



2023:DHC:8128

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

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

+ **W.P.(C) 11881/2023 and CM APPL. 46376/2023**

Between: -

RABAB YUSUF MANKDA
R/O A/17, YASHA BUNGLOW,
NEAR TALHA MASJID, SALATIYA ROAD,
AFIF COMPLEX, DISTRICT- ANAND,
PO- ANAND HO,
STATE- GUJARAT, PIN- 388001

.....PETITIONER

(Through: Mr.Rauf Rahim and Mr.Ali Asghar Rahim, Advocates.)

AND

UNION OF INDIA
THROUGH THE SECRETARY,
MINISTRY OF TEXTILES,
NATIONAL INSTITUTE OF FASHION TECHNOLOGY,
HAUZ KHAS, NEAR GULMOHAR PARK,
NEW DELHI- 110016

.....RESPONDENT NO.1

NATIONAL INSTITUTE OF FASHION TECHNOLOGY (NIFT ADMISSIONS),
NATIONAL INSTITUTE OF FASHION TECHNOLOGY,
HAUZ KHAS, NEAR GULMOHAR PARK,
NEW DELHI- 110016

.... RESPONDENT NO.2

NATIONAL INSTITUTE OF FASHION TECHNOLOGY (DELHI),
THROUGH THE DIRECTOR,

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NATIONAL INSTITUTE OF FASHION TECHNOLOGY
(CAMPUS),
HAUZ KHAS, NEAR GULMOHAR PARK,
NEW DELHI- 110016

.... RESPONDENT NO.3

(Through: Mr.Neeraj, SPC with Mr.Vedansh Anand, GP for R-1.
Mr.Kaushal Gautam, Mr.Mrinal Sharma, Ms.Snehpreet Kaur and
Ms.Vanshika, Advocates for R-2 and 3.)

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Pronounced on: 07.11.2023

J U D G M E N T

1. The petitioner vide the instant writ petition is seeking for directions against the respondents to admit the petitioner in Masters in Fashion Technology (*hereinafter as 'MFT'*) course at respondent no.3-National Institute of Fashion Technology, Delhi campus (*hereinafter as 'NIFT'*) for the academic session 2023-24. She is also assailing the letter dated 16.08.2023, whereby, her admission to the said course has been rescinded by the NIFT.

2. The facts of the case show that the petitioner had completed her Bachelors of Science in Fashion Technology (*hereinafter as 'B.FT.'*) three-year course from the Maharaja Sayajirao University of Baroda. Being desirous of securing admission in MFT course at NIFT, she applied for the entrance examination conducted by NIFT and secured a common merit rank 23 and category merit rank 16. Thereafter, she completed the required formalities and submitted all the available documents through online mode as prescribed by the NIFT. She was allowed to continue with the admission process and finally, on

03.06.2023, she received provisional allotment letter. Consequently, she duly paid her fee alongwith the hostel charges.

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3. On 24.07.2023, she received a congratulatory email for her admission and she was informed about the orientation programme which was slated to be organized on 26.07.2023, whereby, she was required to produce her original documents. However, upon physical verification of her documents, it was found that she was not eligible for admission in NIFT as she does not fulfill the prescribed eligibility.

4. Thereafter, on 04.08.2023, she sent a detailed representation *via* email to the concerned authorities to allow her to undertake the said course. Pursuant to her email, Director, NIFT received a response from the Assistant Director, Ministry of Textiles which stated that since the petitioner did not meet the eligibility criteria, her admission was cancelled by the competent authority.

5. Learned counsel appearing on behalf of the petitioner submits that the cancellation of admission of the petitioner is against the tenets of equality enshrined in Article 14 of the Constitution of India. He submits that the petitioner was declared qualified for the said course after announcement of the result and has also paid the requisite fee upon receiving the allotment letter. He, therefore, contends that at such an advanced stage of admission process, NIFT cannot be allowed to rescind the admission of the petitioner.

6. Learned counsel further submits that a great prejudice would be caused to the petitioner if she is not granted admission in NIFT as she had already vacated a seat at another college in anticipation of her admission being finalized in NIFT. He contends that had the petitioner been aware at any point of time that her admission is not final, she would not have left her seat at another institute.

7. Learned counsel, however, alternatively confines his prayer to the extent that the eligibility criteria prescribed by NIFT, which

B.FT. degree from NIFT, is in the teeth of Article 14 of the Constitution of India as it is not in tandem with the mandate of Sections 31 and 32 of the National Institute of Fashion Technology Act, 2006 (Act of 2006). He submits that the Bachelor's degree obtained by the petitioner is on an equal footing to the corresponding Bachelor's degree issued by NIFT. He, therefore, submits that a purposive interpretation of the provisions of the Act of 2006 is required to be made to appreciate the contentions raised by him.

