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

**BEFORE**

**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

+ **W.P.(C) 2886/2023**

Between: -

BUDDHABHUSHAN ANAND LONDHE  
S/o (LATE) ANAND LONDHE,  
R/o GALI N0-4 CIDCO N-7,  
AMBEDKAR NAGAR, AURANGABAD,  
MAHARASHTRA 431001 .....PETITIONER NO. 1

SHASWAT RAI  
S/o BALJEE RAY,  
VILLAGE SISRAH, POST SISRAH, PS- RAJPUR SISRAH,  
BUXAR, BIHAR 802122. ....PETITIONER NO. 2

RISHAV KUMAR  
S/o MUKESH KUMAR SINGH,  
R/o KHAMHAR, BEGUSARAI,  
BIHAR-851131 .....PETITIONER NO. 3

VISHWAJEET KUMAR  
S/o MAHESH KUMAR,  
R/o SARTHUA, SARTHUA,  
PATNA, BIHAR 801304. ....PETITIONER NO. 4

ROHIT DUBEY,  
S/o BHAGWATI PRASAD DUBEY,  
R/o HOUSENO. 650, VIVEKANAND NAGAR,  
DHAN MANDI KE PICHE TORWA,  
BILASPUR(M. CORP), CHHATISGARH- 495001.

.....PETITIONER NO. 5

RAVI KAUSHAL,  
S/o BAJRANG KAUSHAL,  
R/o SAULI, ISAULI SULTANPUR,  
UTTAR PRADESH 227813. ....PETITIONER NO. 6

SUMAN KUMAR SUMAN  
S/o SHIV NATH MAHTO,  
R/o WARD-13, KALE NARPATNAGAR,  
NARPAT NAGAR URF CHANDARPUR,  
SAMASTIPUR, BIHAR, 818206. ....PETITIONER NO. 7

VARUN G GANESHKUMAR  
S/o GANESH KUMAR  
R/o 235/A, NORTH STREET PULIYANKANNU,  
KARAI POST, KARAI, VELLORE,  
TAMILNADU 632404. ....PETITIONER NO. 8

SANDESH  
S/o SANJAYA KUMAR  
R/o HOUSE NO-33,  
CHAND LAXMI NIWAS,  
WARD NO-10, NEAR BISHHAR SATHAN,  
NAIYA GANW BARIYARPUR,  
POST-TAIYAVPUR,  
NAYAGAONURF MOHAMMADPUR  
MURADPUR, VAISHALI,  
BIHAR- 844506. ....PETITIONER NO. 9

SUVANKAR PRUSTY,  
S/o K. SATYABAN PRUSTY,  
R/o NILADRI BIHAR,  
KHANDAPADA ROAD, NAYAGARH,  
ORISSA- 752069. ....PETITIONER NO. 10

DEEPANSHU SHARMA  
S/o PRAKASH CHANDRA SHARMA,  
R/O 08, BADH FATEHPURA, FATEHPURA,  
JAIPUR, RAJASTHAN- 303007. ....PETITIONER NO. 11

PRANAVESH TAMMANUR RAVI  
S/o : RAVI,  
R/o KRISHNAVIHAR  
6, SUBRAMANIAN KURUKKAL STREET,  
MANDAVELI, RAJA ANNAMALAIPURAM,  
CHENNAI, TAMIL NADU- 600028. ....PETITIONER NO. 12

SHVET SINGH  
S/o JWALA SINGH,  
R/o DUMRI POST: THAKUR DEORIA,  
DUMARI, DEORIA, THAKUR DEORIA,  
UTTAR PRADESH-274182. ....PETITIONER NO. 13

MD. IRFAN ALAM  
S/o MD. ALIMUDDIN,  
R/o MAROOFGUNJ WASSEYPUR,  
DHANBAD, DHANBAD,  
JHARKHAND 826001. ....PETITIONER NO. 14

ANANYA SINGH  
D/o RANVEER SINGH,  
R/o AHADDEV NAGAR,  
SHIKOHABAD, FIROZABAD,  
UTTAR PRADESH, 205135. ....PETITIONER NO. 15

SHREYA PRIYADARSHINI  
D/o SANJEET KUMAR SINGH,  
R/o DAV GIRLS SCHOOL,  
LOHAR KULHI, SARAIIDHELA,  
PHUPHUAD I ,DHANBAD,  
JHARKHAND, 828127. ....PETITIONER NO. 16

SUMER SINGH  
S/o ARJUN SINGH SODHA,  
R/o 99, RAJENDRA NAGAR,  
MALIYO KI GALI, PALI,  
PALI MARWAR,  
RAJASTHAN-306401. ....PETITIONER NO. 17

SIDDHI AGRAWAL  
D/o SANJAY AGRAWAL,  
R/o MHOW, 213 SANGHI STREET,  
MHOW, INDORE,  
MADHYA PRADESH, 453441. ....PETITIONER NO. 18

ABHINAV GUPTA,  
S/o: ARVIND KUMAR,  
R/o VILLAGE: CHARUANWAN,  
POST: CHARUANWAN, .  
POLICE STATION: SHEIKHOPUR  
SARAI, CHARUANWAN,  
SHEIKHPURA, BIHAR -811103. ....PETITIONER NO. 19

SOVIK MANDAL,  
S/o ASOKE KUMAR MANDAL,  
R/o PHUTIBERYA,  
DIST: BANKURA,  
WEST BENGAL-721504. ....PETITIONER NO. 20

MOHIT KUMAR  
S/o NAWAL KISHORE SAH,  
R/o WARD NO- 06,  
HANUMAN CHOWK, KAABA,  
PURNIA, BIHAR -854330. ....PETITIONER NO. 21

SHUBHANG SHEEL,  
S/o LAXMI KANT SHRIVASTWA,  
R/o WARD 26, NEAR DURGA MANDIR,  
NEW CHANDMARI, MOTIHARI,  
EAST CHAMPARAN, MOTIHARI, BIHAR- 845401. ....PETITIONER NO. 22

SHIVAM KUMAR RAI,  
S/o BHUPENDRA PRASAD RAI,  
R/o SEMARA, GHAZIPUR,  
UTTAR PRADESH-233227. ....PETITIONER NO. 23

HARSHIT KUMAR SINGH,  
S/o AMRENDRA KUMAR SINGH,  
R/o DEVARIYA, ANCHAL, DEWARIA,  
MOHANIA, KAIMUR (BHABUA),  
BIHAR, 821109 ....PETITIONER NO. 24

AYUSH DEV,  
S/o SH. RANJAN KUMAR MANDAL  
R/o 11/378, STREET NO. 11,  
LALITA PARK, LAXMI NAGAR,  
DELHI, 110092. ....PETITIONER NO. 25

PAWAN DNYANDEV BORUDE,  
S/o SH. DNYANDEV BORUDE  
R/o ADARSHA NAGAR,  
GUNDECHA COLONY,  
NAGAPUR, AHMADNAGAR,  
MAHARASHTRA- 414111. ....PETITIONER NO. 26

