

(2021) 11 BOM CK 0059
In the Bombay High Court
Case No : Writ Petition (L) No.26135 Of 2021

Prince Jaibir Singh

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 12-11-2021

Acts Referred:

Constitution Of India, 1950 — Article 142
Josaa Business Rules, 2021 — Rule 40, 69, 70, 77

Citation : (2021) 11 BOM CK 0059

Hon'ble Judges : S.J. Kathawalla, J;Abhay Ahuja, J

Bench : Division Bench

Advocate : Jyoti Chavan, Rui Rodrigues, D.P. Singh, Jagdish Chailkar

Final Decision : Dismissed

Judgement

1 Rule.

Rule made returnable forthwith.

By consent of counsel for the parties heard finally.

2 By this Petition, the Petitioner is seeking order and direction of this Court to the Respondents to permit Petitioner to pay the Seat Acceptance Fees and participate in the admission process and to admit the Petitioner to the seat allotted at the Indian Institute of Technology (IIT), Bombay for Civil Engineering (4 years, Bachelor of Technology) or to any other seat that may be available in any of the Institutes of Technology preferably at Mumbai or Delhi, in any of the stream.

3 Petitioner is a student belonging to the scheduled caste category, who has passed the Joint Entrance Examination (JEE) Advanced 2021 and has scored All India Rank (CRL) 25894 and Scheduled Caste (SC) Rank 864 and was allotted seat at the IIT, Bombay for Civil Engineering (4 years, Bachelor of Technology) (B.Tech. Course).

4 It is the case of the Petitioner that pursuant to the Business Rules XVIII Clause

40 for Joint Seat Allocation for the Academic Programs offered by IITs, NITs, IIST, IIITs and other GFTIs for the academic year 2021-22 issued pursuant to a brochure dated 15/10/2021, Petitioner followed the steps mentioned therein. He firstly accepted the seat under the 'Slide' option for the said academic program and then as step 2 uploaded the required documents as per Annexure-3 on the Joint Seat Allocation Authority (JoSAA) portal on 29/10/2021. However, he could not make payment of the Seat Acceptance Fees on 29/10/2021 as Petitioner was falling short of money. Thereafter on 30/10/2021 after his sister transferred money into his account, he first attempted to make the payment by online mode at 9.51 p.m. and again at 9.58 p.m. and thereafter again on 31/10/2021 at 11.44 a.m. However, during all these attempts to make the payment, he received a message 'sorry, unable to process request. Please try later' and/or 'the specific request cannot be processed' and another message was 'invalid server access'. It is submitted that though Petitioner was making continuous attempts to make the payment of the said fees, Petitioner was unable to make the said payment due to technical error and server error. In support of his case, the Petitioner has annexed screenshots and access history to the petition.

5 Petitioner states that he tried to make the Seat Acceptance Fees from 9.51 p.m. on 30/10/2021 and also continued his attempts to make the said payment by visiting Cyber Cafe on 31/10/2021, but he was unsuccessful in doing so. The Petitioner thereafter started contacting JoSAA - Respondent No. 2 through telephone but his calls went unanswered. He addressed email to the Respondent No. 2 requesting for redressal of his grievance (as provided in Rule 77 of Rules of Business) but did not receive any response. The Petitioner submits that thereafter he has physically visited Respondent No. 2 on 1st November, 2021 in the morning at 09.00 a.m. and requested the officials to accept the Seat Acceptance Fees in any other alternate manner and permit the Petitioner to participate in the admission process, however, the officials of Respondent No.2 expressed their inability to help the Petitioner.

6 Thereafter, Petitioner has contacted his lawyer in Mumbai and has filed this Petition.

7 Petitioner submits that the admission counselling process is still in progress and Round 4 is going on and there are a total of 6 rounds. He submits that he is a meritorious student, who has been allotted a seat at the prestigious IIT, Bombay for a B.Tech. Course in Civil Engineering and urges this Court to intervene in the matter in the interests of justice.

8 Learned counsel for Petitioner Ms. Jyoti Chavan, relies upon the orders dated 09/12/2020 and 06/01/2021 of the Hon'ble Supreme Court in the case of Siddhanth Batra Vs. Director, IIT Bombay & Ors. (Civil Appeal No.4029 of 2020) to submit that in the case of an inadvertent error in withdrawing from the admission, the Supreme Court regularised the admission of the Appellant therein, who had earlier frozen his seat according to the Rules, but had inadvertently withdrawn under an impression that he had already got the seat in

question. She therefore urges that this Court also take a sympathetic view in the facts and circumstances of the Petitioner as stated in the Petition and issue directions to the Respondents to accept the Seat Acceptance Fees and admit the Petitioner to the B.Tech. Civil Engineering Course at IIT, Bombay or at any other institute where a seat may be available.