8. He further submits that since the petitioner was called for interview and instructed to deposit the fees by NIFT and also allocated the seat, therefore, the petitioner has a legitimate expectation to continue her desired course in NIFT.

9. Learned counsel for the petitioner places reliance on the decision of the Hon'ble Supreme Court in the cases of *AIIMS Students' Union v. AIIMS & Ors.*¹ and *Dr. Jagdeesh Sharan & Ors. v. Union of India.*²

10. Learned counsel appearing on behalf of the respondents vehemently opposes the submissions made by learned counsel for the petitioners. According to him, the petitioner is not entitled for admission in NIFT as she has pursued a three years Bachelor's course namely B.FT., however, the prospectus of NIFT explicitly prescribes for a B.FT. degree from NIFT or B.E./B.Tech degree from any other University, to be eligible for the MFT programme. He also submits that she was informed on numerous occasions through email about her degree being ineligible for the MFT course.

11. While taking this court through the additional documents filed by the respondents, learned counsel contends that the petitioner had opted for B.E./B.Tech degree as educational qualification at the time

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¹ (2002) 1 SCC 428
² (1980) 2 SCC 768

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of initial application, filled and submitted by the petitioner on 18.11.2022 and due to the same reason, she was allowed to continue with the admission process and was provisionally admitted. He also indicates that the same educational qualification i.e., B.E./B.Tech degree was opted by the petitioner in the final application for seat allocation submitted on 19.05.2023.

12. Learned counsel further contends that the petitioner had also submitted an undertaking alongwith the registration form which states that she will submit the qualifying marksheets latest by 30.09.2023, failing which provisional admission shall stand cancelled without any further notice. He, therefore, submits that the petitioner was only provisionally verified till the final verification takes place physically at the NIFT campus and hence, no right of legitimate expectation accrues in the favour of the petitioner.

13. Learned counsel for the respondents submits that after participating in the entire admission process, the petitioner cannot challenge the eligibility criteria at such a belated stage.

14. Learned counsel has placed reliance on the decision of the Hon'ble Supreme Court in the case of *Nidhi Kaim and Another v. State of Madhya Pradesh and Others*³ to support his contentions.

15. I have heard the learned counsel appearing on behalf of the parties and perused the record.

16. The primary fulcrum of the grievance of the petitioner in the instant case is that despite being allowed to successfully pass through various stages of admission process and finally reaching the allocation stage, the petitioner has been shorn of her right to get admitted in NIFT for the reason that her Bachelor's degree does not meet the

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desired eligibility. Therefore, the issues which arise for consideration by this court in the instant case are enumerated as:-

- i. Whether the cancellation of admission of the petitioner is arbitrary, illegal and flagrantly violates Article 14 of the Constitution of India?
- ii. Whether the continued allowance by NIFT to participate in the admission process till the last stage, creates a crystallized right of legitimate expectation in favour of the petitioner?

17. Since the petitioner is essentially challenging the eligibility criteria of NIFT for admission in MFT course, it is appropriate to extract the relevant paragraphs of the prospectus of NIFT which set out the necessary pre-conditions for admission in the said course. The same is reproduced as under:

“Admission Guidelines 2023

Master’s Programmes (M.Des, M.F.M and M.FTech)

4. Educational Qualification for Master of Fashion Technology (M.FTech)

- *B.F.Tech. from National Institute of Fashion Technology (NIFT)*
or
• *B.E / B.Tech. from any Institute / University recognized by law in India.”*

18. It is seen that a candidate seeking admission in MFT course is required to possess either a B.F.T. degree from any NIFT or any B.E./B.Tech degree from any Institute/University recognized by law in India. Admittedly, as per the prospectus of NIFT, the Bachelor’s degree of the petitioner does not entitle her to seek admission in MFT course. However, the said criterion is purely a policy decision of an educational institution governed by the enactment of legislature and the same is neither arbitrary nor does it suffer from any patent illegality.

19. This court in the case of **Devendra Singh Chaudhary vs Jawaharlal Nehru University & Ors.**⁴ has held as under:

*17. In my considered opinion, it is prudent to leave the onus of deciding the matters concerning eligibility criteria for admission in particular courses, on the respective institutions, which shall decide the same in adherence to the extant regulations. The position of law regarding the interference of writ courts in policy decisions is well settled and expounded through catena of judgments, which succinctly affirm that the writ courts should keep their hands off, unless the concerned policy is grossly arbitrary or malafide or suffers from patent illegality. Reliance may be placed on the decision in the case of **Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth**, wherein, the Hon'ble Supreme Court has held as under:*

29. Far from advancing public interest and fair play to the other candidates in general, any such interpretation of the legal position would be wholly defeasive of the same. As has been repeatedly pointed out by this Court, the Court should be extremely reluctant to substitute its own views as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day-to-day working of educational institutions and the departments controlling them. It will be wholly wrong for the Court to make a pedantic and purely idealistic approach to the problems of this nature, isolated from the actual realities and grass root problems involved in the working of the system and unmindful of the consequences which would emanate if a purely idealistic view as opposed to a pragmatic one were to be propounded. It is equally important that the Court should also, as far as possible, avoid any decision or interpretation of a statutory provision, rule or bye-law which would bring about the result of rendering the system unworkable in practice. It is unfortunate that this principle has not been adequately kept in mind by the High Court while deciding the instant case.

