



2023:DHC:5054

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9380/2023 and CM APPL. 35702-35703/2023**

Date of Decision: 21.07.2023

IN THE MATTER OF:

SHAMBHAVI KEJRIWAL
D/O SHRI RAM LAL KEJRIWAL
AGED ABOUT 18 YEARS
R/O FLAT NO.2901, TOWER-8
RUNWAL FORESTS, LBS MARG,
KANJUR MARG (W) NEAR
MANGAT RAM PETROL PUMP,
BHANDUP (WEST), MUMBAI,
MAHARASHTRA-400078

..... PETITIONER

Through: Mr. Alakh Alok Srivastava and Mr.
Chandan Kumar Singh, Advocates

Versus

UNION OF INDIA
THROUGH ITS DIRECTOR,
DEPARTMENT OF HIGHER EDUCATION,
MINISTRY OF EDUCATION,
AT-127-C, SHASTRI BHAWAN,
NEW DELHI-110001

..... RESPONDENT NO.1

JOINT SEAT ALLOCATION AUTHORITY (JoSAA) 2023
THROUGH ITS DIRECTOR,
INDIAN INSTITUTE OF TECHNOLOGY (IIT) GUWAHATI,
GUWAHATI, ASSAM-781039

..... RESPONDENT NO.2

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By: PURUSHAN PRA KUMAR
KAURAV
Signing Date: 21.07.2023 17:32:36

NATIONAL TESTING AGENCY (NTA)
 THROUGH ITS CHAIRPERSON
 AT-FIRST FLOOR, NSIC-MDBP BUILDING,
 NEW DELHI-110020RESPONDENT NO.3

Through: Mr. Anurag Ahluwalia, CGSC alongwith
 Mr. Tarveen Singh Nanda, G.P. for
 UOI/respondent No.1
 Mr. Arjun Mitra, Advocate for respondent No.2
 Mr. Sanjay Khanna, Standing Counsel alongwith
 Ms. Pragya Bhushan, Mr. Karandeep Singh, Mr.
 Tarandeep Singh and Mr. Amit Singh, 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 has filed the instant petition seeking directions to the respondent-authorities to forthwith permit the petitioner to participate in the ongoing seat allocation rounds of the Joint Seat Allocation Authority (in short 'JoSAA') 2023 on the basis of her ranking in the JEE (Advanced) 2023.
2. The facts of the case would show that the petitioner had appeared in JEE (Advanced) 2023 examination as her last attempt. The petitioner successfully qualified in JEE (Advanced) 2023 examination, held on 21.06.2023 and she secured All India Rank 18833.
3. On 30.06.2023, the petitioner filled up her choices for Architecture Aptitude Test (in short 'AAT') qualified programmes in JoSAA 2023 portal. The petitioner was provisionally allotted 4-years B.Sc. course in (Exploration Geophysics) in the Indian Institute of Technology, Kharagpur

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(in short 'IIT Kharagpur'). The said institute was petitioner's choice no.100. The Initial Seat Allotment Intimation Slip dated 30.06.2023 was issued by respondent no.2.

4. It is the case of the petitioner that on account of contradictory instructions, the petitioner did not properly understand as to what steps were required to be taken to opt for another round of counselling and accordingly the petitioner could not deposit the seat acceptance fees, which was a sum of Rs.40,000/- for General category candidates.

5. The petitioner states that on the basis of her merit position she had the possibility of getting a better option and for that reason, she wanted to opt for another round of counselling and, therefore, the seat acceptance fees of Rs.40,000/- was not deposited. The petitioner states that since the reading of the rules nowhere indicate that if the seat acceptance fees is not deposited, the petitioner would be out of the entire counselling process.

6. Learned counsel appearing on behalf of the petitioner has taken this court through various instructions and has indicated that even three SMS which were sent to the petitioner do not suggest that the petitioner would be out of the entire counselling process, on the contrary, it was intimated that the allocated seat would be cancelled. The petitioner did not have any objection with respect to the cancellation of the allocated seat as the petitioner desired for subsequent round of counselling and therefore, the petitioner did not respond.

7. Learned counsel for the petitioner also states that even Rule 56 of the JoSAA 2023 Business Rules is advisory in nature and the same only states that in case of non-deposition of seat acceptance fee the allotted seat would be cancelled. He, however, fairly concedes that there are instructions

contrary to the SMS and Rule 56 of the JoSAA 2023 in Rule No. 42 of the JoSAA 2023.

8. Learned counsel for the petitioner has also placed reliance on the decision of the Hon'ble Supreme Court in the case of ***Prince Jaibir Singh v. Union of India & Ors¹***. In addition, he also placed reliance on an interim order passed by the High Court of Rajasthan in W.P.(C)10605/2016.

