

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

+ W.P.(C) No. 8307/2019 and CM No. 34399/2019

**Judgment reserved on : 14.8.2019**

**Date of decision : 19.8.2019**

PRATEEK SINGHAL ..... Petitioner

Through: Mr. R.M.Sinha and  
Mr.P.M.Sinha, Advocates

versus

NATIONAL TESTING AGENCY (NTA) DEPARTMENT OF  
HIGH EDUCATION MINISTRY OF HUMAN RESOURCES  
DEVELPMENT AND ANR. .... Respondents

Through: Mr.Amit Bansal, Adv for R-1  
Mr.Arjun Mitra, Adv forJoSAA

**CORAM:**  
**HON'BLE MS. JUSTICE ANU MALHOTRA**

**JUDGMENT**

**ANU MALHOTRA, J.**

1. The petitioner who obtained 322 marks out of 500 in 10+2 Examination conducted for the year 2017-18 and who thus secured 64.4% marks in the Standard 12 examination conducted by the CBSE seeks to pursue the Five year B. Arch. Degree course at the Maulana Azad National Institute of Technology, Bhopal. The petitioner applied for the JEE (Main) vide application dated 27.9.2018 of which the result was declared of the First Attempt on 31.1.2019 and the petitioner also appeared for the second Attempt of the JEE (Main), the result of which was declared on 14.5.2019.

2. The petitioner submits that on **1.9.2018**, the respondent No.1 i.e., the National Testing Agency published its Information Bulletin for the

First Attempt of the JEE (Main) on 1.9.2018 and clause 3.1. thereof spelt out the eligibility for admission to NITs, IITs and CFT through Central Seat Allocation Board. The said clause 3.1 of the Information Bulletin for the First Attempt of the JEE (Main), 2019 as uploaded by the National Testing Agency i.e., the respondent No.1 copies of which have been placed on record by both the petitioner and the respondent No.1 in terms of directions dated 14.8.2019 reads to the effect:

**" 3. Admission to NITs, IITs, CFTIs, SFIs, State Engineering Colleges for Participating States and other Participating Institutions**

***3.1 Eligibility for Admission to NITs, IITs and CFTIs participating through Central Seat Allocation Board***

***Admission to NITs, IITs and CFTIs participating through Central Seat Allocation Board will be based on All India Rank as explained above in section 2.10 subject to the condition that the candidate should have secured at least 75% marks in the 12th class examination, or be in the top 20 percentile in the 12th class examination conducted by the respective Boards. For SC/ST candidates the qualifying marks would be 65% in the 12th class examination.***

***Subject combinations required in the qualifying examination for admission to B.E./B.Tech. & B. Arch./B.Planning Courses in NITs, IITs, and other CFTIs shall be as under. (emphasis supplied)***

<b>Course</b>	<b>Required Criteria based on Class 12th / Equivalent qualifying Examination</b>
<b>B.E./B.TECH.</b>	<i>Passed 10+2 examination with Physics and Mathematics as compulsory subjects along with one of the Chemistry/ Biotechnology/</i>

	<i>Biology/ Technical Vocational subject.</i>
<b>B. ARCH./ B. PLANNING</b>	<b>Passed 10+2 examination with Mathematics.</b>

### **3.2 Eligibility for Admission to other Institutions**

*The above mentioned policy could also be adopted by other Technical Institutions participating in counselling through JoSAA/CSAB. In case a State opts to admit students in the engineering Colleges affiliated to State Universities, the State may prepare separate rank list based on criteria decided by them.*

### **3.3 Number of seats in various institutions**

For all admission related procedures/queries, the candidates are advised to refer the website of JoSAA, Central Seat Allocation Board (CSAB) or the concerned State Government/Institute after declaration of ranks of JEE (Main)–2019. The letter/e-mails/grievances/RTI cases/Court cases regarding admission related procedures/queries will not be entertained by NTA.

### **3.4 Reservation of Seats**

As per Government of India rules candidates belonging to certain categories are admitted to seats reserved for them based on relaxed criteria. These categories are:

- (i) Other Backward Classes (OBC) if they belong to Non Creamy Layer (NCL)*
- (ii) Scheduled Castes (SC)*
- (iii) Scheduled Tribes (ST)*
- (iv) Persons with Disability (PwD) with 40% or more disability"*

3. The petitioner submits that he was thus then admittedly not eligible in terms of the said clause 3.1 to appear for the JEE (Main) Examination.

4. The petitioner submits that vide a public notice dated **25.9.2018** the said clause 3.1 adverted to herein above was amended by the

respondent No.1, the National Testing Agency and the said public notice reads to the effect:

*" The Council of Architecture vide their letter dated 20th September, 2018 informed the National Testing Agency, NOIDA that the Council of Architecture, with the approval of Central Government, has amended its Council of Architecture (Minimum Standards of Architectural Education) Regulations, 1983 and revised eligibility criteria to include Physics, Chemistry and Mathematics as mandatory subjects at 10+2 level for admission to 1st Year of 5-Year B.Arch course. The same has been published in the Official Gazette on June 06, 2017 and comes into force from the academic session 2019-2020. The revised eligibility for B.Arch course is stated as under:*

*"No candidate shall be admitted to architecture course unless she/he has passed an examination at the end of the 10+2 scheme of examination with 50% marks in Physics, Chemistry and Mathematics and also 50% marks in aggregate of the 10+2 examination"*

*In view of the modifications in the qualifications prescribed by the Council of Architecture as mentioned above, the eligibility conditions prescribed for admission to B.Arch/B.Planning hereby stand modified.*

*The candidates who have applied for these courses may ascertain their revised eligibility conditions prescribed by the Council of Architecture as mentioned above so that the prospective students taking admissions in the B. Arch, course are not put to any inconvenience at a later stage."*

(emphasis supplied)

5. The petitioner submits that pursuant to the said public notice, he became eligible to appear in the examination for the first Attempt having secured more than 50% in the Standard 10+2 CBSE examination and thus applied on **27.9.2018** and the admit card was released on

**17.1.2018** and the result of the First Attempt of the JEE (Main) Paper II was announced and the petitioner secured a percentile 99.2676875.

6. The petitioner submits that pursuant to the Bulletin for the second Attempt JEE (Main) published on **8.2.2019**, he applied on **11.2.2019**. The petitioner submits further that the petitioner vide a notice dated 14.2.2019 bearing Ref. No. CA/1/2018/Council/Circular, the Council for Architecture notified all the Heads of Architectural Institutions imparting 5-year B.Arch. Degree Course in India, the revised eligibility for admission to the first year of 5-year, B.Arch. degree course from the academic session 2019-2020 with it having been opined further that the same was with the prior approval of the Central Government and had been published in the Official Gazette of India on 13.2.2019 and came into effect from the date of publication in the Gazette. The said notification dated 12.2.2019 bearing F. No. CA/12/2019/Regulations issued by the Council of Architecture, reads to the effect:

*"COUNCIL OF ARCHITECTURE (STATUTORY AUTHORITY CONSTITUTED UNDER THE ARCHITECTS ACT, 1972)*

*NOTIFICATION*

*New Delhi, The 12th February, 2019*

*F. No. CA/12/2019/Regulations.—In exercise of powers conferred by clauses (e), (g), (h), and (j) of sub-section (2) of Section 45 read with Section 21 of the Architects Act, 1972 (20 of 1972), the Council of Architecture, with the approval of the Central Government, hereby makes the following Regulations further to amend the Council of Architecture (Minimum Standards of Architectural Education) Regulations, 1983, the same having been published in the Gazette of India, .Part-III-Section-4 dated the 26th March, 1983, namely;-*

- 1. (1) These Regulations may be called the Council of Architecture (Minimum Standards of Architectural Education) (Amendment) Regulations, 2019.*

(2) They shall come into force from the date of this publication in the Official Gazette.

