



2024:DHC:3318



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

+ **W.P.(C) 4850/2024**

**P. NIHAL SRIVATSAV THROUGH HIS
NATURAL GUARDIAN P HARISH BABU** Petitioner

Through: Mr. Munawwar Nazeem and
Ms. Thavani, Advs.

versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Jivesh Tiwari, SPC with
Mr. Prashant Rawat, GP and Ms. Samiksha,
Adv. for UOI

Mr. Sanjay Khanna, Standing Counsel with
Ms. Pragya Bhushan, Mr. Karandeep Singh
and Mr. Tarandeep Singh, Adv. for R-2

**CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR**

J U D G M E N T (O R A L)

% **24.04.2024**

W.P. (C) 4850/2024

1. To seek entry into the hallowed portals of the prestigious Indian Institutes of Technology (IIT), one has to undertake the Joint Entrance Examination (JEE), conducted every year by the National Testing Agency (NTA). A candidate, in order to secure admission to engineering institutes via the JEE, has to qualify on merits at two stages, known as the JEE (Mains) and the JEE (Advanced). At each

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WP(C) 4850/2024

Page 1 of 15

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Signing Date: 27.04.2024
21:59



2024:DHC:3318



stage, the candidate is given an opportunity to attempt the examination twice. The two attempts are referred to as “Sessions”. An aspirant can, therefore, attempt Session I and Session II, or either of them as per his choice, of the JEE (Mains) and, if he qualifies, can thereafter attempt Session I and/or Session II of the JEE (Advanced) examination. The JEE (Mains) Session I normally takes place sometime in January and Session II in April. The better of the scores in Session I and Session II is taken to assess whether the candidate qualifies to undertake the JEE (Advanced) examination.

2. We are not concerned, however, in the present case with the JEE (Advanced) examination.

3. In 2024, the JEE (Mains) Session I examination was held on 30 January 2024 and the Session II examination was held on 4 to 6, 8, 9 and 12 April 2024.

4. The petitioner is a candidate suffering from disability within the meaning of the Rights of Persons with Disabilities Act, 2016 (“RPWD Act”). Reservation is available, in admission to the JEE (Mains) examination, for candidates belonging to various categories, including candidates belonging to the Economically Weaker Sections (EWS) and the candidates who qualify as Persons with Disabilities (PwD).

5. The candidate, who seeks reservation as a PwD candidate, however, is required to upload, at the time of applying for appearance in the JEE (Mains) examination, a certificate of disability issued by the competent authority under the RPWD Act.

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WP(C) 4850/2024

Page 2 of 15

Signature Not Verified

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Signing Date: 27.04.2024
21:59



2024:DHC:3318



6. It is open to a candidate to elect to appear either in Session I of JEE (Mains) examination or in Session II or in both. Candidates who elect to appear only in Session I, or who elect to appear in both Sessions 1 and 2, have to apply prior to the Session I examination. A candidate, who desires to appear only in Session II can, however, apply between the Session I and Session II examinations.

7. The petitioner elected to appear in both Session I and Session II of the JEE (Mains) examination 2024.

8. Prior to the issuance of the notification by the NTA, inviting applications from candidates who desired to appear in Sessions 1 and 2, the petitioner had applied to the Government of Telangana for issuance of disability certificate under the RPWD Act on 8 June 2023. However, the petitioner asserts that, as elections were in progress in the State of Telangana, there was delay in processing the petitioner's application. The disability certificate finally came to be issued in favor of the petitioner by the State of Telangana and was available for downloading only by 2 March 2024.