[Emphasis supplied]

20. Therefore, the case of the petitioner that the eligibility criteria which recognizes a B.F.T. degree secured only from any NIFT deprives countless individuals from attaining quality education and hence, infringes one's right to equality, is not sustainable in the eyes of law. It is always wiser to leave the formulation of eligibility conditions at the discretion of the concerned educational institution.

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which shall do the same with rationality and prudence. The Hon'ble Supreme Court in a series of judgments has taken a consistent view that in such matters, the courts must be slow in interfering unless the eligibility conditions suffer from *malafide*, arbitrariness or illegality.

21. So far as the argument raised by the petitioner pertaining to purposive interpretation of the provisions of the Act of 2006 is concerned, it is trite that primacy must be given to literal or grammatical rule and only in the cases of ambiguity, one must resort to external or internal aids of interpretation. For the sake of clarity, Sections 31 and 32 of the Act of 2006 read as under:

“31. The Institute shall have the power to grant degrees, diplomas, certificates and other academic distinctions under this Act, which shall be equivalent to such corresponding degrees, diplomas, certificates and other academic distinctions granted by any University or Institute established or incorporated under any other law for the time being in force.

32. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provision or give such direction not inconsistent with the purposes of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the appointed day.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.”

22. It is seen that Section 31 of the Act of 2006 confers the power upon NIFT to grant degrees, diplomas etc. which shall be equivalent to such corresponding degrees, certificates and other academic distinctions granted by any other institute. Whereas Section 32 of the Act of 2006 envisages the power to remove difficulties in giving effect to the provisions of the said Act. It is, therefore, explicitly clear that the aforesaid provisions do not intend to draw any equivalence of the degree obtained from any other institute for the purpose of fulfilling

the eligibility criteria of the courses conducted by NIFT.

23. In the instant case, the prospectus of NIFT unequivocally lays down the eligibility criteria for the admission in MFT course. The prospectus has the force of law and the petitioner is also bound by the rules prescribed therein. The Division Bench of this court in the case of **Varun Kumar Aggarwal v. Union of India and Ors.**⁵, took a view that the conditions stipulated in the prospectus are guidelines for all concerned and everyone is required to follow the same in letter and spirit and not act in transgression.

24. A co-ordinate Bench of this court in the case of **Sonam Rawal v. University of Delhi and Ors.**⁶ has held as under:

“It is settled legal position that the Bulletin of Information has the force of law and it is also trite that there is no estoppel against law. Therefore, the doctrine of ‘legitimate expectation’ and ‘estoppel’ cannot be pressed against the respondent-university when the mistake in the PG Admission Form is ex facie contrary to the eligibility criteria mentioned in the Bulletin of Information.”

25. Moreover, in the case of **Dhananjay Malik v. State of Uttaranchal**⁷, the Hon’ble Supreme Court has held that once a candidate has participated in the selection process without any demur and being fully aware about the required educational qualifications, he/she is estopped from challenging the selection criteria as being contrary to the Rules. The relevant paragraphs of the said decision read as under:

“7. It is not disputed that the respondent-writ petitioners herein participated in the process of selection knowing fully well that the educational qualification was clearly indicated in the advertisement itself as BPE or graduate with diploma in Physical Education. Having unsuccessfully participated in the process of selection without any demur they are estopped from challenging the selection criterion inter alia that the advertisement and selection with regard to requisite educational qualifications were contrary to the Rules.

8. In *Madan Lal v. State of J&K* [(1995) 3 SCC 486 : 1995 SCC (L&S) 712 : (1995) 29 ATC 603] this Court pointed out that when the petitioners appeared at the oral interview conducted by the members concerned of the Commission who interviewed the petitioners as well as the contesting respondents concerned, the petitioners took a chance to get themselves selected at the said oral interview. Therefore, only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, they have filed writ petitions. This Court further pointed out that if a candidate takes a calculated chance and appears at the interview, then, only because the result of the interview is not palatable to him, he cannot turn round and subsequently contend that the process of interview was unfair or the Selection Committee was not properly constituted.