2. In the Council of Architecture (Minimum Standards of Architectural Education) Regulations, 1983, in Regulation 4, for sub-regulation (1), the following sub-regulation shall be substituted, namely:-

"(I) No candidate shall be admitted to architecture course unless she/ he has passed an examination at the end of the 10+2 scheme of examination with at least 50% aggregate marks in Physics, Chemistry & Mathematics and also at least 50% marks aggregate of the 10+2 level examination or passed 10+3 Diploma Examination with Mathematics as compulsory subject with at least 50% marks in aggregate.".

Footnote : The principal Regulations were published in the Gazette of India, Part III, Section 4, dated the 26th March, 1983 and subsequently amended and published in the Gazette of India (i) dated the 27th August, 1983, (ii) dated the 7th January, 2006, (iii) dated the 19th May, 2017."

7. The letter dated 14.2.2019 issued by the Council of Architecture reads to the effect:

"Ref.No.CA/1/2018/Council/Circular

February 14, 2019

**ALL THE HEADS OF ARCHITECTURAL  
INSTITUTIONS IMPARTING 5-YEAR B.ARCH.  
DEGREE COURSE IN INDIA**

*Sub.: Revised Eligibility for admission into 1st year of 5-year B.Arch, degree course from the academic session 2019-2020 - reg.*

*Dear Sir/Madam,*

*I have to inform you that the Council of Architecture, with the prior approval of the Central Government, has revised the eligibility criteria for admission to year of 5-year B.Arch. degree course w.e.f. academic session 2019:2020 and the same is Stated as under;*

*"No candidate shall be admitted to architecture course unless she/ he has passed an examination the end of the 10+2 scheme of examination with at least 50% aggregate marks in Physics, Chemistry & Mathematics and also at least 50% marks In aggregate of the 10+2 level examination or passed 10+3 Diploma Examination with Mathematics as compulsory subject with at least 50% marks in aggregate."*

*The same has been published in the Official Gazette of India on February 13, 2019 and has come into effect from the date of publication in the Gazette. A copy of the said notification is attached herewith.*

*In view of the above, all institutions imparting B.Arch. degree course in the country are requested to follow the above eligibility criteria for admission to the B.Arch. course and ensure that only candidates fulfilling the revised eligibility criteria are admitted-to 1st year of the course from the session 2019-2020."*

8. The petitioner submits that the admit card was released to the petitioner on 23.5.2019 and the result of the Second Attempt of the JEE (Main) Paper II was announced on 14.5.2019 and the petitioner secured a percentile score of 98.7260414.

9. The petitioner further submits that taking the best of the two scores of the First and the Second Attempt, the petitioner was given the score of the First Attempt which was the percentile secured as

99.2676875. The petitioner submits that he submitted his choices of the college to be allotted a seat on 23.6.2019 and the counseling round on **27.6.2019**, the petitioner was allotted the Maulana Azad National Institute of Technology, Bhopal and was given five days' time for document verification at the Regional Centre. The extract of the provisional seat allotment letter issued to the petitioner is annexed to the petition as Annexure P-12 reads to the effect:

**“Joint Seat Allocation Authority 2019**

**IITs, NITs, IEST, IIITs and Other-GFTIs  
for the Academic Year 2019-20**

**Provisional Seat Allotment Letter**

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**Allotment Details**

<b>Board No.</b>	<b>1</b>	<b>Choice No</b>	<b>4</b>
<b>Institute Allotted</b>	<b>Maulana Azad National Institute of Technology Bhopal</b>	<b>Academic Program Allotted</b>	<b>Architecture (S Years, Bachelor of Architecture)</b>

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**Dear Candidate:**

**Based on your rank and choices of programs, you have been provisionally allotted a seat in the academic program and Institute shown above. You must report in person at any one of the reporting centers of a designated NIT/IIIT/GFTI only (<https://josaa.nic.in>) along with the following documents for accepting the seat.**

**The date/time window for seat acceptance is also shown above. In case you do not report in person during the specified time window, seat allocated to you will automatically be forfeited; in addition, you will not be considered for further rounds of seat allocation.**

- 1. Provisional Seat Allotment Letter.**
- 2. Proof of payment of seat acceptance fee.**
- 3. Admit Card of JEE (Advanced) 2019/JEE(Main) 2019 [whichever is applicable],**
- 4. Date of Birth proof: Class X marks sheet or any other similar certificate.**
- 5. Class XII (or equivalent) mark sheet.**
- 6. Duly filled Medical Certificate (download from josaa website <https://josaa.nic.in>).**
- 7. Undertaking by the Candidate (download from josaa website <https://josaa.nic.in>).**
- 8. Category certificate (GEN-EWS / OBC-NCL / SC/ ST) [if applicable].**
- 9. PwD certificate (only for PwD candidates).**
- 10. Passport (for foreign nationals) or OCI/PIO card [if applicable].**
- 11. DS Certificate [if applicable].**
- 12. Two passport size photographs.**
- 13. Photo ID.”**

10. The petitioner submits that on **1.7.2019** he went to the Regional Centre for document verification and after satisfactorily verifying the documents, the NIT Delhi checked the JoSAA Website and the petitioner was informed that his seat had been cancelled because of the amended JoSAA Rules dated **16.6.2019** of the respondent No.2. The seat cancellation letter dated 1.7.2019 issued to the petitioner by the NIT Delhi is the to the effect:

**SEAT  
CANCELLED**

JOINT SEAT ALLOCATION AUTHORITY 2019  
IITs, NITs, IIITs, IIST and Other-GFTIs for Academic Year 2019-20

**SEAT  
CANCELLED**

**Seat Cancellation Letter**

Round Number : 1

Reporting Center : National Institute of Technology Delhi

Next

Print

Document Verification Date: 01/07/2019 19:53:00 PM

**Candidate Details**

JEE(Main) Application Number :	190310781360	Date of Birth :	03-02-2000
Candidate Name :	PRATEEK SINGHAL	Father Name :	SURESH SINGHAL
Mother Name :	MADHU BALA		



**Rank List(s)**

Candidate is not eligible for JoSAA 2019

**Seat Allotment Details**

Allocated Institute	Academic Program Allocated	Allocated Category	Seat Pool	Quota	Choice No.	Round No.	Seat Allocated Based On	CRL Rank
Indira Gandhi National Institute of Technology Bhopal	Architecture (5 Years, Bachelor of Architecture)	Open	GENDER-NEUTRAL	Other State	4	1	JEE(Main) 2019 Paper-2	1887

**Candidate Details After Documents Verification**

Category :	GENERAL	Person with Disability (PwD) :	NO
Gender :	MALE	Nationality :	INDIAN
State of Eligibility :	DELHI (NCT)	Does the Candidate satisfy eligibility criteria for allotted institute and programme? :	YES
Is the Candidate within the Category-wise Top 20 percentile of his/her class XII Board for JEE(Main) Paper-2 (B.Arch./B.Planning)?	NO	Aggregate %age of marks in Class XII (or equivalent) for JEE(Main) Paper-2 :	64.4
Does the Candidate satisfy Minimum Eligibility criteria for JEE(Main) Paper-2? :	NO		

Remark : Candidate not comes under top 20 Percentile or fulfill minimum aggregate percentage

**Changes After Documents Verification**

Particulars	As per Form Submission	After Documents Verification
Does the Candidate satisfy Minimum Eligibility criteria for -- JEE(Main) Paper-2? :		NO

**The above mentioned allotted seat is CANCELLED due to:**

- Candidate does not satisfy Minimum Eligibility criteria for JEE(Main) Paper-2 (B.Arch./B.Planning).
- Candidate does not satisfy the criteria of Aggregate %age of Marks in Class XII (or equivalent) for JEE(Main) Paper-2 (B.Arch./B.Planning) and Category-wise Top 20 percentile of his/her Board.