9. Learned counsel for the petitioner also states that the petitioner sent an e-mail to JoSAA with respect to the consideration for further rounds in the JoSAA counselling. The e-mail sent by the petitioner on her own if carefully perused, the same would indicate that the petitioner did admit that she might have misunderstood the instructions, however, the same should not result in complete deprivation of participation in the counselling and allotment of seat as per her merit.

10. According to petitioner, since the last date for counselling is 26.07.2023 and she is ready to participate in the remaining round of counselling process from the stage where the counselling is going on. Learned counsel for the petitioner submits that since this is the last year to participate in JEE (Advanced) and the petitioner is ready and willing to opt for the seat whichever is offered to her on the basis of her merit position.

11. Learned counsel appearing on behalf of respondent no.2/JoSAA has filed the counter affidavit and has strongly opposed the prayer made by learned counsel for the petitioner. According to learned counsel for respondent No.2/JoSAA, the present petition is not maintainable on account of territorial jurisdiction. He states that the petitioner was allocated a seat at

¹ SLP(C)No.18995/2021

IIT Kharagpur. The JoSAA 2023, which is the examining body is at IIT Guwahati and the petitioner is permanent resident of Mumbai.

12. According to learned counsel for respondent No.2/JoSAA, this court has no territorial jurisdiction. He also states that if the instructions of the JoSAA 2023 are carefully perused, the same would lead to no second opinion than the one which has been specifically mentioned in Rule No. 42 of the JoSAA 2023, Business Rules. He has taken this court through various instructions to indicate that at repeated stages, the JoSAA 2023 has emphasized that the candidate who want to continue in the counselling process has to deposit the seat allotment fees.

13. According to him, in unequivocal terms under step no.3 of Rule No.42 of the JoSAA 2023, Business Rules, it is highlighted that non-payment of the seat acceptance fees is one of the ways to reject the offered/allocated seat and will be treated as a rejection. According to him, it is specifically stipulated that in such a situation, the candidate will no longer be able to participate in the seat allocation process in the subsequent rounds.

14. He, therefore, states that in the instant case, admittedly, the petitioner has neither deposited the fees nor has uploaded the documents. According to him, both the reasons are independently sufficient for treating the petitioner out of the counselling process. Learned counsel has also placed reliance on a decision of this court in the case of *Omansh Thakur v. Union of India and Ors.*²

15. While placing reliance on paragraph nos. 19 to 22, he states that the similar controversy has been noted by this court and the relief of similar nature has been rejected. Learned counsel also states that if any exception is

² 2023:DHC:4968

carved out, the same would lead to multiple indiscipline in academic matters, which would lead to cause disturbance to the entire system. He, therefore, states that in no case any interference is required under the facts of the present case.

16. I have heard learned counsel for the parties and have perused the material placed on record.

17. Rule nos. 41 and 42 of the JoSAA 2023 Business Rules reads as under:-

“41. It is the candidate’s responsibility to login to the JoSAA portal and check if a seat is allocated in a given round of seat allocation. Schedule of JoSAA activities is available in Annexure 3 of this document. If the candidate is allocated a seat, steps of “Online Reporting” mentioned in point 42 MUST be completed, in order to accept the allocated seat before the last date/time specified for the given round, i.e. the round in which seat is allocated. Please refer to Annexure 3 for the timeline. The allocated seat will then be either confirmed / cancelled on completion of document verification. Failing to complete ALL the steps of “Online Reporting”, within the specified wise timeline of the same round of JoSAA [see Annexure 3 for the round-wise timelines], will lead to cancellation of allocated seat and the candidate will be out of further JoSAA rounds, if any.

42. A candidate who has been allocated a seat needs to download the “Initial Seat Allotment Intimation Slip” which has information regarding the Seat Allotment and steps to be followed for seat confirmation by the candidate.

Step 1: Accept the Seat

The candidate needs to accept the seat allocated and opt for any one of the options ‘Freeze’, ‘Slide’ or ‘Float’ for

the choice of academic program for subsequent round(s), if any, of joint seat allocation (see section XX).

Step 2: Upload the documents

The candidate MUST upload all the required documents (as per Annexure 3) on the JoSAA portal.

Step 3: Pay the Seat Acceptance Fee

The candidate MUST pay the seat acceptance fee for continuing with the JoSAA process till the end to avail the seat in HTs or NIT+System. The documents uploaded by the candidate cannot be verified unless the candidate pays the seat acceptance fee. Admission fee varies across the Institutes/category of candidates and is different from seat acceptance fee. At the time of seat acceptance, candidates have to remit the seat acceptance fee only in the round in which the seat is allotted for the first time.

Non-payment of the seat acceptance fee is one of the ways to reject the offered / allocated seat and will be treated as a rejection. In such a situation, the candidate will no longer be able to participate in the seat allocation process in the subsequent rounds. [See points 44 and 45 below]

Seat Acceptance Fee

Rs. 20,000 for candidates with the category tag SC, ST, GENPwD, GEN-EWS-PwD, OBC-NCL-PwD, SC-PwD or STPwD and Rs. 40,000 for all other candidates (the fee includes Rs. 4,000 JoSAA processing charges). The seat acceptance fee excluding JoSAA processing charges of Rs. 4,000 will be adjusted against the admission fee.

