

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 09TH DAY OF SEPTEMBER 2020 / 18TH BHADRA, 1942

WP(C).No.17336 OF 2020(N)

PETITIONER:

SHANTHA BHASKARAN
AGED 74 YEARS
D/O. AMMALU, RESIDING AT SAJ BHAVAN, 39/1239,
PUTHIYANGADI S.O., CALICUT, KERALA, PIN-673 021

BY ADVS.
SMT.O.A.NURIYA
SRI.HARIS BEERAN

RESPONDENTS:

- 1 UNION OF INDIA
REPRESENTED BY ITS SECRETARY, MINISTRY OF HOME
AFFAIRS, NORTH BLOCK , NEW DELHI-110 000
- 2 MINISTRY OF HIGHER EDUCATION DEPARTMENT,
REPRESENTED BY ITS SECRETARY, NORTH BLOCK,
NEW DELHI-110 000
- 3 JOINT ADMISSION BOARD,
MINISTRY OF HIGHER EDUCATION DEPARTMENT,
REPRESENTED BY ITS SECRETARY, NORTH BLOCK ,
NEW DELHI-110 000
- 4 INDIAN INSTITUTE OF TECHNOLOGY,
DELHI, REPRESENTED BY ORGANISING CHAIRMAN,
JEE (ADVANCED) 2020, NEW DELHI-110 000
- 5 MINISTRY OF EXTERNAL AFFAIRS,
REPRESENTED BY ITS SECRETARY, NORTH BLOCK ,
NEW DELHI-110 000

R1-2, R5 BY ADV. SRI.P.VIJAYAKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09.09.2020, ALONG WITH WP(C).18224/2020(C), THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 09TH DAY OF SEPTEMBER 2020 / 18TH BHADRA, 1942

WP(C).No.18224 OF 2020(C)

PETITIONERS:

- 1 SUREKHA SURESH NAVASARIKAR,
AGED 75 YEARS
W/O. MR.SURESH JAGANNATH NAVSARIKAR,
17,ASHISH-SUREKHA APARTMENT, SHADEV NAGAR,
GANGAPUR ROAD, NASIK, MAHARASTHRA INDIA
 - 2 SURESH JAGANNATH NAVASARIKAR,
AGED 77 YEARS
S/O. MR.JAGANNATH NAVSARIKAR, 17,ASHISH-SUREKHA
APARTMENT, SHADEV NAGAR, GANGAPUR ROAD, NASIK,
MAHARASTHRA, INDIA.
 - 3 MR.SWAMINATHAN,
AGED 78 YEARS
S/O. NEELAKANDAN, PLOT NO.2C, SWAMI NIVAS,
1ST FLOOR, DHARMABHOOPATHY NAGAR, 5TH STREET,
VADAKUPATTU, KOVILAMBAKKAM, MEDAVAKKAM,
TAMIL NADU-600 100
 - 4 RAM DEO VERMA
AGED 76 YEARS
S/O.RAM ASREVERMA,C-1103, ORCHID,
JALVAYU DEFENCE ENCLAVE C.H.S.,
SECTOR 20,PLOT 2, KHARGHAR,
NAVI MUMBAI, MAHARASTRA-410 210
 - 5 KASHYAP BHARGAVA
AGED 36 YEARS
S/O. MR.K.V BHARGAVA, FLAT 201, RAJDOOT CHS LTD,
LINKING ROAD, KHAR (WEST),MUMBI-400052
- BY ADVS.
SMT.O.A.NURIYA
SRI.HARIS BEERAN

RESPONDENTS :

- 1 UNION OF INDIA,
 REPRESENTED BY ITS SECRETARY, MINISTRY OF HOME
 AFFAIRS, NORTH BLOCK, NEW DELHI-110 001
- 2 MINISTRY OF HIGHER EDUCATION DEPARTMENT,
 REPRESENTED BY ITS SECRETARY, NORTH BLOCK,
 NEW DELHI-110 000
- 3 JOINT ADMISSION BOARD,
 MINISTRY OF HIGHER EDUCATION DEPARTMENT,
 REPRESENTED BY ITS SECRETARY,
 NORTH BLOCK, NEW DELHI-110 000
- 4 INDIAN INSTITUTE OF TECHNOLOGY,
 DELHI, REPRESENTED BY ORGANISING CHAIRMAN,
 JEE (ADVANCED) 2020, NEW DELHI-110 016
- 5 MINISTRY OF EXTERNAL AFFAIRS,
 REPRESENTED BY ITS SECRETARY, NORTH BLOCK,
 NEW DELHI-110 000
- 6 MINISTRY OF CIVIL AVIATION
 REPRESENTED BY ITS SECRETARY,
 RAJIV GANDHI BHAWAN, NEW DELHI-110 077

R1-6 BY ADV. SHRI.P.VIJAYAKUMAR, ASG OF INDIA
R3-4 BY ADV. SRI.N.S.DAYA SINDHU SHREE HARI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09.09.2020, ALONG WITH WP(C).17336/2020(N), THE COURT ON THE
SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 9th day of September 2020

Both these Writ Petitions are filed by grandparents of candidates, who are appearing in JEE (Advanced), 2020 Examination, seeking directions to the respondents to restore the cancelled exam centres in Dubai where their grandchildren are stationed.

