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IN THE HIGH COURT OF DELHI AT NEW DELHI

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

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W.P.(C) 14811/2022

Between: -

HARSHUL SAINI
S/O SATYTEET SAINI
R/O VIKAS NAGAR ROAD NO.2
BEHIND GEEJGARH HOUSE
BYPASS GODOWN
DISTRICT- JAIPUR,
RAJASTHAN

.....PETITIONER

(Through: Mr. Nitish Kumar Singh, Mr. Pawan Kumar
Chaturwedi, and Mr. Amit Kumar Thakur, Advocates)

AND

INDIAN INSTITUTE OF TECHNOLOGY (IIT) DELHI
THROUGH ITS DIRECTOR,
HAUZKHAS
SHAHEED JEET SINGH MARG,
NEW DELHI- 110016.
EMAIL- info@iitd.ac.in

.....RESPONDENT NO. 1

JOINT SEAT ALLOCATION AUTHORITY 2022
(JoSAA 2022)
AN AUTHORITY SET UP BY THE MINISTRY OF
INDIAN INSTITUTE OF TECHNOLOGY (IIT) BOMBAY
POWAI, MUMBAI
MAHARASHTRA -400076
EMAIL-director@iitb.ac.in

.....RESPONDENT NO. 2

UNION OF INDIA
THROUGH THE MINISTRY OF EDUCATION,
DEPARTMENT OF HIGHER EDUCATION,
HAVING ADDRESS AT 127 -C, SHASTRI BHAWAN,
NEW DELHI-100001.
EMAIL ID: secy.dhe@nic.in; uoidhc@gmail.com

.....RESPONDENT NO. 3

GOVERNMENT OF RAJASTHAN
THROUGH SOCIAL JUSTICE AND EMPOWERMENT
DEPARTMENT, G-3/1, AMBEDKAR BHAWAN,
RAJMAHAL RESIDENCY AREA, JAIPUR-302005
EMAIL-raj.sje@rajasthan.gov.in

.....RESPONDENT NO. 4

(Through: *Mr. Arjun Mitra, Advocate for R-2.*
Mr. Jivesh Kumar Tiwari, Sr. Panel Counsel for R-3.)

% Pronounced on : 07.02.2023

J U D G M E N T

1. This petition under Article 226 of the Constitution of India is directed against the order of cancellation of seat dated 27.09.2022, issued by respondent No.2 with a further prayer to direct respondents No.1 and 2 to allot seats in Indian Institute of Technology (IIT), Delhi in Energy Engineering (4 years Bachelor of Technology) stream for the academic year 2022-23.

2. The facts of the case are that on 07.08.2022, the petitioner qualified Joint Entrance Examination (JEE) conducted by respondent No.2 - Joint Seat Allocation Authority, 2022 (in short, JoSAA, 2022) under Other Backward Classes-Non Creamy Layer (in short, the OBC-NCL) category. On 28.08.2022, the petitioner thereafter appeared in JEE advanced examination conducted by respondent No.2

under the same category. On 17.09.2022, the result of advance JEE was declared. The petitioner secured 1764 rank in the OBC-NCL category. On 24.09.2022, during the counselling process, he was allotted a seat for Energy Engineering (4 years Bachelor of Technology) under the OBC-NCL category. The petitioner was to submit all his documents including payment of fees etc. before 27.09.2022, up to 5 pm. On 27.09.2022, the petitioner submitted provisional certificates of the OBC-NCL alongwith other relevant documents. On 28.09.2022, he also submitted the final certificate issued by the State of Rajasthan in the Central Government format. However, on 27.09.2022, the seat allotted to the petitioner was cancelled for the reason that he could not submit the valid certificate within the time stipulated in the brochure.

3. The learned counsel appearing for the petitioner submits that the entire approach of respondent No.2 is erroneous and the same is manifestly arbitrary. According to him, the petitioner has not committed any wrong and it is only on account of the faulty and cumbersome process of respondent No.4 i.e., State of Rajasthan that there was some delay in the issuance of the certificate which, however, was timely uploaded by the petitioner and, therefore, his candidature should not have been rejected arbitrarily on the mechanical and frivolous grounds. He states that the petitioner had a valid certificate. Since the same had expired on 07.12.2020, therefore, he acquired a fresh certificate. Before the cut-off date, he applied for an OBC certificate with the respective State Government and after issuance of the provisional certificate, the same was uploaded timely i.e., before 5 pm on 27.09.2022. Even the final certificate was also issued by the said authority on 28.09.2022. According to him, on 27.09.2022 itself, at 05:04 pm, the respondent No.2 sent the text

message to the petitioner accepting his newly uploaded document to be in order and therefore, the respondent No.2 at a later stage cannot take a different stand on the ground that on 27.09.2022, there was some anomaly in the uploading of the certificate by the petitioner.

