

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 10082 of 2023**

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TVISHA HITESH GARG, D/O HITESH GARG

Versus

THE NATIONAL INSTITUTE OF DESIGN

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Appearance:

TANAYA G SHAH(8430) for the Petitioner(s) No. 1

for the Respondent(s) No. 1,2

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CORAM:HONOURABLE MR. JUSTICE NIKHIL S. KARIEL**Date : 16/06/2023****ORAL ORDER**

1. Heard learned advocate Ms. Tanaya Shah on behalf of the applicant who by way of this application challenges a decision by the respondent no.1 Institute of canceling the admission granted to the present applicant, more particularly, on the ground of the applicant not complying with the eligibility criteria as mentioned in the M.Des. Admission Handbook 2023-24 / the requirement as mentioned in the e-mail dated 26.05.2023.

2. Considering the submissions made by learned advocate Ms. Shah, it appears that the present applicant had inter alia applied for selection to the Master of Design course with the respondent and whereas after the examination procedure was

over, the present applicant had been declared cleared whereas the applicant had secured 5th rank in the general category in the concerned subject.

2.1. It appears that thereafter, the applicant had received an e-mail from the respondent Institution, whereby the respondent Institution considering the representation made by some of the candidates had relaxed the condition with regard to submission of the provisional degree certificate as found in the handbook referred to hereinabove and whereas the candidates were required to upload the self undertaking as well as a letter on the official letterhead of the colleague/ university in which the candidate was studying declaring that the candidate had appeared for the final qualifying examination and that the candidate did not have any backlogs in the previous years/semesters and whereas the results will be declared by 30.06.2023.

2.2. It appears that the Institute in which the present applicant had been studied i.e. the respondent no.2 Institute had initially issued a certificate in the format as required by the respondent no.1 except for stating that the results of the final year examination will be declared by 30.06.2023. It

appears that the non-providing of the certificate in the required format has resulted in the respondent no.1 Institution canceling the candidature of the present applicant vide an e-mail dated 09.06.2023 annexed at Annexure-J, page no. 42 to the memo of the petition. The same is under question in the present petition.

2.3. Considering the submissions made by learned advocate Ms. Tanaya Shah for the applicant, it would further appear that after the communication dated 09.06.2023, upon a request made by the present application, a certificate in the required format had been issued by the respondent no.2 Institution which had been submitted by the present applicant to the respondent no.1 Institution and whereas, it appears that inspite of submitting the certificate in the required format, the respondent no.1 Institution has not reconsidered the decision whereby the admission/candidature of the applicant has been cancelled.

3. In the prima facie opinion of this Court, the action on the part of the respondent no.1 Institution is absolutely highhanded and arbitrary to state the least. It would be required to be noted that the Admission Handbook 2023-24,

more particularly, at Clause 8.8. which enumerates the list of documents to be uploaded, does not contain any such requirement of the candidate submitting a certificate from the Institution in which the candidate is presently studying. The requirement being of provisional degree certificate had been waived by the respondents themselves and whereas, the respondents vide an e-mail to the candidate referred to hereinabove had modified their conditions.

4. In the considered opinion of this Court, it would not be within the domain or authority of the respondent no.1 Institution, as the admission giving Institution, to dictate terms to another Institution in which a candidate who has applied for the admission to the respondent no.1 Institution was presently studying as regards issuing a certificate in a particular format only. While the candidate could have given a certificate inter alia submitting that the results of the examination would be declared by a particular date whereas, the respondent no.1 Institution could not require the respondent no.2 Institution, as the case may be, to give a certificate that the results would be declared by a particular date.

5. In the prima facie opinion of this Court, it would be absolutely within the discretion of the respondent no.2 Institution as in the instant case to issue such a certificate in favour of the candidate or not. It also requires to be noted that non-issuance of the certificate by the respondent no.2 Institution in a particular format as required by the respondent no.1 Institution ought not to have resulted in the respondent no.1 canceling the admission of a meritorious candidate like the present petitioner more particularly since a candidate could not be expected to have any control over the manner in which a certificate is issued by the respondent no.2 Institution. Furthermore, a condition which is modified in the handbook after the declaration of the results ought not to have so strictly complied with that a meritorious student loses her admission.

6. Considering the above prima facie observation, in the considered opinion of this Court, a case for interference is made out. Hence, issue **Notice for final disposal to the respondents, returnable on 23.06.2023**. Direct service to respondent no.1 is permitted. Respondent no.2 to be served through speed post.

7. By way of ad-interim relief, it is directed that the seat which could be allotted to the present applicant shall be kept vacant till the returnable date.

Bhoomi

(NIKHIL S. KARIEL,J)