Notes:

- You are not eligible for further rounds of Seat Allotment.

(Signature of Candidate)

**PRATEEK SINGHAL**

Date : 1/7/2019

(Signature of RC Module Officer)

**Dr Dr. D.Valthiyathan**

Date : 1/7/2019

**CENTER IN-CHARGE  
CSAB-2019**

(Signature of In-charge)

**Dr Vivek Singh**

Date : 1/7/2019

11. The petitioner submits that on 16.6.2019, the Business Rules of JoSAA i.e., the respondent No.2 were released which amended the eligibility criteria for the B.Arch. stream and it has been submitted by the petitioner to the effect that the extract of the amended Rules read to the effect:

***"One of the criteria for admission to NITs/IITs/Other participating GFTIs is that the candidate should satisfy at least one of these two criteria:***

***(i) The candidate is within the category-wise top 20 percentile of successful candidates in their respective Class XII (or equivalent) examination of respective stream and Board.***

***(ii) The candidate has secured minimum 75% (for GEN or OBC-NCL) or minimum 65% (for SQ ST or PwD) of aggregate marks in the Class XII (or equivalent) examination of respective stream and Board."***

12. The said eligibility criteria as mentioned reads to the effect:-

***"ADMISSION TO NITs, IITs, CFTIs, SFIs, STATE ENGINEERING COLLEGES FOR PARTICIPATING STATES AND OTHER PARTICIPATING INSTITUTIONS***

***Eligibility for Admission to NITs, IITs and CFTIs participating through Central Seat Allocation Board:***

*Admission to NITs, IITs and CFTIs participating through Central Seat Allocation Board will be based on All India Rank as explained above subject to the condition that the candidate should have secured at least 75% marks in the 12th class examination, or be in the top 20 percentile in the 12th class examination conducted by the respective Boards. For SC/ST candidates the qualifying marks would be 65% in the 12th class examination.*

*Subject combinations required in the qualifying examination for admission to B.E./B.Tech. & B. Arch./B.Planning Courses in NITs, IITs, and other CFTIs shall be as under.*

***Course Required Criteria based on Class 12th / Equivalent qualifying Examination***

<b>Course</b>	<b>Required Criteria based on Class 12th / Equivalent qualifying Examination</b>
<b>B.E/B.TECH.</b>	<i>Passed 10+2 examination with Physics and Mathematics as compulsory subjects along with one of the Chemistry/ Biotechnology/ Biology/ Technical Vocational subject.</i>
<b>B. ARCH./</b>	<i>Passed 10+2 examination with Mathematics, Physics, Chemistry</i>
<b>B. PLANNING</b>	<i>Passed 10+2 examination with Mathematics.</i>

*The admission Policy, as announced by the competent authority of the admitting institutes shall be followed at the time of admission.*

***Eligibility for Admission to Other Institutions:***

*The above mentioned policy could also be adopted by other Technical Institutions participating in counselling through JoSAA/CSAB. In case a State opts to admit students in the engineering Colleges affiliated to State Universities, the State may prepare separate rank list based on criteria decided by them.*

***Number of seats in various institutions:***

*For all admission related procedures/queries, the candidates are advised to refer the website of JoSAA, Central Seat Allocation Board (CSAB) or the concerned State government/institute after declaration of ranks of JEE(Main)–2019. The letter/e-mails/grievances/RTI cases/Court cases regarding admission related procedures/queries will not be entertained by NTA.*

***Reservation of seats:***

*As per Government of India rules candidates belonging to certain categories are admitted to seats reserved for them based on relaxed criteria. These categories are:*

- (i) Other Backward Classes (OBC) if they belong to Non Creamy Layer (NCL)*
- (ii) Scheduled Castes (SC)*
- (iii) Scheduled Tribes (ST)*
- (iv) Persons with Disability (PwD) with 40% or more disability*

*Benefit of reservation for admission to NITs/IITs and CFTIs shall be given only to those classes/castes/tribes which are in the respective central list published by the Govt. of India. For admission to State Engineering colleges who have opted for admission through JEE (Main)-2019, the reservation rules of that State shall apply."*

13. Annexure 2(b) to the Business Rules for Joint Seat Allocation offered by the NITs, IITs and other GFTIs for the academic year 2019-20 released by the Joint Implementation Committee JEE(Main) and JEE (Advance) reads to the effect:

**“ANNEXURE2(b)**  
**Performance in Class XII (or equivalent)**  
**examination**  
**(Applicable only for candidates seeking admission to**  
**NITs/IITs and other GFTIs)**

*1. One of the criteria for admission to NITs/IITs/Other participating GFTIs is that the candidate should satisfy at least one of these two criteria:*  
*(i) The candidate is within the category-wise top 20 percentile of successful candidates in their respective Class XII (or equivalent) examination of respective stream and Board.*

*(ii) The candidate has secured minimum 75% (for GEN or OBC-NCL) or minimum 65 % (for SC, ST or PwD) of*

*aggregate marks in the Class XII (or equivalent) examination of respective stream and Board.*

*2. 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.*

*(a) For B.E./B.Tech. programmes*

*i. Physics*

*ii. Mathematics*

*iii. Any one of Chemistry, biology, biotechnology, technical vocation subject.*

*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)*

*(b) For B.Planning the marks in the following subjects will be considered:*

*(i) Mathematics*

*(ii) Other four subjects*

*(c) For B.Arch. the marks in the following subjects will be considered:*

*(i) Passed 10+2 examination with at least 50% aggregate marks in Physics, Chemistry and Mathematics and also at least 50% marks in/aggregate of 10+2 level examination or passed 10+3 Diploma examination with Mathematics as compulsory subject with at least 50% marks in aggregate.*

*3. 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 CSAB 2019 will be final.*

4. *If a Board gives aggregate marks considering both Class XI and Class XII examinations (in the 10+2 system), then only the Class XII marks will be considered. Similarly, for Boards which follow a semester system, the marks scored in the final two semesters will be considered.*

5. *For candidates who appeared in class XII (or equivalent) Board examination in 2018 but reappeared in 2019, the best of the two performances will be considered.*

6. *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.*

7. *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/s will be used for calculating percentage of aggregate marks."*

14. The petitioner thus submits that the said change in the Business Rules of JoSAA released on 16.6.2019 which amended the criteria for the B.Arch. stream, deserves to be quashed in as much as it is violative of the doctrine of legitimate expectation in as much as in terms of the public notice dated 19.5.2018 issued by the respondent No.1 the petitioner had become eligible on obtaining 50% marks in the 10+2 CBSE Examination for qualifying and pursuant to the first Bulletin of Information for the B.Arch course the fixing of criteria is only within the domain of the respondent No.1, i.e., the National Testing Agency, Department of High Education Ministry of Human Resource Development or within the domain of the Council of Architecture and that the fixing of the eligibility criteria is not within the domain of the respondent No.2 JoSAA.

15. On behalf of the respondent No.1 it has been submitted that it has a nominal role of conducting the JEE (Main) and JEE (Advance) and has no other role to perform and that the Joint Seat Allocation is only within the domain of the JoSAA i.e., the respondent No.2.

16. As already observed elsewhere herein above, in terms of the directions dated 14.8.2019, the respondents have placed on record the Bulletin of Information in relation to the JEE (Main) 2019 and so has the petitioner.

17. On behalf of the respondent No.2 it has been submitted that there has been no change whatsoever of any eligibility criteria for pursuing the 5-year B.Arch. Degree course in the NITs, IITs, GFTIs and it has been submitted on behalf of the respondent No.2 that since the time of publication of the first Information Bulletin JEE(Main) 2019, in terms of clause 3.1, the eligibility criteria for admission to the NITs, IITs and GFTIs participating through the Central Seat Allocation Board was at least securing 75% marks in the 12<sup>th</sup> Class examination and in the alternative for a candidate being in the top 20 percentile in the 12<sup>th</sup> standard examination conducted by the respective Board with the qualifying marks for the SC/ST candidates being 65% in the 12 standard class examination.