4. The learned counsel placed reliance on decision of the Hon'ble Supreme Court in the cases of *Sidhant Batra v. Director Indian Institute of Technology, IIT Bombay & Ors.*¹ *Prince Jaibir Singh Vs. Union of India and Ors.*², *Dolly Chandra Vs. Chairman JEE & Ors.*³ *Vinod Kumar v. University of Delhi and Ors.*⁴ *Jasmeen Kaur v. Union of India and Ors.*⁵ and *Nishant v. Union of India and Ors.*⁶

5. Learned counsel appearing on behalf of respondent No.2 opposed the submissions and he stated that since the petitioner did not upload the valid OBC-NCL certificate on the website within the stipulated time, therefore, his seat was rightly cancelled and he was rightly considered in the subsequent round of seat allocation to be in the general category. He submitted that the seats in the IITs and the NIT plus system (comprising of National Institutes of Technology, Indian Institute of Engineering Science and Technology, Indian Institute of Information Technology and other government-funded technical institutes) are offered jointly through a common process conducted by respondent No.2 - JoSAA. The entire examination and allocation of seats were governed by JoSAA Business Rules which were published on 24.08.2022. According to him, the petitioner after the allocation of the seat uploaded certain documents on 21.09.2022 without uploading the scanned copy of the OBC-NCL certificate

¹ Civil Appeal of 4029/2020 dated 06.01.2021

² Civil Appeal No. 6983/2021 dated 22.11.2021

³ (2005) 9 SCC 779

⁴ 2016 SCC OnLine Del 5458

⁵ 2018 SCC OnLine Del 9778

⁶ 2022 SCC OnLine Del 4615

issued on or after 01.04.2022. He uploaded a provisional certificate of the OBC-NCL on 27.09.2022 which was not found to be in the Central List format. Accordingly, a query was raised by the reporting officer. Since the petitioner failed to upload the required document before the last date in time, the petitioner was treated as a general category candidate. He stated that the requirement of submission of the OBC-NCL certificate issued on or after 01.04.2022 was within the public domain in the information brochure, JEE (advanced) 2022 which was first published on the official website on 24.02.2022. Clause 15 of the said brochure clearly stipulates that candidates under the OBC-NCL category are required to submit the requisite certificate which has been issued on or after 01.04.2022 and if the said certificate is not available, to upload a declaration in lieu thereof, to that effect. He stated that the petitioner has neither given any declaration nor has submitted any certificate on the date of filing of the application or on the last date, therefore, no fault can be attributed to the decision taken by the respondents. According to him, there were 3916 candidates who got admission to various IITs in the OBC-NCL category. Out of the aforesaid seats, 434 OBC-NCL seats including that of the petitioner were rolled back to the general category due to non-submission of the certificate. There were around 242 candidates who also suffered the same result on account of the non-submission of the general EWS certificate. It is thus submitted that all candidates have been treated similarly and no exception can be carved out for one candidate. He has placed reliance on the Division Bench decision of the Hon'ble High Court of Punjab and Haryana in the case of *Yoshika Verma v. Union of India*⁷. According to him, against the decision of the Punjab and Haryana High Court, the

Hon'ble Supreme Court dismissed SLP No. 11464/2022 on 22.07.2022.

6. I have heard Mr. Nitish Kumar Singh, Mr. Pawan Kumar Chaturvedi and Mr. Amit Kumar Thakur, learned counsel for the petitioner and Mr. Arjun Mitra, learned counsel for respondent No.2, Mr. Jivesh Kumar Tiwari, learned Senior Panel Counsel for respondent No.3 and perused the record.

7. As per JoSAA Business Rules, the candidates were required to upload the required document in the prescribed format as per Annexure-3 of the said Business Rules. Schedule of the events of JoSAA, 2022 (online reporting) stipulates that seat allocation (round one) was to take place on 23.09.2022 by 10:00 IST. Online reporting, fee payment/document upload/response by the candidate to query (if required) (round one) was to take place between 23.09.2022 at 17:00 IST to 26.09.2022 by 17:00 IST. This further requires that the last date to respond to the query (round one) was 27.09.2022 by 17:00 IST. Annexure R3-2 of the counter-affidavit of respondent No.2 explains the online correspondence between the petitioner and respondent No.2. The same reads as under:-

Round No	Discrepancy Status	Remarks	SubmitTime	Action By
1	Query Raised	Please upload the proper OBC-NCL certificate, you have uploaded only receipt.	2022-09-26 17:02:49.960	PI User
1	Query Responded	--	2022-09-27 16:08:30.433	Candidate
1	Rejected and Query Raised Again	Non-creamy layer status is missing in submission.	2022-09-27 16:19:06.557	PI User
1	Query Responded		2022-09-27 16:30:25.383	Candidate

8. It is thus seen that 27.09.2022 was the last date to respond to the query and according to the petitioner, he uploaded the provisional certificate by 16:30 IST on that date i.e. before the time would expire.