9. After 8 June 2023, when the petitioner had applied to the State of Telangana for obtaining the disability certificate but before 2 March 2024, when the disability certificate was obtained by the petitioner, the NTA issued a notification inviting applications from candidates who desired to attempt both Sessions 1 and 2 of the JEE (Mains) paper 2024. The applications were required to be submitted online between

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WP(C) 4850/2024

Page 3 of 15

Signature Not Verified

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AN HARI SHANKAR
Signing Date: 27.04.2024
21:59



2024:DHC:3318



1 November 2023 and 30 November 2023. Despite being a candidate suffering from disability, the petitioner had not, till the last date for submitting the application for appearing in the JEE (Mains) examination, obtained a disability certificate, though he had applied prior thereto. He, therefore, was unable to reflect his status as a candidate with disability under the RPWD Act while applying for appearing in the JEE (Mains) Examination. Accordingly, the petitioner, in his application submitted on 19 November 2023, claimed to be a candidate belonging to the EWS but did not claim to a person with disabilities (PwD), for want of the requisite certificate from the State of Telangana.

10. An admit card was issued to the petitioner. He appeared in Session I of the JEE (Mains) examination on 30 January 2024 and secured a commendable 99.9109996.

11. On 6 December 2023, the NTA issued a Public Notice, allowing candidates who had applied for attempting Session I and Session II of the JEE (Mains) examination, to make corrections and modify the particulars entered by them in the application forms on or before 8 December 2023. The corrections which were permissible included corrections in all fields, i.e., date of birth, gender, category, sub-category/PwD and signature. As such, an opportunity was given to the candidates who had submitted their application in November 2023 for appearance in both the Sessions of JEE (Main) Examination to correct the particulars entered in the application form, including their PwD status, on or before 8 December 2023.

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WP(C) 4850/2024

Page 4 of 15

Signature Not Verified

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AN HARI SHANKAR
Signing Date: 27.04.2024
21:59



2024:DHC:3318



12. The petitioner could not, however, utilize the said opportunity, as he had yet not received the disability certificate by 8 December 2023.

13. On 2 February 2024, the NTA invited applications from candidates who desired to undertake only Session II of the JEE (Main) 2024 Examinations. Applications were required to be submitted on or before 2 March 2024. Needless to say, this Notification made no difference to the petitioner as he had already applied in November 2023 for appearing in both sessions of the JEE (Main) Examinations 2024.

14. Thereafter, on 2 March 2024, the NTA issued another Public Notice, allowing candidates who had applied for undertaking either one of the two sessions of the JEE (Main) 2024 Examinations, or both, to correct the particulars entered in their application forms.

15. The corrections which could be made, as per the Public Notice, by candidates who had applied either for attempting both Session I and Session II of Examination, or only Session I of the Examination were, however, different from the permissible corrections which a candidate who applied only for Session II of the Examination could make. Candidates such as the petitioner, who had applied in November 2023 for appearing either in Session I alone or in Sessions I and II were permitted to edit or modify only (i) the course (paper), (ii) the medium of question paper, (iii) State Code of Eligibility, (iv)

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Date: 27.04.2024 22:00

WP(C) 4850/2024

Page 5 of 15

Signature Not Verified

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AN HARI SHANKAR
Signing Date: 27.04.2024
21:59



2024:DHC:3318



Examination Cities as per the available options, (v) Educational qualification details (Class 10 and Class 12), (vi) Category and (vii) Fee Payment (if applicable). As against this, candidates who had applied only for attempting Session II of the JEE (Main) 2024 Examinations were permitted to correct their Educational qualifications, date of birth, gender, category, *sub-category/PwD*, signature and paper. The facility of making of additions or modifications in the submitted application form with respect to PwD status was, therefore, extended only to new candidates who had applied only for attempting the Session II paper, and was not available to candidates such as the petitioner who had applied in November 2023 for attempting Session I and Session II.

16. The petitioner is aggrieved by this. Having obtained the disability certificate on 2 March 2024, the petitioner was unable to edit or modify the application form submitted by him in November 2023 to reflect his status as a PwD candidate, as that facility was extended, by Public Notice dated 2 March 2024, only to new candidates who had applied for attempting Session II of the paper alone. Candidates such as the petitioner who had applied earlier in November 2023 for attempting Session I and Session II could make additions or modifications in their application forms but could not modify or change the PwD status entered therein.