9 When this matter was first listed before this Court on 11/11/2021, this Court passed the following order :-

1. National Informatics Centre (NIC) is allowed to be joined as party Respondent No.4. Amendments to be carried out forthwith. Reverification is dispensed with.
2. NIC shall appear before this Court on 12th November, 2021 at 2. 30 pm.
3. State Bank of India (SBI) shall give assistance or information from their end to the NIC, if they need.
4. Stand over to 12th November, 2021 at 2.30 p.m.

10 Today, when the matter is called out, the newly added respondent, viz., National Informatics Centre (NIC) is also represented. Respondents No.2 and 3 have also filed their affidavit-in-reply.

11 Mr. Rui Rodrigues along with Mr. Arjun Mitra and Mr. D.P. Singh, learned counsel for Respondents drew our attention to the JoSSA Rules of Business and submitted that seats in the IITs and the NIT+ system are offered jointly through a common process conducted by Respondent No.2 - JoSAA and the successful candidates are offered a seat on the basis of their rank in the entrance examination and their order of choice of course and Institute in accordance with the JoSAA Business Rules, which are binding on all concerned.

12 It is submitted that the schedule of events of JoSAA, which forms part of the Business Rules, informs the candidates on the timelines involved for each activity, which are applied to all without exception. The entire process is carried out through NIC which is completely computerized and there is no element of human intervention in the Seat Allocation Process, apart from the document verification stage.

13 The Schedule provides for two rounds of mock seat allocation which is a trial to give the candidate a fair idea of his relative standing in the merit list and possibility of getting a preferred seat. There are six rounds of seat allocation for the IITs. During the seat allocation, a candidate is provisionally offered a seat on the basis of rank and preference which remains provisional until all the steps for confirming it are fulfilled. Rule 40 of the Business Rules lays down four steps required to be carried out for a provisionally allocated seat to be accepted and the non-compliance or non-fulfillment of these steps is treated as rejection of the offered seat. The implication of rejecting or withdrawing the allocated seat is provided in Rule 69, i.e., the candidate if otherwise eligible, may appear again for JEE (Advance) in the next year. If the candidate does not reject the seat/

withdraw from the seat within the time stipulated, he is ineligible to appear again as per Rule 70.

14 In this view of the matter, it is submitted by Learned Counsel on behalf of the Respondents that the non-payment of the Seat Acceptance Fee implies a rejection of the offered seat by the candidate and that the said candidate is no longer able to participate in the Seat Allocation Process. Learned counsel for Respondents has taken us through the aforesaid Rules.

15 Learned counsel has also taken us through the response email from SBI dated 11/11/2021 annexed to the Affidavit which confirms the attempts to make payment of Seat Allocation Fee by the Petitioner on 30th and 31st October, 2021. Learned counsel submits that since the last date of Seat Acceptance Fee payment was 31/10/2021 till 12.00 noon and since no such payment had been received by the said date and time, it amounts to the Petitioner having rejected the offered seat, and his seat is automatically allotted to the next deserving candidate.

16 Learned counsel for the Respondents further submits that on 27/10/2021 and on 31/10/2021 a total of 45860 candidates had paid the Seat Acceptance Fee successfully.

17 He further submits that with respect to the availability of vacant seats as of now, there are no available seats at IIT, Bombay, all of which have been offered, allocated and accepted. That though it is possible that some seats may become available at the end of the 4th or the 5th round, in case someone withdraws, however, since the allocation is completely computerized, the vacant seats, if any, will be allocated strictly in accordance with the Business Rules to the next deserving candidate, who has paid Seat Acceptance Fees. He submits that the Petitioner having already rejected his seat on account of non-payment of Seat Acceptance Fee is out of the JoSAA process.

18 Learned counsel for the Respondents submits that the Rules of Business, being formulated by the competent authority, are binding on all concerned and in view of the law settled by the Supreme Court, this Court cannot be generous or liberal in issuing directions which in substance would amount to directing the concerned authorities to violate their own rules and regulations and therefore no mandamus can be issued to the Respondents to act contrary to their own procedure. He relies upon the following two decisions in support of his contention :-

(i) Maharshi Dayanand University Vs. Surjeet Kaur (2010) 11 SCC 159

(ii) Pallavi Sharma Vs. College of Vocational Studies & Anr. 2015 SCC OnLine Del 10249

19 We have heard learned counsel for the parties and with their able assistance perused the papers and proceedings in the matter.