Candidates should remit seat acceptance fee using Debit card/UPI/Credit card/Net Banking/E-Challan [See Chapter XXII below].

Step 4: Respond to queries (if any)

At the time of document verification, if the document verification officer raises any query, the candidate must respond in online mode (through candidate portal) within the stipulated time. Failure to respond to the query(ies) on time will lead to cancellation of the allotted seat and the candidate will no longer be able to participate in the JoSAA 2023 process. It is the responsibility of the candidate to check the online portal at regular intervals of time and respond to queries (if any) without fail within the stipulated time.

Candidates MUST complete all the above steps before their details are forwarded to the reporting authorities for verification and provisional allocation of the seat.

Document verification is done ONLY for those candidates who have successfully paid the seat acceptance fee.

Failure to complete all the steps of "Online Reporting" for seat acceptance will be considered as rejection of the offer and the candidate would have forfeited the eligibility for admissions to any of the institutes through JoSAA 2023 and will not be able to participate in the seat allocation process in the subsequent rounds, if any".

18. This court in case of ***Omansh Thakur (supra)*** while taking note of the aforesaid Rule has held in paragraph Nos. 19 to 22 as under:-

"19. It is thus seen that so far as the admission process is concerned, once the candidate is allocated a seat, he needs to download the initial Seat Allotment Intimation Slip. The said Slip contains the information regarding the seat allotment and steps to be followed for seat confirmation by the candidate.

20. The first step mandates the candidate to accept the seat allotted and opt for any one of the options 'Freeze', 'Slide' or 'Float' for the choice of academic program for subsequent

round(s), if any. In the instant case, the petitioner has admittedly not taken any of the steps stipulated in Clause 42 of the Business Rules.

21. It is thus noted that for a candidate who does not opt for the seat, the allocation letter stands cancelled in view of the stipulation made in Clause 42 of the aforesaid Rules, which clearly states that non-payment of the seat acceptance fee is one of the ways to reject the offered/ allocated seat and will be treated as a rejection.

22. In the instant case, the seat offered to the petitioner stands cancelled mainly for the reason that the petitioner has not accepted the seat allocated to him and has not paid the requisite fee within the stipulated time period”.

19. It is thus seen that non-payment of the seat acceptance fees has been found to be one of the ways to reject the offered/allocated seat and the seat so allocated will be treated as rejected. It is thus seen that since this court has already taken a view under the almost similar facts, therefore, there is no reason to take a contrary view.

20. In the instant case, the petitioner was offered a seat, however, the seat acceptance fees has not been deposited. The only reason of non-deposition of the fees as stated by the petitioner is that she was waiting for better options. If the entire rule position is understood in right perspective, the same would indicate that the better option can still be explored after deposition of seat allocation fees. There are repeated instructions given by the respondents not only under the rules but under the frequent asked questions (‘FAQ’) and on the home page of the website. The instructions under the FAQ by JoSAA 2023 are as under:-

Question 5: I got allocated a seat in a certain round of JOSAA for the fins time but f am not interested in this seat. I would like to wait

for further rounds of JoSAA to possibly get a better seat in my preference order. Do I need to do anything in the current round?

Answer: If you are allocated a seat in a certain round of JoSAA, you need to follow steps for online reporting that include (i) acceptance of the seat, (ii) uploading of documents and (iii) payment of seat acceptance fee. You need to accept the seat and choose an option of Float/Slide if you wish to be considered for a seat of higher preference in any Institute within the allocated Institute in the subsequent rounds (other than the 6th round). If you fail to complete any of the three steps of online reporting for seat acceptance, your allocated seat will be CANCELLED, and you will no longer be able to participate in the seat allocation process. Please refer to Clause 41 and 42 of JoSAA Business Rules for details of online reporting”.

21. The home page of JoSAA 2023 website specifically highlights the following instructions:-

“Paying the seat acceptance fee is mandatory for all three Willingness (FLOAT/SLIDE/FREEZE) submitted by candidates. Failure to pay the seat acceptance fee by the deadline will result in the cancellation of the provisionally allotted seat, and the candidate will not be considered for seat allocation in the subsequent rounds”.

22. It is also to be noted that even on the home page of JoSAA 2023 website specific instructions are highlighted that failure to pay the seat acceptance fees by the candidates would result in the cancellation of the provisionally allocated seats and the candidate will not be considered for seat allocation in the subsequent rounds.

23. In view of the aforesaid, this court is not inclined to pass any directions for allowing the petitioner to participate in the further round of counselling.

24. The petition is accordingly dismissed alongwith pending applications.
25. *Dasti.*

PURUSHAINDRA KUMAR KAURAV, J

JULY 21, 2023

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