9. In the present case, as already pointed out, the respondent-writ petitioners herein participated in the selection process without any demur; they are estopped from complaining that the selection process was not in accordance with the Rules. If they think that the advertisement and selection process were not in accordance with the Rules they could have challenged the advertisement and selection process without participating in the selection process. This has not been done.

10. In a recent judgment in *Marripati Nagaraja v. Govt. of A.P.* [(2007) 11 SCC 522 : (2008) 1 SCC (L&S) 68 : (2007) 11 SCR 506] , SCR at p. 516, this Court has succinctly held that the appellants had appeared at the examination without any demur. They did not question the validity of fixing the said date before the appropriate authority. They are, therefore, estopped and precluded from questioning the selection process."

26. The learned counsel for the respondents, while taking this court through the additional documents, has sufficiently shown that the petitioner had actually opted for B.E./B.Tech. as her educational qualification, at least on two occasions i.e., at the very threshold stage of registration itself as well as at the time of allocation of seat. The said argument was not opposed by the learned counsel for the petitioner and therefore, it seemingly appears that the petitioner had erroneously drawn an equivalence of her B.FT. degree with that of B.E./B.Tech. programme.

27. In any case, even assuming that the same was done

prospectus of NIFT. If the petitioner was aggrieved by the eligibility criteria, as the same was discriminatory according to her, she must have challenged the same in accordance with law at the initial stage of release of notification for the examination and prospectus itself. After having participated in the entire admission process through various stages, the argument of the petitioner regarding challenge to the eligibility conditions does not seem plausible of having any merit.

28. The next issue which requires consideration is the application of the doctrine of legitimate expectations, keeping in mind the factual matrix of the present case where NIFT has allowed the petitioner to participate at all the stages of admission and subsequently, denied to admit her at the time of the orientation programme.

29. The Halsbury's Laws of England, Fourth Edition, Volume I(I) 151, elucidates that a person may have a legitimate expectation of being treated in a certain way by an administrative authority even though he has no legal right in private law to receive such treatment. The expectation may arise either from a representation or promise made by the authority, including an implied representation, or from consistent past practice.

30. The doctrine of legitimate expectation emanates from the rule of law and the exposition of law on the concept can be fathomed from the decision of the Hon'ble Supreme Court in the case of ***Madras City Wine Merchants v. State of Tamil Nadu***⁸ which postulates the following circumstances which may lead to the establishment of legitimate expectation:

- i. If there was some explicit promise or representation made by the administrative body.
- ii. That such a promise was clear and unambiguous.

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iii. The existence of a consistent practice in the past which the person can reasonably expect to operate in the same way.

31. A perusal of the facts of the present case neither exhibits any express promise made by NIFT to the petitioner for granting admission without the prescribed eligibility nor the petitioner has shown any consistent practice on the part of NIFT, the benefits of which has not been extended to the petitioner. In fact, it was communicated to the petitioner on several occasions that her Bachelor's degree is ineligible for securing admission in MFT course. Therefore, the plea raised by the petitioner that it has a reasonable expectation to continue the admission provisionally granted by NIFT, is also devoid of any merit.

32. While placing reliance on the decision of the Hon'ble Supreme Court in the cases of *Union of India v. Hindustan Development Corporation*⁹ and *State of Bihar v. Sachindra Narayan*¹⁰, and the decision of this court in the case of *Saurabh Shukla v. Indira Gandhi National Open University and Anr.*¹¹, whereby the petitioner was aggrieved by the rejection of his application for securing admission in an online course by the concerned respondent due to non-recognition of his Bachelor's degree, has held as under:

"36. Considering the foregoing, the petitioner might have an anticipation for securing admission in PGDMS course, however, the same would not yield a crystallised or an indefeasible right on the part of the petitioner against the admission in the said course without fulfilling the prescribed eligibility."

33. It is clearly seen that the circumstances mentioned in *Madras City (supra)* are not fulfilled in the instant case and therefore, the petitioner does not have any legitimate expectation to secure her admission in NIFT as she had herself given an undertaking that the

admission would remain subject to the physical verification of the requisite eligibility certificates. It is also vividly seen that she was only provisionally admitted throughout the admission process, which is discernible from the exchange of communications through email between the petitioner and NIFT.

34. In view of the aforesaid discussion, the prayer for directions against the respondents to admit the petitioner in MFT course is declined.

35. However, the NIFT should have exercised a greater caution and devised an advanced mechanism for sorting out the eligible candidates during counselling itself which has not been done in the instant case. In light of the peculiar facts and circumstances, it is directed that the admission fee as well as the hostel charges paid by the petitioner must be refunded back to her within a period of two weeks from the date of receipt of copy of this judgment.

36. With the aforesaid direction, the petition stands disposed of alongwith the pending applications.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

NOVEMBER 7, 2023

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