2. Sri.Jayasankar, the learned Central Government Counsel, has raised serious objections against the maintainability of W.P.(C) No.18224 of 2020, pointing out that none of the petitioners therein or their grandchildren, who are the candidates aspiring for higher studies on being qualified in JEE examinations, are in anyway related to Kerala State and there is no reason why the Writ Petition should be entertained at their instance. At any rate, it is seen that the petitioner in W.P(c) No.17336 of 2020 is a Keralite. Therefore, there would not be a question of want of jurisdiction as far as

W.P.(C) No.17336 of 2020 is concerned. I am also of the view that going by the nature of disposal of these Writ Petitions, the question of maintainability need not be considered.

3. The grievance raised in the Writ Petitions is as against the decision taken by the Joint Admission Board (JAB) on 31.7.2020, which is produced as Exhibit-P6 in Writ Petition No.18224 of 2020 and as Exhibit-P3 in W.P.(C) No.17336 of 2020, not to conduct JEE(Advanced) 2020 in foreign countries. This decision is stated to have been taken due to restrictions imposed on foreign travel and visa issuance. The eligible candidates staying abroad were directed to select the examination centres in India. The grandchildren of the petitioners are candidates who have appeared in the JEE main examination in the centres abroad and they were under the impression that there would be an examination centre in Dubai. It is stated that only those candidates who qualify as top 2,50,000 in the JEE main examination would be eligible to appear in the JEE Advanced

examination and the results of that examination would determine their eligibility for admission to undergraduate engineering courses in NITs, IITS, etc.

4. According to the petitioners, JAB had already announced that there would be examination centres abroad for the JEE (Advanced) examinations also as was available for the last 4 to 5 years and that they were under the impression that their grandchildren would be able to appear in the examination peacefully as in the case of JEE (Main) Examination. The petitioners point out that there would be at least hundred students, who want to appear in the examination in a centre at Dubai and that once the respondents chose to conduct the JEE main examination in the centres abroad, there would not be any difficulty for the respondents to conduct the JEE Advanced examination also at a centre at Dubai, for which they need to depute only one official to Dubai. It is stated that the examination is scheduled to be held on 27.09.2020. It is stated that the grandchildren of

the petitioners will have to come over to India in order to appear in the examination after opting for any of the centres available in India, on account of the decision taken by the JAB on 31.7.2020. It is also pointed out that these children, who are of the age of 16 to 17 years, would have to be accompanied by their parents or near relatives when the international flights are not available; when quarantine conditions and internal travel restrictions are prevailing, it will be difficult for them even to find out accommodation subject to Covid protocol and thereafter to report at the centres within India. It is also pointed out that the national level entrance examination for admission to BITSAT, Pilani is also scheduled to be held between 1st September and 23rd September 2020, for which there are centres abroad including at Dubai and in case these students are coming to India to appear in the JEE Advanced examination, they would not be able to appear in that BITSAT examination. The petitioners point out that entrance examinations are conducted online by certain other

premier institutes using innovative technologies. It is pointed out that these students are very bright students, who are aspiring to undergo higher studies in institutes of high repute and that the action taken by the respondents not to provide a center in Dubai would in effect deny them an opportunity to join prestigious institutions for the higher studies.

5. A statement has been filed in both these Writ Petitions through the learned Central Government Counsel Sri. Daya Sindhu Shree Hari on behalf of respondents 3 and 4. It is stated that as per clause 19 of the information brochure of JEE (Advanced) 2020, issued by the 4th respondent, the candidates have to compulsorily choose the examination centres in eight cities from the list given therein and that it is specifically stated that the list is tentative and final list would be notified only in the registration portal and therefore the candidates or the petitioners would not have any right to insist that there should be a particular centre for them. Further in paragraphs 4, 5 and 7 of the statement it is stated as follows :

“4. The impugned decision of the respondent No.3

and 4 was taken (i) by the authorities entrusted with the task of conducting the examination and therefore competent to take such a decision ;

(ii) after considering the inputs received from the various zonal IITs responsible for conducting the examination at overseas centres, therefore, the decision is based on relevant material;

(iii) in the best interests of preserving the sanctity and purity of the examination itself, Therefore, cannot be termed as illogical or irrational or of such a nature that no reasonable person would arrive at the same conclusion.