PARVEZ RANA  
S/o SABIR RANA,  
R/o H NO 205, OPP. FATIMA MASJID,  
SHY AM NAGAR PILLOKHRI ROAD,  
MEERUT CITY, MEERUT,  
UTTAR PRADESH - 250002. ....PETITIONER NO. 27

PRAYAS KORI  
S/o SUSHIL KUMAR KORI,  
R/o 1233, CHAMPA NAGAR, RANJHI, LALA LAJPATRAI  
WARD, MONEGAON, JABALPUR,  
MADHYA PRADESH- 482005. ....PETITIONER NO. 28

DEEPAK GAUR  
S/o ONKAR NATH GAUR,  
R/o VILLAGE KAJIPUR GADAR,  
POST GOSHAINGANJ, KAZIPUR GADAR,  
FAIZABAD, U.P.-224141. ....PETITIONER NO. 29

ANISHA MATHURI  
D/o MUKESH PRASAD MATHURI,  
R/o PURANI BAZAR, POST-JHAJHA,  
THANA- JHAJHA, JHAJHA, JAMUI,  
BIHAR- 811308. ....PETITIONER NO. 30

DEEPAK KUMAR SAHU  
S/o PAWAN KUMAR SAHU,  
R/o 01, SHIV NAGAR,  
160 FEET ROAD, ALWAR,

ALWAR, RAJASTHAN- 301001. ....PETITIONER NO. 31

PRACHI VERMA  
D/o VIDYANAND VERMA,  
R/o HARRAIYA, BASTI,  
GANDHI NAGAR, HARRAIYA, BASTI,  
UTTAR PRADESH -272155. ....PETITIONER NO. 32

ABHAY SINGH  
S/o SAMANDER SINGH,  
R/o 04 B, GANPTI NAGAR,  
CHOKHI DHANI KE PEECHE,  
SHRI RAM KI NANGAL SANGANER,  
JAIPUR, RAJASTHAN- 302022. ....PETITIONER NO. 33

VISHNU JANGID  
S/o SHISHUPAL JANGID,  
R/o KEKARI ROAD, BHASU,  
BHASOO, TONK,  
RAJASTHAN - 304505. ....PETITIONER NO. 34

SAJAN KAMBOJ  
S/o SUBHASH CHANDER,  
R/o VILLAGE BALLUANA,  
TEHSIL ABOHAR, BALUANA,  
FAZILKA, PUNJAB-152117. ....PETITIONER NO. 35

BHAVYA SAINI  
S/o GAJENDRA KUMAR SAINI,  
R/o 87-A, ARYA NAGAR,  
SCHEME NO. 01, ALWAR,  
ALWAR, RAJASTHAN-301001. ....PETITIONER NO. 36

RUPAM HALOI  
S/o UDAY CH HALOI  
R/o DOLBARI SATGAON,  
UDAYAN VIHAR,  
KAMRUP METRO, ASSAM – 781171 ....PETITIONER NO. 37

KESHAV RAJ,  
S/o RAVI SHANKAR PRASAD,  
R/o WARD NO 03, JAHANPUR,

BEGUSARAI, BIHAR- 851111. ....PETITIONER NO. 38

AKASH DEWANGAN,  
S/o YAMLESH KUMAR DEWANGAN,  
R/o 32-C, C-POCKET,  
MARODA SECTOR, CIVIC CENTRE,  
BHILAI, DURG,  
CHATTISGARH, 490006. ....PETITIONER NO. 39

ASHEESH KUMAR,  
S/o SHRI. DHARMVEER SINGH,  
R/o BAROOKI, BAROOKI,  
BIJNOR, UTTAR PRADESH 246701. ....PETITIONER NO. 40

HIMANSHU BHASKAR,  
S/o HARIPRSAD,  
R/o SARAIYA SARA KH,  
FIROZABAD, UTTAR PRADESH- 205261  
.....PETITIONER NO. 41

DIVYANSH CHAWLA,  
S/o SUSHANT CHAWLA,  
R/o 8/105, 2ND FLOOR, BLOCK-B,  
RAMESH NAGAR, WEST DELHI, DELHI-110015.  
.....PETITIONER NO. 42

HIMANSHU PRAJAPTI,  
S/o GANGA DAYAL,  
R/o PANSARI, POST-PANSARI,  
UNNAO, UNNAO, UTTAR PRADESH-209801.  
.....PETITIONER NO. 43

NAVEEN JOSHI,  
C/o SHRIDHAR JOSHI,  
R/o 3RD CROSS, TAGORE ROAD,  
GADAG, GADAG, KARNATAKA- 582101.  
.....PETITIONER NO. 44

SHRISHTI SUMAN,  
D/o SUMAN KUMAR,  
R/o GRAM-GOLA ROAD  
NAWADA, POST-NAWADA,  
GONDAPUR, NAWADA,

BIHAR -805110.

.....PETITIONER NO. 45

SUDHIR KUMAR SINGH KANWAR,  
S/o SH. NEPAL SINGH KANWAR,  
R/o HOUSE N0-188, WARD N0-12,  
DINDHOLBHATHA,  
BAMHANIKONA, KORBI,  
KORBA, CHATTISGARH- 495446.

.....PETITIONER NO. 46

MAYUR ROHIDAS DAMBALE,  
S/o ROHIDAS RANOJI DAMBALE,  
R/o N-3 L-11, NEAR RAJA ELECTRICAL,  
SHIV AJI CHOWK, CIDCO, NASHIK, NASHIK  
MAHARASHTRA- 422009.

.....PETITIONER NO. 47

SONALI VERMA,  
D/o SRI SANJEEV KUMAR,  
R/o Q.N0-78,TYPE-3,  
CENTRAL EXCISE COLONY,  
ASHIANA NAGAR,PHULWARI,  
PATNA,BIHAR 800025.

.....PETITIONER NO. 48

PRIYANSHU SHARMA,  
S/o SANJEEV SHARMA  
R/o 2095-A, HOUSING BOARD,  
SHIV MANDIR,  
SECTOR -6, KARNAL,  
HARYANA, 132001

.....PETITIONER NO. 49

SUBHODEEP PARAMANIK,  
S/o LATE BIJAY PARAMANIK  
C/o LATE BIJAY PARAMANIK,  
R/o DURGA MANDIR ROAD,  
KALI MANDIR, MASTERPARA HIRAPUR,  
DHANBAD, JHARKAND- 826001.