18. It has also been submitted on behalf of the respondent No.2 that even in terms of the notification dated 12.2.2019 on which the reliance has been placed on behalf of the petitioner, it is apparent that the notification Number F.No.CA/12/2019/Regulations dated 12.2.2019 states that no candidate shall be admitted to architecture course unless she/ he has passed an examination at the end of the 10+2 scheme of examination with at least 50% aggregate marks in Physics, Chemistry & Mathematics and also at least 50% marks in aggregate of the 10+2

level examination or passed 10+3 Diploma Examination with Mathematics as a compulsory subject with at least 50% marks in the aggregate or passed the diploma for three years with mathematics as compulsory subject with at least 50% marks in aggregate only would be eligible to apply and that this was put forth as being the basis of minimum criteria and in any event did not detail the eligibility criteria to the NITs, IITs and CFTIs through the Central Seat Allocation Board on the All India Rank.

19. **Further more, the respondent No.2 has submitted that even the undertaking that had been submitted by the petitioner in terms of the Brochure Information Bulletin for Business Rules for Joint Seat Allocation for the offered programme by the NITs, IEST, IITs and other GFTIs for the academic year 2019-20 required information being submitted by a candidate in relation to the marks and percentile acquired by the candidate in the qualifying examination in the year 2018-19 and also the aspect of the candidate being or not being in the top 20 percentile cut off marks amongst the successful candidate marks in his/her category and that the petitioner had undoubtedly filled in the said form of undertaking to even apply for JEE(Main).**

20. The said undertaking request to be submitted by the a candidate to the Joint Seat Allocation Authority, 2019 annexed as Annexure 9 to the Business Rules of JoSAA dated 16.6.2019 reads to the effect:

**“JOINT SEAT ALLOCATION AUTHORITY 2019  
UNDERTAKING BY THE CANDIDATE**

I \_\_\_\_\_ son/daughter of Mr/Mrs. \_\_\_\_\_ bearing  
JEE (Advanced) 2019 Roll No. / JEE (Main) 2019 Application  
No. [strike off whichever is not

applicable]\_\_\_\_\_AIR\_\_\_\_\_under  
CRL and \_\_\_\_\_ under OBC-NCL/SC/ST (encircle  
whichever is applicable) category and \_\_\_\_\_Rank under  
PwD sub-category (if applicable) do undertake the following:

1. I accept the offer of provisional admission to

Course Name:  
Institute Name:

2. Freeze, slide OR float (ONLY for those who were NOT  
allocated their first choice):

- I hereby "freeze" my choice. Do not consider me in the subsequent rounds of allocation.
- I am willing to accept admission to an academic program of my higher preference choice(s) in the choice list submitted by me, provided the academic program is in the same Institute (as in #1 above) [slide option].
- I am willing to accept admission to any academic program of my higher preference choice(s) in the choice list submitted by me [float option].

3. My marks are \_\_\_\_\_ out of 500 of the Board \_\_\_\_\_ from  
which I appeared the Qualifying Examination in 2018/2019.

I declare myself eligible for admission to  
IITs/NITs/IIEST/IITs/O-GFTIs (tick whichever is  
applicable)

(a) Being in "top 20 percentile cut-off marks amongst  
successful candidates" in my Board in my category.

(b) Having obtained \_\_\_\_\_ percent marks in the qualifying  
examination.

4. I understand that my admission will stand cancelled in case  
this information is found to be incorrect at any later stage. I will  
submit original documents in proof of all my claims at the time  
of reporting at the admitting Institute.

5. Seat acceptance fee: e-challan\_\_\_\_ dated \_\_\_\_\_@SBI  
branch \_\_\_\_\_  
OR online transaction number\_\_\_\_\_dated \_\_\_\_\_

6. [In case of not producing a valid category certificate] I agree  
to change of my category from\_\_\_\_\_to \_\_\_\_\_.

7.[In case State Code of Eligibility was wrong] I agree to  
change the state code of eligibility from\_\_\_\_\_to  
\_\_\_\_\_

8. All information and documents furnished by me are true to  
the best of my knowledge and belief. In the event of suppression  
or distortion of any fact, I understand that my admission/degree  
acquired is liable to cancellation at any point of time. I also  
understand that the decision of JAB/CSAB regarding my  
admission to any of the Institutes is final and I shall abide by the  
rules and norms of the discipline of the Institute I join.

Name &Signature of the Parent/ Guardian (with date)

Signature of the candidate (with date)”  
(emphasis supplied)

21. Reliance was placed on behalf of the petitioner on the order dated  
2.7.2019 of the Hon'ble High Court of Madhya Pradesh at its Indore  
Bench, in WP(C) No. 12559/2019 in the case titled as *Soumitra and  
Others v. State of MP & Others* wherein it had been observed to the  
effect:

**" High Court of M.P. Bench at Indore**

**WP No.12559/2019**

***Soumitra and other Vs. State of MP and others***

**Indore: Dated:-02.07.2019**

*Shri Vivek Patwa, learned counsel for the petitioner.*

*Shri Himanshu Joshi, learned counsel for the respondent no.1.*

*The petitioners before this Court have filed this present petition stating that they have qualified the joint entrance examination (Main) 2019 conducted by National Testing Agency after passing 12th standard and they have been declared successful. The petitioners have stated that they have participated in online counseling and they have been allotted a seat at School of Planning and Architecture, Bhopal as well as at Molana Azad National Institute of Technology, Bhopal.*

*Learned counsel for the petitioner has straight away drawn attention of this Court towards a notification dated 12.02.2019 and the aforesaid notification has been issued by the Central Government in exercise of powers conferred under the provision of Architecture Act, 1972 read with Counsel of Architecture (Minimum Standard of Architectural Education) Regulation, 1983. His contention is that by virtue of aforesaid notification, a student who has obtained 50% marks in aggregate in 12th standard in the subject of Physics, Chemistry and Mathematics and 50% marks in aggregate in 10+2 level examination or 50% marks in aggregate in 10+3 level diploma examination with mathematics as compulsory subject is eligible for admission in B.Arch Course. He has stated that the respondents are not permitted the petitioners to join only on the ground that the petitioners do not have 75% marks in the 12th standard examination. He has also drawn attention of this court towards the regulations relating to examination and regulations 2-C, which is exclusively for B.Arch course entitle such student for admission with atleast 50% marks aggregate in Physics, Chemistry and Mathematics and also atleast 50% marks aggregate in 12+2 level examination. It has been stated that the petitioners do have the qualification as prescribed under*

*the rules and regulation and the condition of having 75% marks will not come in way of the petitioners, as prima facie it appears for B.E and B.Tech exams.*

*In light of the aforesaid, by way of interim relief, the respondents are directed to permit the petitioners to submit their joining in respect of the seat allotted to them. However, their candidature shall be provisional and will not create any equity in their favour.*

*Let a reply be filed within four weeks.*

*Learned counsel for Union of India accepts notice on behalf of respondent no.1.*

*He is granted four weeks time to file reply.*

*Let a reply be filed on behalf of respondent no.2 and 3 within four weeks.*

***Issue notice to the respondent no.2 and 3 on payment of PF within three days, failing which the present petition shall stands dismissed without further reference to this court.***

*List the matter on 05.08.2019"*

22. It was thus submitted on behalf of the petitioner that the facts of the instant case were in *pari materia* in toto with the case in ***Soumitra & Ors.*** (supra) and related to the same notification dated 12.2.2019 as issued by the Central Government in exercise of its powers conferred under Section 45 read with Section 21 of the Architects Act, 1972 (Minimum Standards of Architectural Education) Regulations, 1983, and also related to the aspect of the petitioners of that case having contended that in as much as they had secured more than 50% marks in the aggregate in the 12<sup>th</sup> standard in the subjects of Physics, Chemistry and Mathematics and 50% marks in aggregate in the 10+2 level

examination or 50% marks in the aggregate in the 10+3 level Diploma examination with mathematics as a compulsory subject, the petitioners thereof had been held *prima facie* eligible for the BE & B.Tech, exams.