5. The JEE (Advanced) 2020 is conducted by the IITs; the organizers of JEE (Main) and National Testing Agency do not conduct the JEE (Advanced). The JEE (Advanced) 2020 Examination itself is a computer based examination; it is attempted by the candidates using a fixed computer terminal and it is not on-line i.e., not conducted remotely or over the internet.

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7. It is humbly submitted that the examination is thus a very high stake and difficult examination and is conducted with the utmost care. Therefore, respondent No.3 and 4 have to ensure that the purity of the examination is maintained at all times; they are not bound to follow the processes of any other organisations in the matter of conducting their entrance examination. In the present case, the authority constituted for the purpose is clearly of the view that due to the restrictions on foreign travel and

visa issuance and since the Institute representatives as well as the representatives of TCS (business partner) will not be present at the foreign centres, the examination would not be conducted at any foreign centre. The inputs given by the zonal IIT's responsible for conducting the examination overseas and inputs from TCS (business partner) indicates that the TCS personnel would not be present at the foreign centres and that the same would be managed remotely, and the same may result in compromising of the conduct of examination."

6. It is stated that all policy decisions pertaining to JEE examinations are taken by the JAB and those decisions are implemented by the Joint implementation Committee. It is stated that the JAB which consists of the Directors of 23 IITs, all members of joint implementation committee, members from MHRD, NTA and CoBSE has taken a conscious decision not to conduct the examination abroad, in its meeting held on 17.07.2020, as per Ext.R4(b) minutes.

7. Though this Court had made a query to the learned counsel Sri. Arjun Mitra appearing for respondents 3 and 4, as to whether any review of the decision is possible in the

interest of large number of candidates who are abroad, to have a centre at Dubai, the learned counsel, on instructions, submitted that a conscious decision has already been taken after due deliberations and a variation would not be possible at this distance of time. Pointing out the schedule of the examination, the respondent has stated that the registration for JEE (Advanced) would start on 12.9.2020 and the examination is scheduled on 27.9.2020.

8. Heard Sri. Haris Beeran, learned counsel for the petitioner, who explained the difficulties faced by hundreds of candidates who are aspiring to appear in the examination, under the impression that there would be an examination centre at Dubai as scheduled originally and also about the intervening examinations being conducted at Dubai itself by other agencies. It was pointed out that only one official from the IITs would be sufficient to conduct the examination at the centre at Dubai; whereas hundreds of students will have to travel to India along with their parents to avail their opportunity

to appear in the JEE (Advanced) Examination or else they would lose their opportunity to undergo studies in the prestigious institutions of Engineering.

9. I have heard Sri.Jayasankar, the learned CGC as well as Sri. Arjun Mitra, the learned Counsel for respondents 3 and 4 and Sri. Daya Sindu Shree Hari, the learned CGC. Relying on the judgment dated 30.06.2020 of the Division Bench of this Court in W.P.(C) No.11493 of 2020, which is affirmed by the Apex Court, Sri. Arjun Mitra argued that interference of this Court is not warranted in such matters.

10. On consideration of the contentions on both sides and in view of the statement that a conscious decision has been taken by the JAB consisting of academic experts after due deliberations, not to have a centre at Dubai, in order to see that the sanctity of the test is not compromised, this Court finds that an interference in such academic matters is not warranted under Article 226 of the Constitution of India, as it is settled law that courts shall stay aloof from such

academic matters where experts in the field who are in the know-how of the matter involved have taken a decision.

11. In the circumstances of the case, I do not consider it necessary to adjudicate on the issue regarding the maintainability of the Writ Petition No.18224 of 2020. The contentions relating to maintainability are therefore left open.

12. Regarding the difficulties pointed out due to nonavailability of international flights, there shall be a direction to the Government of India to see that appropriate facilities are made available to the candidates and their parents/relatives to enable them to appear in the JEE examinations in the centres within India and also for their return, in case they make a request, by accommodating them in the Vande Bharat mission flights. Regarding the quarantine conditions, pointed out by the petitioners, it is relevant to note that the Apex Court has in the judgment in Exhibit-P14 in Writ Petition No.11495 of 2020, relating to the NEET examinations, has already directed the State Government to

consider the genuine requests for relaxation of quarantine conditions made by the students appearing for NEET examination. This Court is of the view that similar relaxation would be granted by the respective State Governments, in the case of students appearing in JEE (main) examination also, if a request is made to them.

The Writ Petitions are disposed of accordingly.