.....PETITIONER NO. 50

RAJ MARAIYA,  
S/o UMESH MARAIYA,  
R/o WARD NUMBER 8,  
GANJ MOHALLA, VIJAYPUR,  
SHEOPUR,MADHYA PRADESH-476332. ....PETITIONER NO.51



KUMAR GAURAV,  
S/o JITENDRA KUMAR,  
R/o VILL- PANDITNAGAR BIHAR SARIF,  
POST- BIHAR SARIF, BIHAR,  
NALANDA, BIHAR -803101. ....PETITIONER NO. 52

PALLAVI MISHRA  
D/o UMESH MISHRA,  
R/o GOPALPUR, MAHARAJGANJ,  
UTTAR PRADESH- 273155. ....PETITIONER NO. 53

HARSHISAXENA  
D/o VIMAL VIJAY,  
R/o 342-B, BEHARIPUR KAHRWAN,  
BAREILLY, BAREILLY, UTTAR PRADESH- 243003.  
.....PETITIONER NO. 54

SUYASH DUTTA  
S/o SHYAMAL DUTTA,  
R/o RAILWAY QUARTERS NO 296/C,  
SARADA NAGAR, MALIGAON,  
MLG RLY HQS, KAMRUP METRO,  
GUWAHATI, ASSAM, 781011. ....PETITIONER NO. 55

HARSHIT KUMAR  
C/o CHANDRAKANT,  
R/o POST-KANAKOR,  
VILL- KANAKOR, PILIBHIT, PILIBHIT,  
UTTAR PRADESH- 262001. ....PETITIONER NO. 56

DEEPAK MADAN ATHAWLE,  
S/o MADAN ATHAVLE,  
R/o CHANDANZEERA JALNA,  
JALNA, MAHARASHTRA- 431203. ....PETITIONER NO. 57

PRATHAM SANJEEV KALGUTKAR  
S/o SANJEEV VISHWANATH KALGUTKAR,  
R/o #2 SHRIRANG GARDEN,  
STATION ROAD, RACHNAKAR COLONY,  
AURANGABAD, MAHARASHTRA- 431005.  
.....PETITIONER NO. 58

YOGESH KAWAR,  
S/o JITENDRA KUMAR KAWAR,  
R/o 48, DENDO KA BAS, PALI, PALI,  
RAJASTHAN, 306401.

.....PETITIONER NO. 59

TANMAY PAL,  
S/o MUKESH KUMAR PAL,  
R/o C/858, DEWA ROAD,  
KUSUMESH NIWAS KE PICHHE,  
ABHAY NAGAR, NAWABGANJ,  
BARABANKI, UTTAR PRADESH-225001. ....PETITIONER NO. 60

RAHUL,  
S/o RAJENDRA PRASAD,  
R/o BUCHIYO KI DHANI,  
ADOOKA, JHUNJHUNUN,  
RAJASTHAN - 333026. ....PETITIONER NO. 61

AMIR ANSARI,  
S/o ISRAR ANSARI,  
R/o HAYAT NAGAR, SABARI,  
MAHUARIA, MIRZAPUR,  
UTTAR PRADESH- 231001. ....PETITIONER NO. 62

ADITI GUPTA,  
D/o ARVIND KUMAR,  
R/o VILLAGE CHARUANWAN,  
POST CHARUANWAN,  
THANA SHEKHOPUR SARAY,  
CHARUANWAN, SHEIKHPURA,  
BIHAR- 811103. ....PETITIONER NO. 63

PRANSHU PRAKARSH,  
S/o BRAJESH KUMAR PANDEY,  
R/o G-28, P.C. COLONY,  
KANKARBAGH, PATNA,  
BIHAR- 800020. ....PETITIONER NO. 64

ABBHINAV BHARADWAJ,  
S/o SURYA PRAKASH BHARDWAJ,  
R/o 411, AVDHAN BHAWAN,  
AZAD NAGAR, BEHIND PWD OFFICE,  
NEW CIVIL LINES, HARDOI (GRAMIN),

HARDOI, UTTAR PRADESH- 241001. ....PETITIONER NO. 65

ROHIT RAMESH PAWAR,  
S/o SH. RAMESH PAWAR  
R/o KRUSHNAJI NIWAS,  
NEAR GANAPATI MANDIR, MIRAJ , SANGLI,  
MAHARASTRA, 416410 .....PETITIONER NO. 66

AMAN JHA  
S/o RAKESH KUMAR JHA,  
R/o BHITH BHAGWANPUR, MADHEPUR,  
MADHUBANI, BIHAR- 847408. ....PETITIONER NO. 67

*(Through: Mr.Siddhartha Chowdhury, Mr.Sougata Sarkar, Mr.Rajat Choudhary, Ms.Valentina Sampson and Mr.S.D.Bakshi, Advocates.)*

AND

UNION OF INDIA  
THROUGH ITS SECRETARY,  
MINISTRY OF EDUCATION,  
122-C, SHASTRI BHAVAN,  
NEW DELHI-110001 AND OTHERS  
.....RESPONDENT NO. 1

JOINT ADMISSION BOARD (JAB)  
THROUGH ITS CHAIRPERSON,  
JEE (ADVANCED) OFFICE,  
INDIAN INSTITUTE OF TECHNOLOGY,  
GUWAHATI, AMINGAON,  
GUWAHATI-781039. ....RESPONDENT NO. 2

INDIAN INSTITUTE OF TECHNOLOGY, GUWAHATI  
THROUGH ITS DIRECTOR,  
IIT GUWAHATI,  
AMINGAON, NORTH GUWAHATI,  
GUWAHATI, ASSAM 781039. ....RESPONDENT NO. 3

*(Through: Mr.Kamal Kant Jha, Sr. Panel Counsel with Mr.Rahul Kumar Sharma, GP and Mr.Avinash Singh, Advocates for R-1/UOI.*

*Mr.Sanjay Jain, ASG with Mr.Arjun Mitra, Mr.Nishank Tripathi and Ms.Harshita Sukhija, Advocates.)*

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% Pronounced on: 03.05.2023  
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### **J U D G M E N T**

1. The petitioners, *vide* the instant writ petition are seeking for the issuance of a writ of mandamus to respondent nos.1, 2 and 3 directing them to issue a notice relaxing Criterion 3 and 4 of the Joint Entrance Examination (Advanced) [in short 'JEE (Advanced)'], 2023 Information Brochure to the extent that the candidates who appeared in Class 12<sup>th</sup> (or equivalent) examination in the year 2021 for the first time are eligible to appear for JEE (Advanced), 2023; provided the candidate should have appeared only once for JEE (Advanced) either in the year 2021 or 2022 or have not at all appeared in any of the papers in both JEE (Advanced) 2021 and JEE (Advanced) 2022. The petitioners also seek for issuance of a writ of mandamus to respondent nos.1, 2 and 3 directing them to relax Clause 26 of the JEE (Advanced), 2023 Information Brochure, which mandates 75% aggregate marks in Class 12<sup>th</sup> Board examination to get an admission in the Indian Institutes of Technology (in short 'IIT').

2. The facts as have been disclosed in the instant writ petition would indicate that in April 2020, the petitioners started their Class 12<sup>th</sup> Academic Year. During the same time, there was an outbreak of the Covid-19 pandemic and subsequent thereto, lockdowns were imposed throughout the country, which adversely affected the study of the petitioners. In 2021, the petitioners were given the benefit of the schemes/guidelines framed for declaration of result in the said year on the basis of CBSE policy. It is thus stated that in the year 2021, the

examinations were not conducted and the results were prepared on the basis of internal assessment.

