

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION (STAMP) NO.33028 OF 2022

Anubha Srivastava Sahai
V/S
National Testing Agency & Anr.

....Petitioner
....Respondents

...

Mr. Joseph G. Thattil i/b M/s. Thattil & Co. for the Petitioner.
Mr. Anil C. Singh, ASG a/w Mr. Rui Rodrigues, Ms. Smita Thakur,
Mr. Jainendra Sheth, Mr. Pranav Thackur, Mr. Vandit Joshi for Respondent
Nos.1 and 2.

...

**CORAM: S.V. GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATE : 10 JANUARY 2023.

P.C.:

1 In the present PIL the Petitioner prays for two reliefs, (i) to postpone the JEE (Main) exam to be held in January 2023 and (ii) to relax the eligibility criteria of obtaining 75% marks in the 12th standard examination.

2 As far as the challenge to the eligibility criteria of obtaining 75% marks in the 12th standard examination is concerned, the learned Advocate of the Petitioner submits that he has received the copy of Affidavit-in-Reply filed by the Respondent just now and seeks time to file Rejoinder and argue the matter. The eligibility criteria laid down viz. obtaining 75% marks in the 12th standard examination would be relevant at the time of seeking admission to the professional course which would be after June 2023.

3 The present apprehension of the Petitioner is that for the examinations as are scheduled to be held from 24 January 2023 to 31 January 2023, the students will have very less time for preparation. The schedule was declared only on 15 December 2022, hardly 40 days time was accorded to the students to prepare for examination. The learned Advocate for the Petitioner submits that though in April 2023 another opportunity is available to the students to appear for JEE (Main), each and every attempt is counted. Moreover, as a less time is provided for preparations, holding of examination in January 2023 would be detrimental to the interest of students. The learned Counsel submits that the examinations of JEE (Main) to be held in January 2023 may be postponed to April 2023 and the examinations to be held JEE (Main) in April 2023 may be postponed to May 2023.

4 The learned ASG submits that in the year 2019 and in the year 2020 JEE (Main) exams were held in January and April. In the year 2021 because of pandemic the examinations were held in four sessions i.e. February, March, April and May.

5 The learned ASG further submits that the Petitioner does not have locus standi to file the present PIL.

6 The JEE (Main) exams are held twice every year. Even if a student does not fare well in January exam, he can appear in April for improvement and the better marks obtained in either of the exams are taken into consideration.

7 Even if the student does not appear for JEE (Main) exam in January 2023, he can appear for JEE (Main) exam in April 2023.

8 It is not disputed that the schedule of the JEE (Main) examination of January and April is applicable pan India. The Petitioner claims to be a social activist and a child right activist. If any orders are passed today directing postponement of JEE (Main) January 2023 examination, the same may have a cascading effect on the future examination also. The next JEE (Main) examination is held in April 2023, sufficient time would be available to the students from January to April. In case, the student does not fare well in January examination, he can compete JEE (Main) in April examination.

9 The extraordinary circumstances do not appear to exist for restraining the Respondents from holding JEE (Main) examination in January 2023. Lakhs of students must have been preparing for the examination. On the basis of the present PIL on behalf of a child right activist, it would not be appropriate to direct postponement of the examination scheduled pan India.

10 As far as the another challenge to the eligibility criteria is concerned, the learned Advocate for the Petitioner has sought time to file Rejoinder.

11 Place the matter on 21 February 2023.

(SANDEEP V. MARNE, J.)

(ACTING CHIEF JUSTICE)