17. According to the petitioner, this is violative of Article 14 of the Constitution of India and is *ex facie* arbitrary.

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Date: 27.04.2024 22:00

WP(C) 4850/2024

Page 6 of 15

Signature Not Verified

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AN HARI SHANKAR
Signing Date: 27.04.2024
21:59



2024:DHC:3318



18. This writ petition, therefore, seeks issuance of an appropriate writ, with a direction to the respondents to treat the petitioner's status as entered in the application submitted in November 2023 for participation in the JEE (Main) 2024 Examinations as a PwD candidate.

19. I have heard Mr. Munawwar Nazeem, learned Counsel for the petitioner and Mr. Sanjay Khanna, learned Standing Counsel for the NTA, at length.

Submissions and Analysis

20. At the outset, it may be noted that the prayer, as worded in the petition, cannot be granted. This Court cannot re-write the application submitted by the petitioner. The prayer seeks a direction to the respondents to treat the petitioner's application as one submitted under the PWD category. There is no question of passing any such direction. An application which has not been submitted under the PWD category cannot, by judicial fiat, be directed to be treated as one submitted under the PWD category. This would amount the Court re-writing the application submitted by the petitioner and modifying the particulars entered by the petitioner in the application. Alternatively, it would amount to the Court to direct the respondent to treat the petitioner's application as one submitted as a PwD candidate, though the application itself indicates otherwise.

21. Quite obviously, this cannot be done.

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Date: 27.04.2024 22:00

WP(C) 4850/2024

Page 7 of 15

Signature Not Verified

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By: CHANDRASHEKHAR
AN HARI SHANKAR
Signing Date: 27.04.2024
21:59



2024:DHC:3318



22. Though there is no specific challenge, in the petition, to the Public Notice dated 2 March 2024, the petitioner essentially ventilates his grievance against the said Public Notice to the extent it allows “new candidates” who applied only for attempting the JEE (Main) 2024 Session II Examination, but did not allow candidates who had earlier applied for attempting both Session I and Session II, to modify the particulars with respect to PwD status, as entered with the applications submitted by them.

23. Mr. Nazeem submits that there is no rational basis for this discrimination which can be said to have any nexus with the object of allowing modifications in the application. He emphasizes the fact that, on 2 March 2024 when the “objectionable” Public Notice came to be issued, the result of the JEE (Main) 2024 Examinations had yet not been declared. As such, no prejudice would have been caused to the respondents if candidates who had earlier applied in November 2023 for attempting both Session I and Session II of the JEE (Main) 2024 Examinations were treated at par with candidates who had applied later for attempting in the Session II of the JEE (Main) 2024 Examinations and were permitted to modify or edit their PWD status as entered in the applications submitted by them.

24. Mr. Nazeem emphasized the fact that, if the petitioner was unable to enter his correct PwD status in the application submitted by him on 19 November 2023, that was because, by that date, he had yet to receive the disability certificate from the State of Telangana, though

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By: AJIT KUMAR
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Date: 27.04.2024 22:00

WP(C) 4850/2024

Page 8 of 15

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHAR
AN HARI SHANKAR
Signing Date: 27.04.2024
21:59



2024:DHC:3318



he had applied much prior thereto on 8 June 2023. This delay, submits Mr. Nazeem, was not attributable to any fault of the petitioner, but was because of ongoing elections in the State of Telangana, for which the petitioner was in no way responsible. The petitioner ought not, therefore, in his submission, to be subjected to prejudice for a reason not attributable to him.

25. Mr. Khanna, learned Counsel for the respondent NTA submits, on the other hand, that there is an intelligible differentia between candidates who applied in November 2023 for attempting both Session I and Session II of the JEE (Main) 2024 Examinations and those who applied later for attempting only Session II of the JEE (Main) 2024 Examinations.