3. According to the petitioners, they had two opportunities to appear in JEE (Advanced). The first opportunity which they could have availed, was in 2021, the year in which their results of Class 12<sup>th</sup> examination were declared and the second opportunity, was in the year 2022 i.e. the year succeeding their Class 12<sup>th</sup> examination. They also state that in the year 2021, barring five, none of the candidates could appear in JEE examination. However, most of the petitioners appeared in JEE examination-2022, and therefore, as of now, the opportunities which were effectively made available to them for clearing JEE examination is only one. The petitioners, therefore, state that respondent no.2-Joint Admission Board (hereinafter referred to as 'JAB') took a policy decision allowing, as a one-time measure, relaxation for certain category of students, in effect, ensuring that all Class 12<sup>th</sup> pass candidates in the respective years, who suffered because of Covid-19 pandemic, be allowed to attempt two effective JEE examinations.

4. Learned counsel appearing on behalf of the petitioners has taken this court through a decision taken with respect to another category of students by respondent no.2, which is published in the form of notice to the candidates in pursuance to a decision taken by respondent no.2-JAB in its meeting held on 14.12.2021. He, therefore, explained that if the decision so taken is carefully perused, the same would indicate that respondent no.2-JAB was intending to extend the benefit to the candidates who suffered because of Covid-19 pandemic. He has categorically stated that in the instant case, barring five candidates, none of the candidates could avail two effective opportunities to clear their JEE examination.

5. Learned counsel appearing on behalf of the petitioners, while taking this court through a decision of the Hon'ble Supreme Court in the case of '*Nilesh Jha & Ors vs Union of India & Ors*' bearing Writ Petition (Civil) No. 326/2022 has explained that the said decision would not help respondent no.2-JAB. He submits that it has been categorically recorded therein that the candidates who approached the Hon'ble Supreme Court, have already exhausted two chances of their appearance in the JEE examination. Since the case of the petitioners does not fall in the category of the candidates who have exhausted two chances of their appearance in the JEE, therefore, the said decision would not be applicable in the instant case.

6. The respondents have filed their counter affidavit and opposed the prayer made by the petitioners.

7. It has been submitted on behalf of respondent nos.2 and 3 that the instant petition is misconceived, and the petitioners are not entitled for any relief at this stage. According to them, the respondents being experts in their field have taken a conscious decision to allow a particular set of students to avail two opportunities to clear their JEE examination. Therefore, they stated that admittedly the case of the petitioners does not fall within the exceptional category of candidates that were granted the benefit of the policy; therefore, no writ can be issued to the expert agency to include a particular category of students within its ambit. They also stated that when the decision of relaxation was taken in the year 2021, excluding their category, the petitioners should have challenged the said decision at the relevant point of time. It has also been stated by respondents nos.2 and 3 that after a delay of about two years from the date of decision, after realizing the fact that they have already exhausted all permissible chances to clear their JEE

examination, they cannot be allowed to agitate their concerns, particularly when JEE, 2023 is likely to be conducted soon.

8. The respondents also stated that the admissions to IITs are governed by the JEE (Advanced) Information Brochure, wherein, the detailed rules and eligibility criteria are set out. According to the scheme of the examination, the candidates who attain a position in the top 2,50,000 in the merit list in JEE (Mains), are entitled to appear in JEE (Advanced). It is also pointed out that the petitioners did appear in JEE Mains 2021 and JEE Mains 2022. It is also stated by the respondents that once the petitioners appeared in JEE (Mains) 2021, their subsequent non appearance in JEE (Advanced) 2021 cannot be considered to be a ground for availing one additional year. They further explained that there can be various circumstances or reasons due to which the petitioners might not have appeared in JEE (Advanced) 2021, such as, their merit rank position fulfilling the requisite criteria or their non qualification in Class 12<sup>th</sup>. It is thus stated that once the petitioners admittedly appeared in JEE (Mains) 2021 and JEE (Mains) 2022, therefore, in all practical sense, the petitioners have availed two opportunities to appear in JEE (Advanced) also.

9. Reliance is also placed on behalf of the respondents on the decisions of the Hon'ble Supreme Court in the cases of *Nilesh Jha & Ors. Vs. Union of India* W.P. (C) No. 326/2022, *Maharshi Dayanand University Vs. Surjeet Kaur*<sup>1</sup>, *Indian Institute of Technology, Kharagpur and Others Vs. Soutrik Sarangi and Others*<sup>2</sup>, *Shikhar and Another Vs. National Board of Examination and Others*<sup>3</sup>, *University Grants Commission and Another Vs. Neha*

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<sup>1</sup> (2010) 11 SCC 159

<sup>2</sup> 2021 SCC Online SC 826

<sup>3</sup> 2022 SCC Online SC 425

*Anil Bobde (Gadekar)*<sup>4</sup> and *Prateek Singhal Vs. National Testing Agency*<sup>5</sup>.

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

11. It is seen that IITs are institutions of national importance established through Acts of the Parliament for fostering excellence in education.

12. The primary objective of IITs *inter alia* is the creation of an environment that encourages freedom of thought, pursuit of excellence and to inculcate the necessary vision and self-discipline to achieve excellence, to prepare students to become outstanding professionals and contribute to nation building. The admission to various undergraduate programmes across IITs is carried out through JEE (Advanced). JEE (Advanced) and the subsequent process of admission to the IITs is governed by the applicable rules.

13. The Criterion 3 and 4 of the JEE (Advanced) 2023 Information Brochure read as under:-

**“Criterion 3- Number of attempts:**

*A candidate can attempt JEE (Advanced) maximum of two times in two consecutive years.*

**Criterion 4- Appearance in Class XII (or equivalent) examination\*:**

*A candidate should have appeared for the Class XII (or equivalent) examination for the first time in either 2022 or 2023 with Physics, Chemistry, and Mathematics as compulsory subjects.*

*Candidates, who had appeared in Class XII (or equivalent) examination for the first time in 2021 or earlier, are NOT eligible to appear in JEE (Advanced) 2023, irrespective of the combination of subjects attempted/offered.*

*\*By appearance in Class XII (or equivalent) examination, it is meant that the Board concerned declared the result for that year irrespective of whether or not examination was conducted. It*

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<sup>4</sup> (2013) 10 SCC 519

<sup>5</sup> 2019 SCC Online Del 10873



*will be considered as an appearance even if the result of a particular candidate got withheld.*

*However, if the examination Board of Class XII (or equivalent) declared the results for the academic year 2020-21 on or after October 25, 2021, then the candidates of that Board who appeared for their Class XII (or equivalent) examination in 2021 are also eligible to appear in JEE (Advanced) 2023, provided they meet all the other eligibility criteria. In case the examination Board of Class XII (or equivalent) declared the results for the academic year 2020-21 before October 25, 2021 but the result of a particular candidate was withheld, then the candidate will not be eligible to appear in JEE (Advanced) 2023.”*

14. It is thus seen that Criterion 3 provides for a maximum of two attempts to appear in JEE (Advanced) in consecutive years. Criterion 3 also stipulates that a candidate should have appeared in Class 12<sup>th</sup> (or equivalent) examination for the first time either in the year 2022 or 2023 with physics, chemistry, mathematics as compulsory subjects, meaning thereby, for JEE (Advanced) 2023, a fresh lot of students who are attempting their Class 12<sup>th</sup> examination in the same very year and those students who attempted their Class 12<sup>th</sup> examination in the immediately preceding year i.e. 2022, are only entitled to appear subject to their fulfilling other eligibility conditions.