Thus the fundamental issue requiring the consideration of this court is

whether the uploading of provisional certificate before 17:00 IST is sufficient compliance under the scheme of examination or not.

9. The certificate, which the petitioner had uploaded, has been filed by him as Annexure-13. The same is reproduced as under:

कार्यालय उपखण्ड अधिकारी जयपुर प्रथम, जयपुर

:: प्रोविजनल प्रमाण पत्र ::

श्री/शुश्री सुनील सेनी पुत्र/पुत्री श्री सत्यजीत सेनी
 निवासी 13, मिनाट हाउस नं. पीछे रोड नं. 2 कच्ची बस्ती 2
जयपुर-302002

जयपुर द्वारा OBC/SC/ST/General/Minority/EWS (State/Center) प्रमाण पत्र बनवाने हेतु ऑनलाईन आवेदन (टोकन नं.- 2-20497808149) किया गया है। आवेदनक द्वारा ऑनलाईन किया गया आवेदन प्रक्रियाधीन होने के कारण प्रोविजनल प्रमाण पत्र जारी करने का निर्देशन किया गया है।

आए आवेदक द्वारा प्रस्तुत प्रार्थना पत्र एवं सत्य दस्तावेजों की प्राथमिकता जाँच अनुसार श्री/शुश्री सुनील सेनी पुत्र/पुत्री श्री सत्यजीत सेनी
 निवासी 13, मिनाट हाउस नं. पीछे रोड नं. 2 कच्ची बस्ती 2
जयपुर-302002 के प्रति जायपी राजस्थान राज्य के लिए OBC (NCL) श्रेणी का प्रोविजनल प्रमाण पत्र जारी किया जाता है। अंतिम रूप से जारी ऑनलाईन प्रमाण पत्र को ही पैदा माना जाये।

दिनांक: 22/09/2022


 महसूलदार
 जयपुर
 (जारीकर्ता)


 उपखण्ड अधिकारी
 जयपुर
 (जारीकर्ता)

10. The last line of the certificate clearly shows that the certificate was provisional in nature. It is only the final certificate that should be considered as a validly issued certificate.

11. Firstly, in accordance with Clause 15 of Information Brochure JEE (advance) 2022, the petitioner was required to submit the certificate in accordance with the latest guidelines of the Government of India relating to the OBC-NCL issued on or after 01.04.2022 at the time of online registration. In the absence of the certificate, the candidates were required to upload a declaration in lieu of the OBC-

NCL certificate to that effect. It is thus seen that the petitioner and all aspirants were well aware of the requirement of the OBC-NCL certificate. Secondly, Annexure 2 of the Information Bulletin (page-94) prescribes formats of certificates. Page-97 is the form for the OBC-NCL candidates. The same reads as under:

FORM-OBC-NCL

OBC-NCL Certificate Format

FORM OF CERTIFICATE TO BE PRODUCED BY OTHER BACKWARD CLASSES (NCL)* APPLYING FOR ADMISSION TO CENTRAL EDUCATIONAL INSTITUTIONS (CEIs), UNDER THE GOVERNMENT OF INDIA

This is to certify that Shri/Smt./Kum.** _____ Son/
Daughter** of Shri/Smt.** _____ of Village/
Town** _____ District/Division** _____ in
the State/Union Territory _____ belongs to the
_____ community that is recognized as a backward class
under Government of India***, Ministry of Social Justice and Empowerment's Resolution No.
_____ dated _____ ****

Shri/Smt./Kum. _____ and/or _____
his/her family ordinarily reside(s) in the _____ District/Division
of the _____ State/Union Territory. This is also to certify that
he/she does NOT belong to the persons/sections (Creamy Layer) mentioned in Column 3 of the
Schedule to the Government of India, Department of Personnel & Training O.M. No.
36012/22/93- Estt. (SCT) dated 08/09/93 which is modified vide OM No. 36033/3/2004
Estt.(Res.) dated 09/03/2004, further modified vide OM No. 36033/3/2004-Estt. (Res.) dated
14/10/2008, again further modified vide OM No.36036/2/2013-Estt (Res) dtd. 30/05/2014, and
again further modified vide OM No. 36033/1/2013-Estt (Res) dtd. 13/09/2017.