23. The petitioner submits that in the said case i.e., ***Soumitra and Others*** (Supra) the petitioners thereof were granted provisional candidature with the respondents having been directed to permit the petitioners thereof to submit their joining in respect of the seat allotted to them. It has thus been submitted on behalf of the petitioner that the facts of the instant case being in *pari materia* with the facts of the case in ***Soumitra and Others*** (Supra), provisional candidature at least ought to be granted to the petitioner herein to pursue the B.Arch course at the Maulana Azad National School of Technology, Bhopal.

24. **On behalf of the respondent, on the other hand, it was submitted that the petition has been filed with much delay and is barred by laches in as much as the seat cancellation letter was uploaded by the respondent No.1 on 1.7.2019 with the present petition having been filed on 28.7.2019 after all counselling rounds and two spot counselling rounds had ended. The respondent No.2 has thus submitted that the petitioner contends that the petitioner is aggrieved by the Business Rules of the respondent No. 2 uploaded on 16.6.2019 but chose to file the petition only on 28.7.2019.**

25. The respondent No.2 contends that the petitioner submits that he is aggrieved by the Business Rules dated **16.6.2019** and that the petitioner has chosen to file the petition only on **28.7.2019** after vested rights have accrued to the several other candidates in as much as the counselling processes have been completed and so have the spot counsellings, whilst placing reliance on the verdict of this Court in ***Dr. Sonia Garg & Anr. v. Union of India & Anr.***; W.P.(C) No. 427/2012

on the specific observations in paragraphs 9, 10 and 11 which read to the effect:

*“9. It is settled law that the High Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, should ordinarily not interfere with the eligibility criteria as laid down by academic bodies, since decisions taken by the academic bodies are policy decisions and any interference therein would be uncalled for unless the petitioner is able to show some patent malafides, arbitrariness or discrimination on the part of the academic body, or a case can be made out that the criteria laid down is so perverse that it cannot be sustained. In a recent decision of a Division bench of this Court dated 2.12.2011 in WP(C) No.7610/2011, entitled “Siddhartha Kaul Vs. Guru Gobind Singh Indraprastha University”, the court has held that merely because certain conditions imposed are inconvenient to some students, they cannot be said to be arbitrary.*

*10. The Court must also not be oblivious to the fact that there would be many similarly situated candidates as the petitioners herein, who are not before the Court and would be adversely affected if there is any intervention on the part of the Court by directing respondent No.2/NBE to relax the cutoff date for the petitioners. Further, counsel for respondent No.2/NBE states W.P.(C) 427/2012 Page 9 of 10 that NBE has not entertained such requests for relaxation of the eligibility criteria for any candidate similarly placed as the petitioners and his instructions are that till date, 26 such applications, which were received from candidates based in different parts of the country, have been summarily rejected. He also submits that apart from the University, where the petitioners have been studying, there are 14 other Universities and a number of private institutions all over the country, from where candidates would be participating in the aforesaid CET examination slated to be held day after tomorrow, on 22.01.2012 and any relaxation given to the petitioners herein would result in placing at a disadvantage such*

*candidates who did not apply for participating in the Post Diploma CET Examination to be held in January, 2012, in view of the eligibility criteria prescribed in the Information Bulletin and therefore they are not before the Court.*

**11. This Court finds force in the aforesaid submissions made by the learned counsel for respondent No.2/NBE and is of the opinion that there is no reason or justification to interfere in the eligibility criteria laid down by respondent No.2/NBE and duly circulated in its Bulletin three months ago, in the first week of October 2011, as the petitioners have failed to satisfy the Court that it suffers from any illegality, arbitrariness or caprice. Furthermore, if the petitioners had a grievance in respect of any clause in the Information Bulletin or the cut-off date fixed by respondent No.2/NBE, W.P.(C) 427/2012 Page 10 of 10 which came to their knowledge a few months ago in the month of October 2011, i.e., when the said Information Bulletin was circulated, they ought to have approached the Court at the earliest or at least within a reasonable period of time. Instead, they have chosen to approach the Court on the eve of the examination, which is to be held two days down the line.” (emphasis supplied)**

26. It is submitted on behalf of the respondent No.2 that the petition needs to be dismissed outright.

27. The respondent No.2 has thus contended that there exists no reason or justification to interfere in the eligibility criteria laid down by the respondent No.2 in its Information Bulletin.

28. Reliance was also placed on behalf of the respondent No.2 on the verdict of the Hon'ble Supreme Court in *University Grants Commission v. Neha Anil Bobde*; (2013) 10 SCC 519 wherein reliance has been placed on the specific observation in paragraph 31 thereof to contend that in academic matters unless there is a clear violation of

statutory provisions, regulations or notifications issued, the Court needs to refrain from entering into the domain of determination of issues which fall within the domain of academic experts. Paragraph 31 of the said verdict reads to the effect:

*"31. We are of the view that, in academic matters, unless there is a clear violation of statutory provisions, the regulations or the notification issued, the courts shall keep their hands off since those issues fall within the domain of the experts. This Court in University of Mysore v. C.D. Govinda Rao [AIR 1965 SC 491] , Tariq Islam v. Aligarh Muslim University [(2001) 8 SCC 546 : 2002 SCC (L&S) 1] and Rajbir Singh Dalal v. Chaudhary Devi Lal University [(2008) 9 SCC 284 : (2008) 2 SCC (L&S) 887] , has taken the view that the court shall not generally sit in appeal over the opinion expressed by the expert academic bodies and normally it is wise and safe for the courts to leave the decision of the academic experts who are more familiar with the problem they face, than the courts generally are. UGC as an expert body has been entrusted with the duty to take steps as it may think fit for the determination and maintenance of standards of teaching, examination and research in the university. For attaining the said standards, it is open to UGC to lay down any "qualifying criteria", which has a rational nexus to the object to be achieved, that is, for maintenance of standards of teaching, examination and research. The candidates declared eligible for Lectureship may be considered for appointment as Assistant Professors in universities and colleges and the standard of such a teaching faculty has a direct nexus with the maintenance of standards of education to be imparted to the students of the universities and colleges. UGC has only implemented the opinion of the experts by laying down the qualifying criteria, which cannot be considered as arbitrary, illegal or discriminatory or violative of Article 14 of the Constitution of India."*

29. Reliance was also placed on behalf of the respondent No.2 on the verdict of the Supreme Court in ***Regional Officer, CBSE v. Sheena Peethambaran***, (2003) 7 SCC 719 with specific reliance on observations in paragraph 6 of the said verdict which reads to the effect:

*“6. This Court has on several occasions earlier deprecated the practice of permitting the students to pursue their studies and to appear in the examination under the interim orders passed in the petitions. In most of such cases it is ultimately pleaded that since the course was over or the result had been declared, the matter deserves to be considered sympathetically. It results in very awkward and difficult situations. Rules stare straight into the face of the plea of sympathy and concessions, against the legal provisions. A few decisions on the point may be perused. In C.B.S.E. v. P. Sunil Kumar [(1998) 5 SCC 377] the institutions whose students were permitted to undertake the examination of the Central Board of Secondary Education were not affiliated to the Board, hence the students were not entitled to appear in the examination. They were, however, allowed to appear in the examination under the interim orders granted by the Court in contravention of the rules and regulations of the Board. The High Court considering the matter sympathetically had not interfered, but this Court observed thus: (SCC p. 381, para 4)*