15. Criterion 4 specifically debar the candidates who had appeared in Class 12<sup>th</sup> (or equivalent) examination for the first time in the year 2021 or earlier, irrespective of the combination of subjects/ attempts offered. Thus, the criteria when read together would clarify two important aspects; firstly, the candidates cannot attempt JEE (Advanced) for more than two consecutive attempts and secondly, the consecutive attempts have to be attempts immediately after the year of Class 12<sup>th</sup> examination in which JEE (Advanced) is to be held.

16. The petitioners are, therefore, not entitled in view of Criterion 3 and 4, as the petitioners had appeared in their Class 12<sup>th</sup> examination in the year 2021 thereafter, in the year 2021 as well as in 2022, JEE

(Advanced) was conducted. The petitioners had two opportunities- one was in 2021 and the second was in 2022.

17. The petitioners seek to claim parity with the decision taken by the respondent no.2-JAB creating exceptions to general eligibility criteria for JEE (Advanced) 2022. The public notice issued pursuant to the decision dated 14.12.2021 taken by respondent no.2-JAB, reads as under:-

**“Notice to Candidates**

*The joint Admission Board of JEE (Advanced) in the first JAB meeting held on December 14, 2021 deliberated on the numerous representations received regarding the eligibility criteria and was of the view that the exceptional circumstances and hardships faced due to the COVID-19 pandemic required some relaxation to be given. These relaxations are special one-time measures only. The following exceptions to the general eligibility criteria were accordingly deliberated and approved.*

***o One-time measure for those who first appeared in class 12th (or equivalent) examination in 2020/2021 AND successfully registered for JEE (Advanced) 2021 but did NOT appear***

*Candidates who appeared in class 12th (or equivalent) examination for the first time in 2020 OR 2021 AND successfully registered for JEE (Advanced) 2021 but were absent in BOTH the papers, i.e., Paper 1 and Paper 2, of JEE (Advanced) 2021, are eligible to directly appear for JEE (Advanced) 2022 and do not need to fulfill Criteria 1 to 4. However, they must successfully register for the JEE (Advanced) 2022 in the online registration portal and pay the registration fee.*

*Further, these candidates would be considered in addition to and not as part of the total number of candidates who would qualify from JEE (Main) 2022 for appearing in JEE (Advanced) 2022.*

*This is a one-time measure valid only for JEE (Advanced) 2022 due to the ongoing pandemic.*

*These candidates must confirm their eligibility for appearing in JEE (Advanced) 2022 by visiting the official website (<https://jeeadv.ac.in>) and filling in the requisite information during registration. This one-time measure is NOT applicable to candidates who appeared for their class 12th exam for the first time before 2020.*

***o One-time measure for those who first appeared in class 12th in 2020***

*As a one-time special measure due to the ongoing pandemic, candidates who appeared in class 12th (or equivalent) examination in 2020 for the first time are also eligible to appear for JEE*

*(Advanced) 2022 PROVIDED they satisfy the following two criteria simultaneously: (i) The candidate should have appeared ONLY ONCE for JEE (Advanced), either in the year 2020 or 2021; OR, have NOT at all appeared in any paper in both JEE (Advanced) 2020 and JEE (Advanced) 2021. (ii) These candidate(s) should appear/should have appeared in JEE (Main) 2022 and meet the cut-off score of the top 2,50,000 successful candidates (including all categories) for qualifying for JEE (Advanced) 2022 in their respective category.*

*This one-time measure is applicable to ONLY those candidates for whom the appearance in JEE (Advanced) 2022 will be their first or second attempt and is NOT applicable to candidates who appeared for their class 12<sup>th</sup> exam for the first time before 2020. No candidate will be allowed to appear in JEE (Advanced) more than two times. Further, these candidates would be considered in addition to and not as part of the total number of candidates who would qualify from JEE (Main) 2022 for appearing in JEE (Advanced) 2022. Criteria 5 would be applicable to these candidate(s).*

*This is a one-time measure valid only for JEE (Advanced) 2022.*

*\*By appearance in Class XII (or equivalent) examination, it is meant that the board concerned declared the result for that year irrespective of whether or not examination was conducted. It will be considered as an appearance even if the result of a particular candidate got withheld. These candidates must confirm their eligibility for appearing in JEE (Advanced) 2022 by visiting the official website (<https://jeeadv.ac.in>) and filling in the requisite information during the registration.*

18. A perusal of decision would indicate that the same was arrived at in view of the exceptional circumstances and hardships faced due to Covid-19 pandemic, which compelled respondent no.2-JAB to extend certain relaxations in 2022 examination and the same were made specific to the year 2022 as a one-time measure. If the exceptions created in the general eligibility criteria are also perused carefully, the same would indicate that the candidates who successfully registered for JEE (Advanced) 2021 but remained absent in both the papers i.e. Paper-I and Paper-II of JEE (Advanced) 2021, were made eligible to directly appear for JEE (Advanced) 2022.

19. The successful registration for JEE (Advanced) 2021 would mean that the candidates who were otherwise eligible to appear in JEE (Advanced) 2021 and because of certain difficulties despite their eligibility, could not appear in both the papers i.e. Paper-I and Paper-II, were entitled for the said benefits. Even if the candidates who appeared in Paper-I or Paper-II, were found ineligible for the said relaxation. The one-time measure directions have been worded very carefully to restrict the benefit only to the candidates who by virtue of the Covid-19 pandemic could not appear in both the papers. The relaxation was not made applicable across the board. The same was done in 2022 JEE (Advanced) and not in this year.

20. So far as the, one-time measure for the candidates who first appeared in Class 12<sup>th</sup> examination in 2020 is concerned, the same was also provided with the condition that they should have appeared only once for JEE (Advanced) either in the year 2020 or 2021 or have not at all appeared in any paper in both JEE (Advanced) 2020 and JEE (Advanced) 2021.

21. It is to be noted that owing to Covid-19 pandemic, no regular examinations were conducted for Class 12<sup>th</sup> in the year 2020 and 2021 and the results were declared on the basis of internal assessment.