26. Despite this, he submits that there has been no discrimination between the two categories of candidates, as both the categories of candidates were given a reasonable window of opportunity to correct the details entered in their applications, with candidates who had applied in November 2023 being allowed to correct the particulars on or before 8 December 2023 and candidates who applied only for Session II in February/March 2024 being allowed to make corrections till 7 March 2024, *vide* the Public Notice dated 2 March 2024. Both categories of candidates were, therefore, on an even keel.

27. Mr. Khanna further submits that the petitioner could not compare himself with a candidate who had applied only for attempting Session II of the JEE (Main) 2024 Examinations, as that candidate

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By: AJIT KUMAR
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Date: 27.04.2024 22:00

WP(C) 4850/2024

Page 9 of 15

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHAR
AN HARI SHANKAR
Signing Date: 27.04.2024
21:59



2024:DHC:3318



would only be attempting the examination in one PwD capacity/status. The petitioner, on the other hand, has attempted Session I of the JEE (Main) 2024 Examinations as an EWS non-PwD candidate. He cannot, therefore, now be permitted to attempt Session II of the same examination as a PwD candidate. This would create serious logistical difficulties.

28. For the following reasons, this Court regrets that it is not in a position to come to the aid of the petitioner:

27.1 It cannot be said that the petitioner was discriminated *vis-a-vis* candidates who had applied only for attempting Session II of the JEE (Mains) examination. The candidates who applied prior to Session II of the JEE (Mains) examination were also, in fact, given an opportunity to correct errors in their applications, including the EWS and PwD status, between 6 December 2023 and 8 December 2023. As such, candidates who had applied prior to Session I of the JEE (Mains) examination and candidates who had applied between Session I and Session II of the JEE (Mains) examination were placed on an equal plane, with both of them being provided a window of opportunity for correcting the details entered in their application forms. The submission of Mr. Nazeem that the said opportunity could not have been availed of by the petitioner as, owing to the elections which were in progress in the State of Telangana, he was not able to obtain the disability certificate even by 8 December 2023, can be of no avail to the petitioner. Once an opportunity had been granted to candidates who had applied prior to Session I of the JEE (Mains)

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By: AJIT KUMAR
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Date: 27.04.2024 22:00

WP(C) 4850/2024

Page 10 of 15

Signature Not Verified

Digitally Signed
By: CHANDRASHEKHAR
AN HARI SHANKAR
Signing Date: 27.04.2024
21:59



2024:DHC:3318



examination, equally with candidates who had applied between Session I and Session II, no discrimination can be alleged. If, owing to reasons beyond the control of any individual candidate, she, or he, is unable to avail the opportunity to correct the details entered in the application, that cannot constitute a ground for the Court to grant succour to such a candidate, thereby transgressing the protocol of the JEE (Main) Examination, which, as the internet informs us, was attempted by as many as 14,15,110 candidates.

27.2 In fact, what Mr Naseem seeks is *two opportunities* for correcting the PwD status, insofar as his client particularly is concerned. The only basis for this somewhat unusual request is that the State of Telangana had not issued the disability certificate to his client till 8 December 2023, as a result of which the opportunity for correction extended by the respondent between 6 December and 8 December 2023 was rendered illusory. That, unfortunately, cannot be helped. The Court cannot direct the respondent to provide one more opportunity to the petitioner to change his PwD status, merely because the elections in the State of Telangana prevented the issuance, to him, of his disability certificate before 8 December 2023, when the window of opportunity available to his client, and others who had applied along with him in November 2023, closed. The stipulated procedure, which is wholesome, equitable, and evenly distributed, cannot be tweaked to administer to the difficulties in which each individual candidate may find herself or himself. Justice is a panacea, but one which has to be administered in the permissible dosage.