*“But to permit students of an unaffiliated institution to appear at the examination conducted by the Board under orders of the Court and then to compel the Board to issue certificates in favour of those who have undertaken examination would tantamount to subversion of law and this Court will not be justified to sustain the orders issued by the High Court on misplaced sympathy in favour of the students.”*

***The order of the High Court was set aside. Another decision reported in Guru Nanak Dev University v. Parminder Kr. Bansal [(1993) 4 SCC 401], a three-Judge Bench decision, was relied upon in the case of Sunil Kumar [(1998) 5 SCC 377] . A passage***

*from the abovenoted decision was also quoted therein which reads as follows: (SCC p. 403, para 7)*

*“We are afraid that this kind of administration of interlocutory remedies, more guided by sympathy quite often wholly misplaced, does no service to anyone. From the series of orders that keep coming before us in academic matters, we find that loose, ill-conceived sympathy masquerades as interlocutory justice exposing judicial discretion to the criticism of degenerating into private benevolence. This is subversive of academic discipline, or whatever is left of it, leading to serious impasse in academic life. Admissions cannot be ordered without regard to the eligibility of the candidates. Decisions on matters relevant to be taken into account at the interlocutory stage cannot be deferred or decided later when serious complications might ensue from the interim order itself. In the present case, the High Court was apparently moved by sympathy for the candidates than by an accurate assessment of even the prima facie legal position. Such orders cannot be allowed to stand. The courts should not embarrass academic authorities by themselves taking over their functions.”*

*Yet another decision referred to is reported in A.P. Christians Medical Educational Society v. Govt. of A.P. [(1986) 2 SCC 667] , again a three-Judge Bench decision. It was observed in this case: (SCC p. 678, para 10)*

*“We cannot by our fiat direct the University to disobey the statute to which it owes its existence and the regulations made by the University itself. We cannot imagine anything more destructive of the rule of law than a direction by the court to disobey the laws.”*

*The above-referred matter relates to the admission and examination of MBBS courses.” (emphasis supplied)*

to contend that no provisional admission ought to be granted to the petitioners in the facts and circumstances of the instant case.

30. Significantly, the respondent No.2 has also placed reliance on the communication dated **8.4.2016** issued by the Government of India,

Ministry of Human Resource Development, Department of Higher Education to issue directions to the Directors of all IITs Chairman notifying changes in the JEE, 2017 to suggest ways for improving the system of Joint Entrance Examination after due consideration from the stake holders wherein vide clause 2 (b) it was specified to the effect:

*"2. The report of the Committee was examined in consultation with the stakeholders and the Departments of the School Education /Higher Education and the following changes have been approved by the Chairman IT Council in the JEE pattern for 2017:*

*a) There shall be no weightage for the 12th class marks in calculating the ranks in the JEE Main exam.*

*b) For the candidates to qualify for admission in the IITs/NITs/IITs and such other GFTIs whose admissions are based on the JEE ranks, they should have secured at least 75% marks in the 12th class exam, or be in the top 20 percentile in the 12th class exam conducted by the respective Boards. For SC/ST students the qualifying mark would be 65% in the 12th Class exam."*

and to contend that it thus it is apparent that the minimum standards for admission to these institutes must adhered to.

31. Significantly, the respondent No.2 has further placed on record the Corrigendum dated **19.6.2019** issued by the Chairperson of the CSAB, 2019 which corrigendum is in relation to Annexure 2(b) and thereby clause 2(c) thereof reads to the effect:

*(c) For B.Arch. the marks in the following subjects will be considered:*

*(i) Passed 10+2 examination with at least 50% aggregate marks in Physics, Chemistry and Mathematics and also at least 50% marks in aggregate of 10+2 level examination or passed 10+3 Diploma*

*examination with Mathematics as compulsory subject with at least 50% marks in aggregate."*

which is modified to the effect:

***" (c) For B.Arch. the marks in the following subject will be considered  
(i) Mathematics, Physics, Chemistry  
(ii) Other two subjects"***

32. The said corrigendum dated 19.6.2019 on a bare perusal thereof makes it apparent that all that it prescribes is that the marks obtained by a candidate in Physics, Chemistry and Mathematics and two other subjects would be considered and that it does not relate to any minimum eligibility criteria as also brought forth by the contents of the said corrigendum. It is essential to observe that the notification dated 12.2.2019 relied upon on behalf of the petitioner itself in the footnote thereof prescribed to the effect:

***"Footnote : The principal Regulations were published in the Gazette of India, Part III, Section 4, dated the 26th March, 1983 and subsequently amended and published in the Gazette of India (i) dated the 27th August, 1983, (ii) dated the 7th January, 2006, (iii) dated the 19th May, 2017."***

33. It is essential to observe that the notification dated 12.2.2019 replaces Regulation 4(1) of the Minimum Standards of Architectural Education Regulations, 1983, dated 26.3.1983 specifically amended on 27.8.1983 and then on 7.1.2006 and then on 29.5.2017. The Regulation 4(1) of the Notification dated 26.3.1983 read to the effect:

***"4. Admission to the architecture course:-(1) No candidate with less than 50% marks in aggregate, shall be admitted to the architecture course unless he has passed an examination at the end of the new 10+2 scheme of Senior School Certificate Examination or equivalent with***

Mathematics and English as subjects of examinations at the 10+2 level.”

34. The regulation 4(1) amended on 7.1.2006 read to the effect:

“In Regulation 4 of the Council of architecture (Minimum Standards of architectural Education) Regulations, 1983,

(i) For sub-regulation (1), the following sub-regulation shall be substituted, namely:-

(1) No candidate, with less than 50% marks in aggregate, shall be admitted to the architecture course unless he/she has passed an examination at the end of new 10+2 scheme of Senior School Certificate Examination or equivalent with Mathematics as a subject of examinations at the 10+2 level”

35. Vide notification No.F.No.C/1/2017/Regulation, Regulation 4(1) was amended on 29.5.2017 and sub regulations (1) and (2) of Regulation 4 of the Council of Architecture (Minimum Standards of Architectural Education & Regulations), 1983 which read to the effect:

“2. In Regulation 4 of the Council of Architecture (Minimum Standards of Architectural Education) Regulations, 1983:

(i) for sub-regulations (1) and (2), the following sub-regulation be substituted, namely:-

“(1) No candidate shall be admitted to architecture course unless she/ he has passed an examination at the end of the 10+2 scheme of examination with 50% marks in Physics, Chemistry and Mathematics and also 50% marks in aggregate of the 10+2 level examination”.

(ii) the existing Regulations 4(3) and 4(4) be renumbered as 4(2) and 4(3).”

were substituted by the existing regulations 4(3), 4(4) renumbered Regulation 4(2) and Regulation 4(3).

36. Regulation 4(1) as inserted vide notification dated 29.5.2017 was thus amended vide notification dated 12.2.2019 to substitute by way of substitution of Regulation 4(1) which was thus amended to read to the effect:

***“2. In the Council of Architecture (Minimum Standards of Architectural Education) Regulations, 1983, in Regulation 4, for sub-regulation (1), the following sub-regulation shall be substituted, namely:-***

***“(I) No candidate shall be admitted to architecture course unless she/ he has passed an examination at the end of the 10+2 scheme of examination with at least 50% aggregate marks in Physics, Chemistry & Mathematics and also at least 50% marks in aggregate of the 10+2 level examination or passed 10+3 Diploma Examination with Mathematics as compulsory subject with at least 50% marks in aggregate.”***

37. It is essential to observe that since inception Regulation 4(1) prescribes the bare minimum requirement of marks required for admission to the Architectural Course.