22. The petitioners in the instant case are admittedly not the students who appeared in 2020 examination but are the candidates who appeared in 2021 examination for Class 12<sup>th</sup>. In 2021, the petitioners did appear in JEE (Mains) but barring five candidates/petitioners, none of the petitioners appeared in JEE (Advanced). Had it been the case of the petitioners that because of Covid-19 pandemic, they could not appear in JEE (Advanced) 2021, they should have approached the concerned respondent or this court immediately at the time of examination or thereafter, but the

petitioners maintained their silence and have not explained any reason as to why despite the availability of an opportunity to appear in JEE (Advanced) 2021, they did not appear in the said examination.

23. The petitioners, thereafter, appeared in JEE (Advanced) 2022 and remained unsuccessful.

24. In JEE (Advanced) 2023, the petitioners seek to draw the parity with the students who appeared in JEE (Mains) 2020 and JEE (Mains) 2021 and successfully registered for JEE (Advanced) 2021. The petitioners do not fall within the category of students who were granted relaxation. The category of students who were granted relaxation, form a separate class. There is a reasonable classification based on intelligible differentia between the category of students who were granted the relaxation and those who were not granted the same benefit. The same is based on proper application of mind and the attendant circumstances. No fault can be found with the aforesaid aspect.

25. Clause 26 of the JEE (Advanced) 2023- Information Brochure which is also under challenge in the instant writ petition, is reproduced as under:-

***“26. Performance in Class XII (or Equivalent) Board Examination for admission to IITs***

- *The Candidates must satisfy at least one of the following two criteria with Physics, Chemistry and Mathematics as compulsory subjects in the year of first appearance in the Class XII (or equivalent examination):*

*1. Must have secured at least 75% aggregate marks in the Class XII (or equivalent) Board examination. The aggregate marks for SC, ST and PWD candidates should be at least 65%.*

*2. Must be within the category-wise top 20 percentile of successful candidates in their respective Class XII (or equivalent) board examination.*

*The percentile calculation will be done for all the required subjects, in a single academic year only. Therefore, candidates appearing for improvement in Board examinations can EITHER appear in one or more subjects and secure 75% aggregate marks (65% for SC, ST and PWD) after improvement, OR, appear for*

*improvement in ALL subjects to be in top 20 percentile (see Section titled "Regarding the cut-off marks for the top 20 percentile") of the corresponding academic year.*

- *The marks scored in the following five subjects will be considered for calculating the aggregate marks and the cut-off marks for fulfilling the top 20 percentile criterion.*
  - (i) *Physics*
  - (ii) *Chemistry*
  - (iii) *Mathematics*
  - (iv) *A language (if the candidate has taken more than one language, then the language with the higher marks will be considered)*
  - (v) *Any subject other than the above four (the subject with the highest marks will be considered).*
- *For calculation of the total marks for five subjects, if the marks awarded in a subject is NOT out of 100, then the marks will be scaled (up or down) to 100 so that the total aggregate marks is out of 500.*
- *If a Board awards only letter grades without providing an equivalent percentage of marks on the grade sheet, the candidate should obtain a certificate from the Board specifying the equivalent marks and submit it at the time of acceptance of the allocated seat. In case such a certificate is not provided, the decision taken by the Joint Implementation Committee of JEE (Advanced) 2023 will be final.*
- *For candidates who appeared in the Class XII (or equivalent) Board examination for the first time in 2022 and reappeared in ALL subjects (for whatsoever reason) in 2023, the best of the two performances will be considered.*
- *If a Board gives aggregate marks considering both Class XI and Class XII examinations (in the 10+2 system), then only Class XII marks will be considered. If a Board gives aggregate marks considering the results of all three years of a 3-year diploma or courses of equivalent duration, then the marks scored only in the final year will be considered. Similarly, for Boards which follow a semester system, the marks scored in the final two semesters will be considered.*
- *In case any of the subjects Physics, Chemistry, Mathematics and Language are not evaluated in the final year (e.g., in a 3-year diploma course), then the marks for the same subject from the previous year/will be used for calculating percentage of aggregate marks.*
- *If a Board does not give marks scored in individual subjects but gives only the aggregate marks, then the aggregate marks given by the Board will be considered as such.*
- *The above will also apply correspondingly to those candidates who first appeared for their Class XII examination in 2021 but the examination Board of Class XII (or equivalent) declared the results for the academic year 2020-21 on or after October 25, 2021.*

***For eligibility criteria foreign candidates may follow the link***

***<https://ieeadv.ac.in/foreign.html>***

**26.1. Regarding the cut-off marks for the top 20 percentile**

- *The category-wise cut-off marks for the top 20 percentile are calculated based on the marks scored by the successful candidates who appeared in their respective boards for all the required subjects, in the particular year.*
- *The cut-off marks for PWD candidates will be the same as the lowest of the cut-off marks for GEN, OBC-NCL, SC and ST categories.*
- *It is clarified that top 20 percentile cut-off for the academic year 2022-23 will be considered against the successful candidates who appeared in the Class XII (or equivalent) examination in 2023.*
- *Similarly, top 20 percentile cut-off for the academic year 2021-22 will be considered against the successful candidates who appeared in the Class XII (or equivalent) examination in 2022.*
- *Candidates who appeared in Class XII (or equivalent) examination for the first time in 2022 and wish to (or have to) reappear in 2023 with the objective to qualify through top 20 percentile cut-off criteria, must reappear in all the subjects. For such candidates, top 20 percentile cut-off for 2023 will be considered.*
- *In case a Board does not provide information about the cut-off for the top 20 percentile, the candidate will have to produce a certificate from the respective Board stating that he/she falls within the top 20 percentile of successful candidates. If the candidate fails to do so, then the cut-off marks, in the respective categories, for the Central Board of Secondary Education will be used.*
- *The above will also apply correspondingly to those candidates who first appeared for their Class XII examination in 2021 but the examination Board of Class XII (or equivalent) declared the results for the academic year 2020-21 on or after October 25, 2021.*

**26.2. Regarding the aggregate marks of 75% (or 65% for SC, ST and PWD)**

- *The aggregate marks scored by the candidate in the 2023 Class XII (or equivalent) Board examination will be considered for candidates who will appear in the Class XII examination in 2023.*
- *The aggregate marks scored by the candidate in the 2022 Class XII (or equivalent) Board examination will be considered provided the candidate does not reappear in the Class XII (or equivalent) examination in 2023 in any of the subjects.*
- *If a candidate had appeared in his/her Class XII (or equivalent) in 2022 .and wishes to improve his/her aggregate marks to meet the "aggregate marks of 75% (or 65% for SC, ST and PWD) criterion",*

*he/she can reappear for any number of subjects he/she wishes for improvement. The percentage marks in this situation will be calculated by considering the marks obtained in 2022 or 2023, whichever is higher, in the respective subjects, in his/her two attempts in 2022 and 2023.*

- *The above will also apply correspondingly for the candidates who first appeared for their Class XII examination in 2021 but the examination Board of Class XII (or equivalent) declared the results for the academic year 2020-21 on or after October 25, 2021.”*

26. The petitioners have not been able to point out any good reason as to why the condition relating to the performance in Class 12<sup>th</sup> (or equivalent) examination for admission to the IITs needs to be interfered with. If the petitioners are belonging to a batch of students who appeared in 2021 Class 12<sup>th</sup> examination, there were lakhs of students who might have appeared in the same year. No specific criteria can be evolved for a particular set of students, as any criteria fixed for appearing in the examination will have to be made applicable uniformly. This court does not find any reason to interfere with Clause 26 of the impugned Information Brochure.