District Magistrate /
Deputy Commissioner /
Any other Competent Authority

Dated: _____

Seal _____

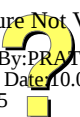
* Visit <http://www.ncbc.nic.in> for latest guidelines and updates on the Central List of State-wise OBCs.
** Please delete the word(s) which are not applicable.
*** As listed in the Annexure (for FORM-OBC-NCL)
**** The authority issuing the certificate needs to mention the details of Resolution of Government of India, in which the caste of the candidate is mentioned as OBC.

NOTE:
(a) The term 'Ordinarily resides' used here will have the same meaning as in Section 20 of the Representation of the People Act, 1950.
(b) The authorities competent to issue Caste Certificates are indicated below:
(i) District Magistrate/ Additional Magistrate/ Collector/ Deputy Commissioner/ Additional Deputy Commissioner/ Deputy Collector/ Ist Class Stipendiary Magistrate/ Sub-Divisional magistrate/ Taluka Magistrate/ Executive Magistrate/ Extra Assistant Commissioner (not below the rank of Ist Class Stipendiary Magistrate).
(ii) Chief Presidency Magistrate / Additional Chief Presidency Magistrate / Presidency Magistrate.
(iii) Revenue Officer not below the rank of Tehsildar* and
(iv) Sub-Divisional Officer of the area where the candidate and/or his family resides
(v) Certificate issued by any other authority will be rejected

12. On the basis of the aforesaid facts, it is apparent that the certificate submitted by the petitioner before the cut-off date was not in the prescribed format. The certificate was provisional which contains specific stipulations that the same would be accepted when the final certificate is issued. If the action of respondent No.2 regarding non-accepting the provisional certificate is considered on

the anvil of the aforesaid facts, it would appear that the same is not arbitrary or unreasonable. The argument made by the learned counsel appearing on behalf of the petitioner that immediately on the next date i.e., on 28.09.2022, the final certificate was issued which was also submitted by him and the same ought to have been considered, does not have any substance for the simple reason that the same would amount to a violation of the applicable rules and the procedure. This relaxation could not have been given only to the petitioner when large number of candidates suffered cancellation on account of non-submission of certificate within time.

13. The rules and instructions governing admission to educational institutions have to be strictly and uniformly applied. Small variations may result in causing an immense disturbance in the entire process. The petitioner in the instant case may be correct in submitting that his OBC-NCL status has not been doubted at any stage. He had the provisional certificate and was further given the final certificate and it is nobody's case that the petitioner does not belong to the OBC-NCL. But the fact remains that before the cut-off date the certificate in the prescribed format was not furnished to the examining body. Therefore, it is clear that compliance was not made with the applicable rules and regulations. The examining bodies now function on a minimum human intervention basis. They have to uniformly apply their rules. The computer does not know whether a particular candidate genuinely belongs to a particular caste unless a certificate in the prescribed format is uploaded. If any human intervention is allowed or the conditions are diluted, the entire sanctity and purity of the admission process gets vitiated. On the basis of sympathy or equity, the rule position cannot be compromised in matters of admission to educational institutions. Reliance can be placed on the



decision of the Hon'ble Supreme Court in the case of ***Maharshi Dayanand University v. Surjeet Kaur***⁸.

14. So far as the decisions of the Hon'ble Supreme Court relied upon by the learned counsel on behalf of the petitioner are concerned, perusal thereto would clearly indicate that the same have been passed under the peculiar facts and in the exercise of power under Article 142 of the Constitution of India. The decision in the case of ***Vinod Kumar (supra)*** would also not support the case of the petitioner as in that case, the requirement was of furnishing a degree of the qualifying examination, whereas, a provisional certificate was produced by the candidate. The same was accepted. The provisional certificate, in that case, was accepted on account of specific Clause 5 which was considered in that case. The provisional certificate in the present case, was the requirement under the applicable rules, however, it is worded otherwise, that is to submit a certificate in a prescribed format.

15. Similarly, the case of ***Nishant (supra)*** decided by this court would also have no application in the present case as this court has noted that the e-mail communication calling upon the petitioner to remove the discrepancy was sent at 04:42 pm, whereas, the time available was up to 5:00 pm on 02.11.2022. It is thus within 18 minutes that the document was sought to be uploaded. The petitioner in that case at 7:00 pm tried to upload the document which was not accepted as the time had expired, therefore, the petitioner, in that case, had sent the e-mail which according to this court, was found to be sufficient compliance and it was held that within 18 minutes, it was not expected to rectify the deficiency.

16. In view of the aforesaid, this court does not find any substance in the instant case when the petitioner has been found to be in

violation of compliance of the terms and conditions of the examination rules and even otherwise also, the entire admission process was over on 17.10.2022 and as of now there is no vacant seat available to be allotted to the petitioner.

17. The petition is accordingly dismissed.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

FEBRUARY 07, 2023

Priya

