the link is provided, which can be seen from the e-mail dated 14.06.2023.

13. This court has perused the public notice dated 13.06.2023 as well as the e-mail dated 14.06.2023. The e-mail dated 14.06.2023 reads as under:-

“Dear Candidate,

Please download your Admit Card for CUET (UG) - 2023 from the following Link:

<https://cuet.samarth.ac.in>

Note the Reporting Time and follow the instructions and read the Advisory (as enclosed in the e-mail) carefully.

Please go through the attached link for the examination and important instructions for the CUET (UG) - 2023.

[https://cdnasb.samarth.ac.in/siteadmin23/pn/Advisory+and+Instructions+for+the+candidates+of+CUET+\(UG\)+-+2023.pdf](https://cdnasb.samarth.ac.in/siteadmin23/pn/Advisory+and+Instructions+for+the+candidates+of+CUET+(UG)+-+2023.pdf)

[CUET-UG Exam Unit]

National Testing Agency”

14. A combined reading of the public notice and the e-mail dated 14.06.2023 would show that on 13.06.2023, the candidates were informed by the public notice to download their admit cards while using their application number and date of birth. In addition to the said facility, individual e-mails appear to have been sent on 14.06.2023 providing the attached link to the candidates for downloading the admit cards.

15. Upon perusal of the public notice dated 13.06.2023, if any of the candidates had any difficulty with respect to the downloading of the admit card, the grievance could have been raised at the relevant point of time. It is not the case of the petitioner that after 13.06.2023, when the public notice was issued, the petitioner tried to download her admit card and was unsuccessful in obtaining the same. The petitioner's case is that since the information to appear in the examination on 15.06.2023 was received by her, for the first time, on 14.06.2023, therefore, she could not appear in the said examination.

16. The aforesaid submissions cannot be accepted as the instructions and public notice dated 13.06.2023, as have been reproduced and understood by this court, are very clear that the admit card could have been downloaded w.e.f. 13.06.2023. It is thus seen that since the examination was scheduled for 15.06.2023 and if the admit cards were made available to the candidates starting from 13.06.2023, there is sufficient compliance of the notice dated 30.04.2023 issued by respondent no.2-NTA.

17. So far as the conduct of examination on the buffer dates is concerned, as is evident from a perusal of the public notice dated 11.06.2023, the buffer dates for the examination were scheduled for some States and Union Territories, names thereof have been mentioned in the said notice and the

same was not for the candidates who themselves missed the examination on 15.06.2023 to 17.06.2023. Therefore, no fault can be attributed to the respondents in not responding to the e-mails/communications of the petitioner for allowing her to appear in the buffer examinations to be held on 21.06.2023, 22.06.2023 and 23.06.2023. The relevant portion of the public notice dated 11.06.2023 reads as under:

“There are some states/UTS i.e.. Jharkhand, Jammu & Kashmir, and North-Eastern states etc. where the count of registered candidates is very large, so also are the subject combinations. Therefore, in the interest of the candidates, it has been decided that the CUET (UG)-2023 examination will also be conducted on 15, 16, 17, 18, 19, 20, 21, 22, and 23 June 2023, primarily in these states/UTs.”

18. The Hon’ble Supreme Court, in a plethora of cases, has definitively established that the power of writ courts under Article 226 of the Constitution of India has to be exercised sparingly in academic matters, limited to cases where actions borne out of *malafide* or arbitrariness etc. are challenged. This court, in its decisions in the cases of ***Debjyoti Ghosh v. Jawaharlal Nehru University and Anr.***¹, ***Buddhabhushan Anand Londhe and Another v. Union of India & Ors.***² and ***Omansh Thakur v. Union Of India & Ors.***³ has reiterated this settled legal position and has declined to interfere in decisions undertaken by academic bodies regarding admissions and policy matters.

19. In view of the aforesaid, this court does not find any merit in interfering into the present matter, at this stage, as the results of the said examinations have already been declared and the counselling is likely to commence soon. At this stage, any direction to the effect of arranging or

¹ 2023/DHC/001259

² 2023/DHC/3121

³ 2023:DHC:4968

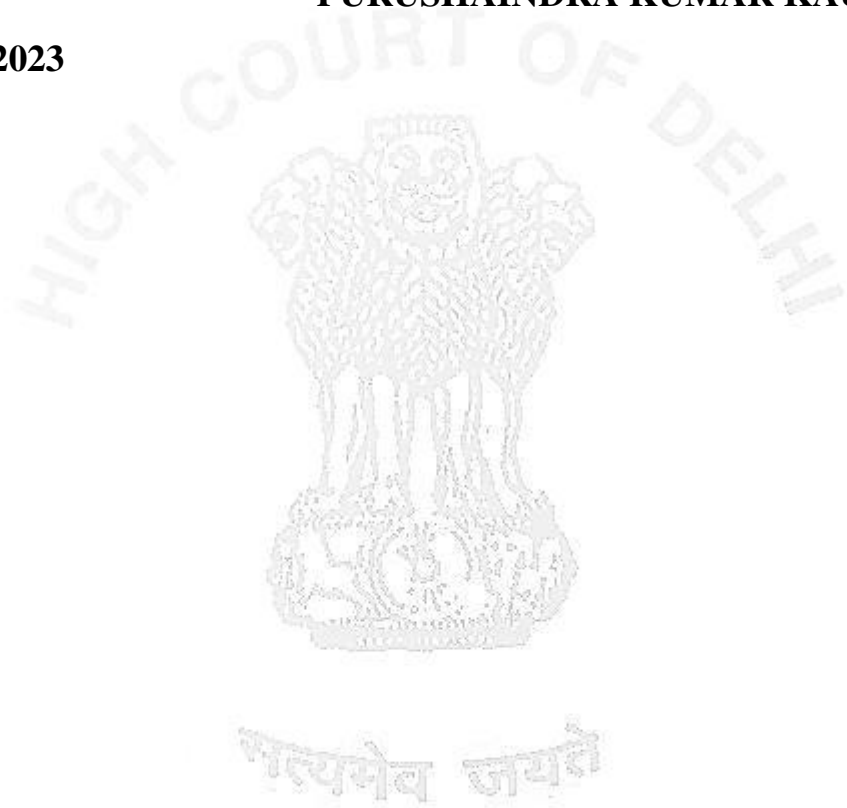
assigning the merit position to the petitioner, who could not appear in the said examination, would have the negative effect of derailing the admission process.

20. The petition is accordingly dismissed alongwith pending application.

PURUSHAINDRA KUMAR KAURAV, J

JULY 25, 2023

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