2024:DHC:3318



27.3 Serious operational issues, were the prayers of the petitioner to be granted, are also bound to arise. The assessment system of the JEE cannot, quite obviously, treat a candidate as a non-PwD candidate for Session I and a PwD candidate for Session II. This is what, however, grant of the relief sought by the petitioner would precisely entail. The petitioner's application, as submitted before Session I of the JEE (Mains) examination, reflected him as an EWS non-PwD candidate. He, therefore, underwent Session I of the JEE (Mains) examination as an EWS, non-PwD candidate. If, now, between the first and the second Session of the JEE (Mains) examination, the petitioner is permitted to change his status from an EWS, non-PwD candidate to a PwD candidate, it is bound to result in operational issues. The scheme of the JEE (Mains) examination envisages the better of the two results being taken into consideration, where a candidate opts to appear in both Sessions. The entitlement of a candidate is also dependent on the status of the candidate as general, EWS, or PwD etc. If Session I of the JEE (Mains) examination of the petitioner is to be assessed treating him as an EWS non-PwD candidate, and Session II is to be assessed treating him as a PwD candidate, it is bound to result in confusion. Besides, it would result in a strange and paradoxical situation in which a candidate would have enjoy one status for Session I and another for Session II, which is obviously anomalous.

27.4 This position is underscored by the fact that, in the present case, the result of the candidates who have undertaken Session I of the JEE (Mains) examination has already been released. The petitioner has undertaken the said paper as an EWS non-PwD candidate. Mr.

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Date: 27.04.2024 22:00

WP(C) 4850/2024

Page 12 of 15

Signature Not Verified

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AN HARI SHANKAR
Signing Date: 27.04.2024
21:59



2024:DHC:3318



Nazeem submits that, the exercise of comparing the results of the first and Session II of the JEE (Mains) examination and selecting the better of the two results takes place simultaneously. Even so, the Court is mindful of the difficulties which would arise if the petitioner is to be assessed as a non PwD candidate in Session I and as a PwD candidate in Session II.

27.5 There is, therefore, a clear intelligible differentia between a candidate who has already attempted Session I of the JEE (Mains) examination as a non-PwD candidate and seeks to attempt Session II as a PwD candidate, *vis-à-vis* a candidate who has not attempted Session I and is only attempting Session II. Allowing the latter candidate to change his status is not bound to result in any confusion as the candidate has not attempted Session I at all. Where, however, a candidate attempts both Sessions, the Court cannot tweak the rule in such a way that the candidate would be assessable, *qua* his Session I paper, as a non-PwD candidate and *qua* his Session II paper as a PwD candidate.

27.6 Mr. Nazeem fervently argued that the situation in which the petitioner finds himself is owing to no fault of his, but because of the elections which were in progress in the State of Telangana. He submits that, therefore, it would be a travesty of justice if, owing to no fault of his, the petitioner were to be prejudiced. This contention is obviously unacceptable. Rules governing an examination, especially an examination conducted at an all India level, are equally applicable to all students. If any relaxation is required to be made, that relaxation



2024:DHC:3318



has to find place in the rule. If Courts were permitted to tweak the rule to suit personal exigencies and deal with difficulties being faced by individual students, even if those difficulties are not attributable to any fault on the part of the students, it would result in total anarchy and may even result in formidable difficulties in assessing, compiling, and declaring the results.

27.6 The Court has also to be mindful of the fact that the impugned rule is part of the academic policy followed by the JEE. In matters of academic policy, the Court should hold its hands, and eschew interference, unless the policy is starkly discriminatory or otherwise unconstitutional for any reason. The Court cannot start tweaking academic policy or modulating the existing rules to suit individual candidates and the circumstances – perhaps unfortunate – in which they find themselves.

29. For all these reasons, the Court regrets that it is in no position to come to the aid of the petitioner.

Conclusion

30. The petition is accordingly dismissed, with no orders as to costs.

CM APPL. 19853/2024 and CM APPL. 19854/2024

31. These applications do not survive for consideration and stand

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Date: 27.04.2024 22:00

WP(C) 4850/2024

Page 14 of 15

Signature Not Verified

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AN HARI SHANKAR
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2024:DHC:3318



disposed of.

C.HARI SHANKAR, J

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WP(C) 4850/2024

Page 15 of 15

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By:CHANDRASHEKHAR
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Signing Date:27.04.2024
21:59