38. Significantly, there is a *non obstante* provision in the said Council of Architecture (Minimum Standards of Architecture Education & Regulations), 1983 which reads to the effect:

***“Notwithstanding anything contained in these regulations, the institutions may prescribe minimum standards of Architectural Education provided such standards does not , in the opinion of the Council, fall below the minimum standards prescribed from time to time by the Council to meet the requirements of the profession and education thereof.”***

making it apparent thus that notwithstanding anything contained in the said regulations, the institutions may prescribe minimum standards of architectural education provided such standards did not in the opinion of the Council for Architecture fall below the minimum standards prescribed from time to time by the Council to meet the requirement of the profession and education thereof.

39. As observed herein above, the minimum requirement for applying to the 5-year B.Arch. Degree Course examination even in terms of notification dated 12.2.2019 is that a candidate ought to have passed the 10+2 examination with at least 50% marks in the Physics, Chemistry and Mathematics and at least 50% marks in the aggregate of the 10+2 examination and with the candidate having passed the Diploma Examination with Mathematics as a compulsory subject with at least 50% marks in the aggregate. As also observed elsewhere hereinabove that in terms of the information bulletin of the respondent No.1 published on **1.9.2018** itself the eligibility for admission to the NITs, IITs and CFITs participating through the Central Seat Allocation Board was subject to the condition that the candidate should have secured at least 75% marks in the 12th Standard examination or ought to have been in the top 20 percentile in the 12<sup>th</sup> class examination conducted by the respective Boards.

40. Reliance was placed on behalf of the petitioner on the verdict in the *University Grants Commission* (Supra) which was relied also upon on behalf of the respondent No.2 with the petitioner having placed reliance on the observations in para 26 thereof which read to the effect:

**“26. Para 7 of the notification deals with the scheme of the Act which clearly indicates that the candidates are required to obtain minimum marks separately in Paper I, Paper II and Paper III. It also clearly**

**indicates that only such candidates who obtain minimum required marks in each paper will be considered for final preparation of results. The final qualifying criteria for JRF and eligibility for Lectureship shall be decided by UGC before declaration of result. The above clause deals with the following requirements to be followed before the final declaration of the results:**

**26.1. (i) Candidates to obtain minimum marks separately in Paper I, Paper II and Paper III;**

**26.2. (ii) Candidates who have satisfied the above criteria only would be subjected to a qualifying criteria before the final preparation of result; (consideration zone)**

**26.3. (iii) UGC has to fix the final qualifying criteria before the declaration of results.**

**26.4. The candidates are seeking final declaration of results the moment they have obtained the minimum marks separately in Paper I, Paper II and Paper III, ignoring the other two steps, referred to hereinbefore, and also forgetting the fact that only those who obtain the minimum required marks alone will fall in the *consideration zone*. All these steps, as we have referred to above, have been clearly stipulated in the notification issued for NET Examination, 2012.”**

It was contended on behalf of the Respondent No.2 that to contend that the minimum qualifying criteria qua admission to the Architecture Course having been prescribed as an examination at the end of the 10+2 Scheme of Examination with 50% marks in Physics, Chemistry and Mathematics does not spell out that the eligibility criteria prescribed in Clause 3.1 of the Information Bulletin of the First Attempt of the JEE (Main) 2019 for admission to the NITs, IITs and GFTIs participating

in the Central Seat Allocation has in any manner been done away with and rather the form which the petitioner had applied through the respondent No.2, the marks obtained by the candidate for the qualifying examination 2019-20 and the marks obtained by a candidate with the percentile and the aspect of the candidate being in the top twenty percentile, placed on record with the present petition itself indicates the undertaking given by the candidate of the marks secured by him or her out of the 500 from the Board as well as the qualifying marks vide Clause 3 thereof which makes it apparent that since the time the information bulletin itself was published on **1.9.2018**, the petitioner was continuously aware of the eligibility criteria and thus to contend that the eligibility criteria had been changed by way of the Information Bulletin published on 16.6.2019 cannot in any manner be accepted.

41. Reliance that has been placed on behalf of the petitioner on *Soumitra and Others* (Supra) though undoubtedly with persuasive effect, nevertheless the observations in the order dated 2.7.2019 in WP(C) No. 12559/2019 therein indicate clearly that they are on a *prima facie* view of the matter in which the respondent JoSAA had not even been served and there was only representation on behalf of the State of Madhya Pradesh, as was contended on behalf of the respondent No.2 in the present petition.

42. In these circumstances, though undoubtedly this Court must give and gives due deference to the enunciation to observation made vide order dated 2.7.2019 in *Soumitra and Others* (Supra) in WP(C) 12559/2019, on a consideration of the submissions that have been made by all parties to the present petition including JoSAA as well as coupled with the factum that even the Information Bulletin of the JEE (Main) April, 2019 specified the eligibility for admission to the NITs, IITs and

GFTIs participating through the Central Seat Allocation Board to the effect:

**“ADMISSION TO NITs, IITs, CFTIs, SFIs, STATE ENGINEERING COLLEGES FOR PARTICIPATING STATES AND OTHER PARTICIPATING INSTITUTIONS**

**Eligibility for Admission to NITs, IITs and CFTIs participating through Central Seat Allocation Board:**

Admission to NITs, IITs and CFTIs participating through Central Seat Allocation Board will be based on **All India Rank** as explained above subject to the condition that the candidate should have secured at least 75% marks in the 12<sup>th</sup> class examination, or be in the top 20 percentile in the 12<sup>th</sup> class examination conducted by the respective Boards. For SC/ST candidates the qualifying marks would be 65% in the 12<sup>th</sup> class examination.

Subject combinations required in the qualifying examination for admission to B.E./B.Tech. & B. Arch./B. Planning Courses in NITs, IITs, and other CFTIs shall be as under.

<b>Course</b>	<b>Required Criteria based on Class 12th / Equivalent qualifying Examination</b>
B.E/B.TECH.	Passed 10+2 examination with Physics and Mathematics as compulsory subjects along with one of the Chemistry/Biotechnology/Biology/ Technical Vocational subject.
B.ARCH.	Passed 10+2 examination with Mathematics, Physics, Chemistry
B.PLANNING	Passed 10+2 examination with Mathematics

The admission Policy, as announced by the competent authority of the admitting institutes shall be followed at the time of admission.

**Eligibility for Admission to Other Institutions:**

The above mentioned policy could also be adopted by other Technical Institutions participating in counselling through JoSAA/CSAB. In case a State opts to admit students in the engineering Colleges affiliated to State Universities, the State may prepare separate rank list based on criteria decided by them.”

the reliance that has been placed by the petitioner on the public Notice dated 29.5.2018 issued by the NTA, i.e., the respondent No.1 is thus held to be wholly misplaced, on a conspectus of the entire record taking into account the delay with which the present petition has been filed with seats having been allotted and allocated in terms of the Business Rules of JoSAA both pursuant to the JEE (Main) conducted in between 6.1.2019 to 20.1.2019 for the First Attempt and between 6.4.2019 to 20.4.2019 for the Second Attempt coupled with Rule 2(3) of the Business Rules wherein it is stipulated that no agency other than the JoSAA, 2019 is responsible for joint seat allocation and that the mode of conduct of the JEE (Main), 2019 is by the JEE Apex Board, Rule II Clause 3 providing to the effect:

“II ENTITIES

3. The Joint Admission Board, JEE (Advanced) 2019 [JAB 2019]

- (i) Conducts JEE (Advanced) 2019, and
- (ii) Frames the policies and norms for seat allocation to NTs.

The JEE Apex Board conducts JEE (Main) 2019.

The Central Seat Allocation Board [CSAB] 2019 frames the policies and norms for seat allocation to NITs, IEST, IITs (Triple-I-Ts) and Other-GFTIs.