27. It is to be noted that the eligibility conditions for appearing in JEE (Advanced) are decided by respondent no.2-JAB after due deliberation. The eligibility conditions such as the age requirement, permissible number of attempts, and are within the realm of the policy decision being taken by examining body and the same are uniformly applied to all candidates without exception. Any interference into the aforesaid aspects will have the effect of disturbing academic discipline. The courts are not expected to have expertise to assess the pros and cons of various policy decisions taken by experts. Unless the decision is *de hors* the fundamental rights or so arbitrary so as to shock the conscience of this court, the same normally does not require any interference.



28. This court in the case of ***Baba Hira Das Ji Ayurvedic Medical College And Hospital v. Union of India and Ors.***<sup>6</sup> has considered various earlier decisions of the Hon'ble Supreme Court on this issue and has held that normally the courts should be slow to interfere with the opinions expressed by the experts in academic matters. Paragraph nos. 17 and 18 of the said case are reproduced as under:-

*“17. It is well settled in the law that normally the courts should be slow to interfere with the opinions expressed by the experts. It would normally be wise and safe for the courts to leave the decisions of academic matters to experts who are more familiar with the problems they face than the courts generally can be. [See:- University of Mysore in C.D. Govinda Rao and Another]*

*18. The principles of law laid down in the case of University of Mysore (supra) is being constantly followed by the Hon'ble Supreme Court in all subsequent decisions. [See:- M.C. Gupta (Dr.) v. Dr. Arun Kumar Gupta, J.P. Kulshrestha (Dr.) v. Allahabad University, Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth, Dalpat Abasaheb Solunke v. Dr. B.S. Mahajan, Neelima Misra v. Harinder Kaur Paintal, Bhushan Uttam Khare v. B. J. Medical College, Chancellor v. Dr. Bijayananda Kar, J&K State Board of Education v. Feyaz Ahmed Malik, Dental Council of India v. Subharti K.K.B. Charitable Trust, Medical Council of India v. Sarang, Rajbir Singh Dalal (Dr.) v. Chaudhari Devi Lal University, B.C. Mylarappa v. Dr. R. Venkatasubbaiah, All India Council for Technical Education v. Surinder Kumar Dhawan].”*

29. A similar view has been taken by this court in its decision dated 15.02.2023 in the case of ***Debjyoti Ghosh v. Jawaharlal Nehru University and Anr.***<sup>7</sup>. In paragraph no.19 of the said case, it has been held as under:

*“19. It is not advisable for courts to interfere with the functioning of the educational institutions, which have expertise in their field. It would be highly inappropriate to tinker with the decision of the educational bodies without realizing the pros and cons of the situation. There is no allegation of mala fide against the University or its officers. The Academic Ordinance is applicable uniformly to all the students. Any interference on the ground of one reason or the other would dilute the sanctity of the Academic Ordinance. The same*

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<sup>6</sup> 2023/DHC/000742

<sup>7</sup> 2023/DHC/001259

*is not permissible in exercise of power under Article 226 of the Constitution when the validity of the Ordinance remained unchallenged. Reliance can be placed on the decisions of the Hon'ble Supreme Court in the cases of **The University of Mysore and Anr vs C. D. Govinda Rao and Anr, Maharashtra State Board Of Secondary and Higher Secondary Education vs Paritosh Bhupesh Kumar Sheth Etc., Bhushan Uttam Khare vs Dean, B.J. Medical College and Ors., Medical Council Of India vs Sarang and Ors. and U.P. Public Service Commission v. Rahul Singh.***”

30. The respondents in their counter affidavit in paragraph nos. 25 to 28 have taken a categorical stand that certain relaxations were required to be granted to a category of students on the basis of various circumstances as explained therein. Paragraph nos.25 to 28 of the said counter affidavit are reproduced as under:-

*“25. That the situation was again assessed by JAB at the time of deciding the eligibility conditions for 2023. The view taken was that normalcy had returned after the conditions created by Covid-19; the Class XII examinations had also been conducted as earlier, JEE (Main) had returned to two attempts instead of four attempts. Even the JEE (Advanced) 2022 had been conducted smoothly without any Covid-19 related incident being reported.*

*26. That the above decision was taken after considering the recommendations of the Sub-Committee appointed by Zonal Joint Implementation Committee (ZJIC), as well as the views of the Joint Implementation Committee (JIC) and with the independent application of mind by the entire JAB; thus the issue was duly considered at four levels with the same result.*

*27. That the contention of the Petitioners is that the recommendations of the sub-committee are based on incorrect facts, inasmuch as it mentions that the last instructions of the Government of India on Covid-19 restrictions had not been extended. It is respectfully submitted that even if so, the situation would not change, as normalcy had in fact resumed and the same drastic conditions which existed earlier, no longer existed.*

*28. That it is also pertinent to mention that the existence or nonexistence of the last Government orders on Covid19 restrictions was not the only factor which weighed with JAB while arriving at the decision not to have any further One Time Measures. The decision of JAB also took into consideration the attendance of candidates in the examination, both in terms of numbers as well as percentages, comparing this with pre-Covid time as well; the number of sessions of JEE (Main).”*

31. They further justify that in the year 2021, when the petitioners claimed that they could not appear because of Covid-19 pandemic, the same percentage of students appeared, who normally were appearing in preceding three years. In paragraph no.29 following averments have been made:-

*“29.That the argument of the Petitioners that the impugned criteria violate Article 14 of the Constitution of India is misplaced. The earlier decision of JAB was to ensure that the candidates who were actually affected by situations created by Covid19 were (i) enabled to appear in the examination and (ii) enabled to avail of the two opportunities. The Petitioners herein had all appeared in Class XII examination in the year 2021; this means that they had the opportunity to appear for JEE (Advanced) in the year 2021 and also in 2022. The figures in the following table, which form part of the JAB decision, indicate that the candidates were able to prepare for and appear in the examination, while facing the same set of circumstances across the country and that a similar number of candidates appeared as in pre-Covid19 times.*

<i>JEE (Advanced) Year</i>	<i>Number of Candidates registered</i>	<i>Number of Candidates appeared for both papers</i>	<i>Attendance (%)</i>
2018	165656	155158	93.66
2019	174432	161319	92.48
2020	160838	150838	93.78
2021	151209	141699	93.71
2022	16003#	155538	97.19

*#includes the candidates under the one-time measures.*

32. The Hon’ble Supreme Court in the case of ***Maharshi Dayanand University (supra)*** while placing reliance on its earlier pronouncement in the case of ***State of Punjab v. Renuka Singh***<sup>8</sup>, ***Karnataka State Road Transport Corporation v. Ashrafulla Khan & Ors.***<sup>9</sup>, Bihar

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<sup>8</sup> (1994) 1 SCC 175

<sup>9</sup> AIR 2002 SC 629

*School Examination Board v. Suresh Prasad Sinha*<sup>10</sup> and other decisions, has held that neither the courts nor any Tribunal has the competence to issue a direction contrary to law and to act in contravention of statutory provisions.