20 The facts stated above are not in dispute. The Petitioner indeed appears to be a meritorious student having secured 864th rank in the scheduled caste category and being allotted a seat at the prestigious IIT, Bombay for a B.Tech course in Civil Engineering. After successfully completing Step 1 by opting for the 'Slide' option and step 2 of uploading the documents on 29/10/2021, he began attempting to make payment towards Seat Acceptance Fees through the 2nd Respondent's portal for continuing with the JoSAA process on 30th October, 2021 at 9.51 p.m. (i.e. after receiving the amount of Rs.15,000/-from his sister on 30th October, 2021), but due to a technical error appearing to be at the end of his card issuing bank,viz., State Bank of India failed to make the payment as per the Rules, thereby facing the rejection under the Business Rules.

21 We have taken a look at the e-mail response of State Bank of India dated 11/11/2021 which is annexed to the reply and which indicates the reason of failure for the three attempts made by Petitioner to make payment as 'no response received from CARD Issuing Bank ACS', and the process code showing 'Auth Error'.

22 However, a perusal of the Rules of Business and in particular Rule 77 at Page 93 of the Petition indicates that there is a grievance redressal mechanism set out therein, which provides that in case of any grievance with respect to the JoSAA process, pertaining to IITs, the e-mail contact is helpjeeadv2021@iitkgp.sc.in, further providing that the decision(s) by the concerned authorities with regard to such grievances shall be final. The concerned authority for IITs is the Chairman, JAB 2021.

23 Upon a query from the Court as to whether petitioner had availed of the aforementioned Grievance Redressal mechanism, learned counsel for petitioner drew our attention to Exhibit-J at Page 133 of the Petition to submit that Petitioner did make the grievance at the aforementioned e-mail id regarding the fee payment, but fairly states that the said e-mail was sent by the Petitioner only after 12.00 noon on 31/10/2021, by which time the activity for the said process had closed.

24 The Petitioner has admitted before us that the site of JoSAA set up by the Ministry of Education, Government of India, IIT, Kharagpur, throughout showed that the candidates will be able to access the said process only upto 12.00 noon on 31/10/2021. As set out hereinabove, the Petitioner was also aware of Rule 77 at page 93 of the Petition, which indicates that there is a grievance redressal mechanism available to the candidates in case of any grievance with respect of JoSAA process. It is obvious that the grievance redressal mechanism could be resorted to only upto 12.00 noon of 31/10/2021 when the activity in the said process was to be closed and was in fact closed. The Petitioner despite having failed to make on-line payment right since 9.51 p.m. on 30/10/2021 upto 11.44 a.m. on 31/10/2021 ought to have sought help by registering his grievance as provided in Rule 77 before the activity in the said process was to close i.e. before 12.00 noon on 31st October, 2021. The Petitioner did not register his grievance

with regard to his failure to make payment by on-line mode before 12.00 noon but instead registered his grievance on 31/10/2021 after 12.00 noon i.e. after the entire activity / process was finally closed / shut. The Petitioner having failed to follow the rules despite being aware of the same now cannot be heard to say that he be allowed to continue his admission and be allowed to make payment of the Seat Acceptance Fee or that he be allotted another seat after the closure of the process of admission as provided for in the Rules. The said Rules are binding on all the participants as the candidates have entered the process by submitting to the said Rules. Though, we are aware that computerization/digitization is not to harass the citizens, but to assist them in going about their activities in a more efficient, convenient and hassle free manner, the Petitioner by not availing of the Grievance Redressal in time, as provided for in the Rules, has entailed the consequence of rejection from the process and has been unfortunately ousted from the process.

25 It is trite that the Rules of business being formulated by the competent authority, in this case JoSAA, are binding on the petitioner. This Court is also fully conscious of the principle highlighted by the Supreme Court in the case of Maharashi Dayanand University (Supra) and followed by the Delhi High Court in the case of Pallavi Sharma (Supra) that a direction of this Court cannot result in an authority violating its own rules and regulations. We therefore cannot and are not issuing any such directions. True also that Petitioner is a poor but meritorious student having secured a merit rank in the JEE Advance and a seat for B.Tech (Civil) course at the prestigious IIT Bombay and we fully sympathise with his situation. However, in view of what we have discussed and observed above we find it difficult to issue any directions to the Respondents as prayed for in this Petition or otherwise.

26 As far as Petitioner's reliance on the orders of the Hon'ble Supreme Court in the case of Siddhanth Batra Vs. Director, IIT Bombay & Ors. (supra) is concerned, we note that the said orders have been passed by the Supreme Court under Article 142 of the Constitution of India, with a rider making it abundantly clear that the said order will not be cited as a precedent to open other cases. We are afraid that we are not invested with these powers as those are within the sole domain and discretion of the Hon'ble Supreme Court.

28 Petition is, therefore, dismissed. Rule stands discharged.

29 No order as to costs.

30 All to act on an authenticated copy of this judgment/order.