**Joint Seat Allocation Authority [JoSAA] 2019 consists of representatives from the JAB2019 and CSAB2019.**

No agency other than JoSAA 2019 is responsible for joint seat allocation. Candidates seeking information / assistance from any agency / agent other than JoSAA 2019 shall be doing so at their own risk and cost. There is only ONE official JoSAA 2019 website viz., <http://iosaa.nic.in> [same as <http://www.josaa.nic.in>].”

43. Significantly the eligibility criteria for admissions to other institutions i.e. the institutions other than NITs, IESTs, IITs and CFITs, and the State Engineering colleges which both as per the information bulletin for the JEE (Main), 2019 First Attempt and JEE (Main) 2019 Second Attempt are to the effect:

“3. Admission to NITs, IITs, CFTIs, SFIs, State Engineering Colleges for Participating States and other Participating Institutions

3.1 Eligibility for Admission to NITs, IITs and CFTIs participating through Central Seat Allocation Board

Admission to NITs, IITs and CFTIs participating through Central Seat Allocation Board will be based on **All India Rank** as explained above in section 2.10 subject to the condition that the candidate should have secured at least 75% marks in the 12th class examination, or be in the top 20 percentile in the 12th class examination conducted by the respective Boards. For SC/ST candidates the qualifying marks would be 65% in the 12th class examination.

Subject combinations required in the qualifying examination for admission to B.E./B.Tech. & B. Arch./B.Planning Courses in NITs, IITs, and other CFTIs shall be as under.

Course	Required Criteria based on Class 12th / Equivalent qualifying Examination
<b>B.E/B.TEC H.</b>	Passed 10+2 examination with Physics and Mathematics as compulsory subjects along with one of the Chemistry/Biotechnology/Biology/Technical Vocational subject.
B.ARCH./ B.PLANNING	Passed 10+2 examination with Mathematics.

it is provided vide Clause 3.2 JEE (Main) First Attempt :

### **3.2 Eligibility for Admission to other Institutions**

**The above mentioned policy could also be adopted by other Technical Institutions participating in counselling through JoSAA/CSAB. In case a State opts to admit students in the engineering Colleges affiliated to State Universities, the State may prepare separate rank list based on criteria decided by them.**

For the JEE (Main) Second Attempt it is provided to the effect:

**“ADMISSION TO NITs, IITs, CFTIs, SFIs, STATE ENGINEERING COLLEGES FOR PARTICIPATING STATES AND OTHER PARTICIPATING INSTITUTIONS**

**Eligibility for Admission to NITs, IITs and CFTIs participating through Central Seat Allocation Board:**

Admission to NITs, IITs and CFTIs participating through Central Seat Allocation Board will be based on **All India Rank** as explained above subject to the condition that the

candidate should have secured at least 75% marks in the 12<sup>th</sup> class examination, or be in the top 20 percentile in the 12<sup>th</sup> class examination conducted by the respective Boards. For SC/ST candidates the qualifying marks would be 65% in the 12<sup>th</sup> class examination.

Subject combinations required in the qualifying examination for admission to B.E./B.Tech. & B. Arch./B. Planning Courses in NITs, IITs, and other CFTIs shall be as under.

<b>Course</b>	<b>Required Criteria based on Class 12th / Equivalent qualifying Examination</b>
B.E/B.TECH.	Passed 10+2 examination with Physics and Mathematics as compulsory subjects along with one of the Chemistry/Biotechnology/Biology/ Technical Vocational subject.
B.ARCH.	Passed 10+2 examination with Mathematics, Physics, Chemistry
B.PLANNING	Passed 10+2 examination with Mathematics

The admission Policy, as announced by the competent authority of the admitting institutes shall be followed at the time of admission.

**Eligibility for Admission to Other Institutions:**

The above mentioned policy could also be adopted by other Technical Institutions participating in counselling through JoSAA/CSAB. In case a State opts to admit students in the engineering Colleges affiliated to State Universities, the State may prepare separate rank list based on criteria decided by them,”

thus making it apparent as is also made apparent through the impugned seat cancellation letter issued to the petitioner that for the admission to

these particular institutes i.e. the NIITs, IIITs, CFTIs is the requirement of having secured at least 75% marks in the 12 standard examination or being in the top 20 percentile in the 12 class examination conducted by the respective Boards though for the other technical institutes, the same policy for eligibility for admission to other institutions participating in counselling JoSAA, CSAB being adopted they would be governed by the criteria decided by the Engineering Colleges affiliated to the State Universities in terms of clause 3.2 of the JEE (Main) 2019 as also prescribed through the clause of JEE (Main) Second Attempt Bulletin

**“Eligibility for Admission to Other Institutions:**

The above mentioned policy could also be adopted by other Technical Institutions participating in counselling through JoSAA/CSAB. In case a State opts to admit students in the engineering Colleges affiliated to State Universities, the State may prepare separate rank list based on criteria decided by them.”

for which also the minimum eligibility required is in terms of the notification dated 12.2.2019 regulation clause 4.1 of the minimum requirement of having at least 50% aggregate marks for physics, chemistry, and mathematics at the end of the 10+2 Scheme and also 60% marks or having passed 10+3 Diploma Examination with mathematics as a compulsory subject with at least 50% marks in the aggregate, without which no admission can be granted to the architectural course.

Thus it is apparent that in terms of the information bulletin of the NTA based on the framing of the policies and norms for seat allocations to the IITs by the Joint Admission Board upto the framing of policies by the Central Seat Allocation Board (CSAB), 2019 for seat allocation to NITs, IESTs, IIITs and other GFITS coupled with the factum that

the Joint Seat Allocation Authority i.e., the JoSAA consists of representatives of the Joint Allocation Board, 2019 and CSAB, 2019 it is apparent that the Court, as laid down by the Hon'ble Supreme Court in paragraph 31 of the **University Grants Commission v. Neha Anil Bobde** (supra) ought to refrain from entering into the domain of a policy decision made by the JoSAA qua the eligibility criteria for admission to NITs, IIITs, CFTIs participating through the Central Seat Allocation Board. Para 31 of the said verdict reads to the effect:

*“31. We are of the view that, in academic matters, unless there is a clear violation of statutory provisions, the regulations or the notification issued, the courts shall keep their hands off since those issues fall within the domain of the experts. This Court in University of Mysore v. C.D. Govinda Rao [AIR 1965 SC 491] , Tariq Islam v. Aligarh Muslim University [(2001) 8 SCC 546 : 2002 SCC (L&S) 1] and Rajbir Singh Dalal v. Chaudhary Devi Lal University [(2008) 9 SCC 284 : (2008) 2 SCC (L&S) 887] , has taken the view that the court shall not generally sit in appeal over the opinion expressed by the expert academic bodies and normally it is wise and safe for the courts to leave the decision of the academic experts who are more familiar with the problem they face, than the courts generally are. UGC as an expert body has been entrusted with the duty to take steps as it may think fit for the determination and maintenance of standards of teaching, examination and research in the university. For attaining the said standards, it is open to UGC to lay down any “qualifying criteria”, which has a rational nexus to the object to be achieved, that is, for maintenance of standards of teaching, examination and research. The candidates declared eligible for Lectureship may be considered for appointment as Assistant Professors in universities and colleges and the standard of such a teaching faculty has a direct nexus with the maintenance of standards of education to be imparted to the students of the universities and colleges. UGC has only implemented the opinion of the experts by laying down the qualifying criteria, which*

*cannot be considered as arbitrary, illegal or discriminatory or violative of Article 14 of the Constitution of India.”*

44. In the circumstances, there is no merit in the prayer made by the petitioner. The petition and the accompanying applications are dismissed.

**ANU MALHOTRA, J.**

**AUGUST 19, 2019/SV**

HIGH COURT OF DELHI



सत्यमेव जयते