33. In the case of '*Indian Institute of Technology, Kharagpur*' (*supra*) while placing reliance on a decision in the case of *All India Council for Teacher Education v. Surinder Kumar Dhawan*<sup>11</sup>, the Hon'ble Supreme Court emphasized that in matters, such as, devising admission criteria or other issues engaging academic institutions, the court's scrutiny in judicial review has to be careful and circumspect. Unless shown to be plainly arbitrary or discriminatory, the court would defer to the wisdom of administrators in academic institutions who might devise policies with regard to curricular admission process, career progression of their employees, matters of discipline or other general administrative issues concerning the institution or university. Paragraph no.19 of the said decision reads as under:-

*"19. The reasoning of the High Court of Criterion 5 not permitting IIT students to participate in IIT (Advanced) for the second time being arbitrary, in the opinion of this Court is not supportable. This Court has repeatedly emphasized that in matters such as devising admissions criteria or other issues engaging academic institutions, the courts' scrutiny in judicial review has to be careful and circumspect. Unless shown to be plainly arbitrary or discriminatory, the court would defer to the wisdom of administrators in academic institutions who might devise policies in regard to curricular admission process, career progression of their employees, matters of discipline or other general administrative issues concerning the institution or university<sup>5</sup>. It was held by this court in All India Council for Technical Education v. Surinder Kumar Dhawan<sup>6</sup>*

*"16. The courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies and take decisions in academic matters involving standards and quality of technical education. If the courts start entertaining petitions from individual institutions or*

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<sup>10</sup> (2009) 8 SCC 483

<sup>11</sup> (2009) 11 SCC 726

*students to permit courses of their choice, either for their convenience or to alleviate hardship or to provide better opportunities, or because they think that one course is equal to another, without realizing the repercussions on the field of technical education in general, it will lead to chaos in education and deterioration in standards of education.”*

34. In the case of ‘***Shikhar & Anr. (supra)*** in paragraph no. 9 while taking note of the decision in the case of ***Indian Institute of Technology Kharagpur & Ors. (supra)***, it has been reiterated that the cut off date for completion of the internship was in the realm of the policy decision within the domain of the Executive and Regulatory Authority. Paragraph no.9 of the said verdict reads as under:-

*“9. While we understand that the present cut-off date for the completion of the internship would put certain students at a disadvantage, we are conscious that it is the domain of the executive and regulatory authorities to formulate appropriate eligibility standards for admission. In Indian Institute of Technology Kharagpur & Ors. v. Soutrik Sarangi, a three-judge Bench of this Court held that courts should be circumspect in exercising their powers of judicial review in matters concerning academic policies, including admission criteria. In that case, this Court refused to interfere with the eligibility criteria for appearing in JEE (Advanced) 2021 which prevented a candidate who had secured a seat in one of the IITs from competing in a subsequent examination. This Court relied on All India Council for Technical Education v. Surinder Kumar Dhawan, where it was observed that judicial interference motivated by concerns of mitigating the hardship faced by students may result in unintended consequences adversely affecting the education system. This Court held thus:*

*“19. The reasoning of the High Court of Criterion 5 not permitting IIT students to participate in IIT (Advanced) for the second time being arbitrary, in the opinion of this Court is not supportable. This Court has repeatedly emphasized that in matters such as devising admissions criteria or other issues engaging academic institutions, the courts’ scrutiny in judicial review has to be careful and circumspect. Unless shown to be plainly arbitrary or discriminatory, the court would defer to the wisdom of administrators in academic institutions who might devise policies in*

*regard to curricular admission process, career progression of their employees, matters of discipline or other general administrative issues concerning the institution or university. It was held by this court in All India Council for [Technical Education v. Surinder Kumar Dhawan](#) “16. The courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies and take decisions in academic matters involving standards and quality of technical education. If the courts start entertaining petitions from individual institutions or students to permit courses of their choice, either for their convenience or to alleviate hardship or to provide better opportunities, or because they think that one course is equal to another, without realizing the repercussions on the field of technical education in general, it will lead to chaos in education and deterioration in standards of education.”*

*20. Given this general reluctance of courts to substitute the views of academic and expert bodies, the approach of the High Court in proceeding straightaway to characterize the rationale given by the IIT in fashioning the Criteria No. 5 cannot be supported.” (emphasis supplied)”*

35. Learned counsel appearing on behalf of the respondents have rightly placed reliance on a decision in the case of ***Nilesh Jha & Ors.*** (*supra*) which reiterates the well settled principles of law that an educational authority is not obliged to exempt everyone in order to exempt some persons from the river of rule. Considering an argument addressed on behalf of the petitioners, who appeared in the JEE (Advanced) 2020 and JEE (Advanced) 2021 having exhausted both their attempts to allow them to appear in a subsequent examination, the Hon’ble Supreme Court in paragraph nos. 2 to 6 has held as under:-

*“2. Simply put, the plea of the petitioners is that the above exemption should be expanded to include the students such as the petitioners who appeared in the JEE (Advanced) entrance examination in 2020 and 2021.*

3. *It is a well-settled principle of law that an educational authority such as the respondent is not obliged to exempt everyone in order to exempt some persons from the rigours of a rule. Considering the impact of the pandemic, the exemption has been crafted so as to include a specific category of students, noted above.*

4. *In a similar situation, on 15 March 2021, a Bench of this Court in **Jajati Panda v Union of India**’ observed as follows:*

*"In light of the (conscious holistic decision taken by the expert body, it is not possible for us to give a second look to that decision. The authority in its affidavit has clearly stated that there would be cascading effect if any further concession is to be given.*

*Being a policy matter, and the decision being a conscious decision to avoid any discrimination likely to be caused to the aspirants in future examination, no interference is warranted in writ jurisdiction under Article 32 of the Constitution of India. Hence, these writ petitions are dismissed."*

5. *Mr Devadatt Kamat submits that the order of this Court was in a different context. Be that as it may, the principle which has been laid down in the above order commends itself for acceptance.*

6. *The decision which has been made by the respondents falls within the domain of academic policy. This Court would not be inclined to interfere unless there is a manifest arbitrariness in the decision making process or in the decision. There is no arbitrariness here."*

36. In view of the aforesaid, this court does not find any infirmity or illegality in prescribing Criterion 3, 4 and Clause 26 in the impugned Information Brochure for appearance in JEE (Advanced) 2023. Therefore, the instant petition stands dismissed.

**(PURUSHAINDRA KUMAR KAURAV)**  
**JUDGE**

**MAY 03, 2023**

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