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

+ W.P.(C) 4696/2022

SAMRIDDHI KHANDELWAL

..... Petitioner

Through: Mr. Rajiv Dalal, Mr. S. Kumar Sharma, Mr. Shaksham Aggarwal and Mr. Vikas Bhardwaj, Advocates with Petitioner (in-Person).

versus

NATIONAL INSTITUTE OF FASHION TECHNOLOGY

..... Respondent

Through: Mr. Anil Soni, Standing Counsel for NIFT.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

30.05.2022

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1. Ms. Samriddhi Khandelwal, the Petitioner herein, aspiring to gain admission to the bachelor of design course of Resondent - National Institute of Fashion Technology [*'NIFT'*], appeared as a candidate for the online invigilated / remote proctored NIFT Entrance Exam, 2022 [*hereinafter, 'Exam'*]. This Exam was divided into two parts – a written exam which was held on 06th February 2022 and a Situation Test which was to be held from 2nd April 2022 onwards. The written test was further divided into two parts - the Creative Aptitude Test (CAT) for 180 minutes and the General Aptitude Test (GAT) for 120 minutes. The candidate appeared for the online exam on 06th February 2022 from her residence, as per specifications mentioned in

the Admit Card, complying with *Rules and Regulations for Online Invigilated / Remote Proctored NIFT Entrance Exam for Admissions 2022*.

2. She was declared as “disqualified” in respect of the CAT exam, in the declaration of result dated 9th March, 2022. Aggrieved, she has approached this Court seeking following prayers:

- “A. Issue a writ/ order or direction in the nature of Mandamus or any other appropriate writ/direction to direct the Respondent to publish and declare the result of the Petitioner in pursuance of the entrance exam conducted/ held by the Respondent on 06.02.2022 for admission to bachelor of design course taught by the Respondent and the same being attended / attempted by the Petitioner.*
- B. Issue a writ/order or direction in the nature of Mandamus or any other appropriate writ/direction to direct the Respondent to allow the Petitioner to participate in Situation Test (second round) to be held on 02.04.2022.*
- C. Award the cost of this petition to the Petitioner.”*

3. NIFT has filed a counter-affidavit, contesting the petition. It is contended that the Petitioner has been rightly disqualified as she has disclosed the identity of the institute from which she was taking coaching for the exam, as is clearly visible from the PDF answer sheets uploaded by her to the online portal. Therefore, it is a case of her identity being disclosed in the examination, which is in violation of Rule 12 printed on the Admit Card. As a sample, two pages of the PDF answer sheets of the candidate are appended with the counter-affidavit. Mr. Anil Soni, Standing Counsel for NIFT, has strongly objected to the petition, saying that it would set-up a wrong precedent. He has strenuously argued that the Petitioner’s intent should not be a factor to persuade the Court and that there are a handful of other candidates who too have been disqualified for similar reasons.

4. On 31st March 2022, after taking a *prima facie* view on the matter, this Court directed the Respondent to permit the Petitioner to appear in the Situation Test, which was scheduled to be held from 2nd April, 2022 onwards. It was further directed that the result of the Petitioner would be submitted to the Court in a sealed cover. In compliance thereof, the Petitioner appeared for the Situation Test, and as per the result shown to the Court, which Mr. Anil Soni has also perused, Petitioner is eligible for counselling.

5. The petition is now taken up for final disposal, as counselling is underway.

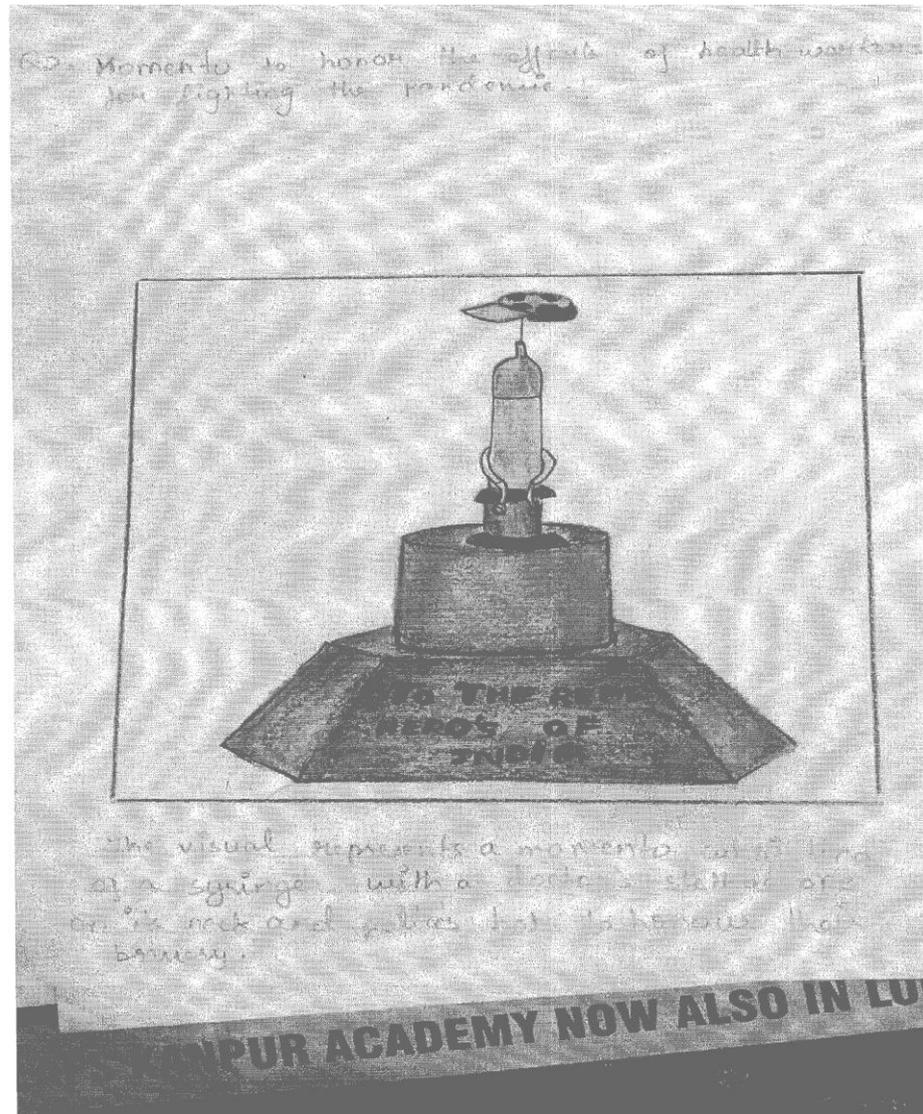
ANALYSIS:

6. First and foremost, the condition relied upon by the Respondent to disqualify the Petitioner needs to be analyzed. Rule 12 printed on the Admit Card reads as follows:

“12. Candidates needs to take note that for the CAT examination you will be required to see the questions and then draw/ write A4 White sheets. Subsequently you will have to upload the same by following the step-by-step process suggested on your guide. Candidates who try to disclose their identity by writing any personal details other than in the space provided for the cover page or place any identification mark, on the Question-cum-Answer Booklet shall be considered “DISQUALIFIED” candidate shall not be declared.”

7. The afore-noted condition stipulates that candidate who try to disclose their identity “*by writing personal details other than in the space provided for the same*”, shall be “*considered as disqualified and the result of such candidate shall not be declared.*” The purpose of this condition is quite evident. Anonymity is to be maintained to ensure that the examiner is not privy to the identity of the candidate, for the sake of uniformity in checking.

8. In this case, breach has occurred whilst the Petitioner took a picture of the answer sheets. Those answer sheets were put on a clip-board which had the name of the institute from which the Petitioner was taking coaching for the exam. The same would become clear by looking at the picture itself, which is as follows:



9. Though the afore-noted pictures reveal the name of the coaching institute, however, they do not indicate the identity of the candidate. This

identification mark does not seem to violate condition no. 12 of the Admit Card, and for this reason alone, the Court is inclined to give the benefit of the doubt to the Petitioner. Surely, the identification of a candidate can also be revealed by giving a hint or a suggestion, but that can occur if there is a nexus between the candidate and the examiner. However, such a case is not canvassed by the Respondent.

10. It has also been pointed out that the online exam was for a period of three hours and the Petitioner was required to take her examinations under two cameras. There is no allegation against the Petitioner of any malpractice or use of unfair means. The Petitioner was required to analyze the question and draw her answers on the questions-cum-answer sheets. She was then required to click pictures thereof, stitch them together into PDF files, and upload them on the portal, all within the stipulated time. It cannot be forgotten that the Petitioner is just a teenager, and given the enormity of appearing for an entrance exam which decides her career, coupled with the obligations of a new-format online system, it could have taken a toll on the Petitioner who was in a pinch of time. It is therefore plausible that due to paucity of time, towards the fag end of the exam, the Petitioner panicked and did not crop or properly click photographs of her answer sheets and hurriedly uploaded the same to conform with the deadline. While the Court cannot enter the mind of the Petitioner to establish her *bona fides*, however, it is satisfied that she has come with clean hands and has repeatedly admitted to the lapse on her part while clicking photos and uploading the PDFs. The Court is also mindful of the fact that due to the advent of COVID-19 pandemic, the structure of examinations has certainly undergone a monumental change, rendering both students and educational institutions

alike, struggling to cope-up with the challenges posed by a complete shift to the virtual world. The consequences of such an upheaval have deep implications, and the instant petition is just one of the many issues that have been flagged as a by-product of this shift.

11. As regards Mr. Soni's apprehension of the instant case opening a flood-gate of petitions at the instance of similarly-placed students, the Court would like to observe that each case will turn on its on facts. In the instant case, as already discussed above, the photographs perused by the court do not divulge the identity of the Petitioner. Further, in the counter-affidavit, the Respondent has not shown what adverse consequence did/would the same entail, nor has any such circumstance been shown which could indicate to the Court that through the identification of the coaching institute, the Petitioner received any unfair advantage.

12. In view of the foregoing, the Court is of the view that a momentary lapse on the part of the candidate must not be met with such a severe punitive action, which would cause grave and irreparable prejudice and affect the Petitioner's future perversely.

13. Taking the above into consideration and keeping in view that the Petitioner has thereafter cleared the third round of examination and is now ready for counselling, which shows her merit and dedication towards her desire to become a professional in the field of fashion technology, the Court deems it fit to allow the present petition.

14. The present petition is allowed and Respondent is directed to allow the Petitioner to join the counselling on the basis of her results of the examinations which was permitted under court directions. The Respondent shall thereafter proceed to declare the result. Needless to say, the

observations made hereinabove, are taking into account the peculiar facts and circumstances of the case, as noted above.

15. The petition is allowed in the above terms.

SANJEEV NARULA, J

MAY 30, 2022

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