Sd/-
P.V.ASHA,
JUDGE

csl

APPENDIX OF WP(C) 17336/2020**PETITIONER'S EXHIBITS:**

EXHIBIT P1	TRUE COPY OF RELEVANT PAGES OF INFORMATION BULLETIN OF JEE (MAIN) 2020 DATED NIL
EXHIBIT P2	TRUE COPY OF RELEVANT PAGES OF INFORMATION BULLETIN OF JEE (ADVANCED) 2020 DATED NIL
EXHIBIT P3	TRUE COPY OF THE NOTICE TO CANDIDATE DISPOLAYED IN WWW.JEEADV.AC.IN DATED 31.7.2020
EXHIBIT P4	TRUE COPY OF THE ORDER OF MINISTRY OF HOME AFFAIRS DATED 24.05.2020
EXHIBIT P5	TRUE COPY OF THE ORDER OF MINISTRY OF HOME AFFAIRS DATED 29.07.2020
EXHIBIT P6	TRUE COPY OF QUARANTINE RULES OF STATE OF KERALA DATED NIL
EXHIBIT P7	TRUE COPY OF REPRESENTATION DATED 09.08.2020
EXHIBIT P8	TRUE COPY OF REPLY OF 4TH RESPONDENT DATED NIL
EXHIBIT P9	TRUE COPY OF THE SCORE CARD OF JEE (MAINS) JANUARY 2020 EXAMINATION PERTAINING TO THE PETITIONERS GRANDOSN, DATED 17.01.2020
EXHIBIT P10	TRUE COPY OF CUT OFF MARKS IN JEE (ADVANCED) 2019 DATED NIL
EXHIBIT P11	TRUE COPY OF THE ADMIT CARD OF JEE (MAINS) APRIL/SEPTEMBER 2020 EXAMINATION PERTAINING TO THE PETITIONERS GRANDSON DATED NIL.
EXHIBIT P12	TRUE COPY OF THE IMPORTANT DATES OF JEE (ADVANCED) 2020 AS PER THE INFORMATION BROCHURE DATED NIL.

EXHIBIT P13 TRUE COPY OF CONFIRMATION LETTER DATED 21.08.2020 SENT BY BITSAT VIA EMAIL TO THE PETITIONERS GRANDSON CONFIRMING HIS EXAMINATION CENTRE IN DUBAI DATED 21.08.2020.

EXHIBIT P14 TRUE COPY OF THE LETTER SENT BY MANIPAL ACADEMY OF HIGHER STUDIES VIA EMAIL TO THE PETITIONERS GRANDSON DATED 25.07.2020

EXHIBIT P15 TRUE COPY OF THE QUARANTINE RULES OF STATE OF KERALA DATED NIL.

ADDITIONAL DOCUMENTS :

ANNEXURE R4 (a) A TRUE COPY OF THE RELEVANT PAGES OF THE JEE (ADVANCED) 2020 - INFORMATION BROCHURE WHICH CONTAINS THE COMPLETE PROVISION OF CLAUSE 19

ANNEXURE R4 (b) A TRUE COPY OF RELEVANT PAGES OF THE MINUTES OF THE JAB DATED 17.7.2020

ANNEXURE R4 (c) A TRUE COPY OF ANNEXURE IV OF THE INFORMATION BROCHURE, GIVING THE IMPORTANT DATES

APPENDIX OF WP (C) 18224/2020**PETITIONERS' EXHIBITS:**

EXHIBIT P1	TRUE COPY OF RELEVANT PAGES OF INFORMATION BULLETIN OF JEE (MAINS) 2020 DATED NIL.
EXHIBIT P2	TRUE COPY OF RELEVANT PAGES OF INFORMATION BULLETIN OF JEE (ADVANCED) 2020 EXAMINATION DATED NIL.
EXHIBIT P3	TRUE COPY OF SCORE CARD OF JEE (MAINS) JANUARY 2020 EXAMINATION PERTAINING TO THE GRANDSON OF PETITIONER 1 AND 2, DATED 17.01.2020.
EXHIBIT P3 (a)	TRUE COPY OF SCORE CARD OF JEE (MAINS) JANUARY 2020 EXAMINATION PERTAINING TO THE GRANDSON OF PETITIONER 3, DATED 17.01.2020.
EXHIBIT P3 (b)	TRUE COPY OF SCORE CARD OF JEE (MAINS) JANUARY 2020 EXAMINATION PERTAINING TO THE GRANDSON OF PETITIONER 4, DATED 17.01.2020.
EXHIBIT P4	TRUE COPY OF CUT OFF MARKS OF JEE (ADVANCED) 2019 FOR INCLUSION IN THE RANK LIST DATED NIL.
EXHIBIT P5	TRUE COPY OF IMPORTANT DATES OF JEE (MAINS) AND JEE (ADVANCED) EXAMS AS PROVIDED UNDER INFORMATION BROCHURE OF JEE (ADVANCED) 2020 DATED NIL.
EXHIBIT P6	TRUE COPY OF NOTICE TO CANDIDATE DISPLAYED IN WWW.JEEADV.AC.IN DATED 31.07.2020.
EXHIBIT P7	TRUE COPY OF ADMIT CARD OF JEE (MAINS) APRIL/SEPTEMBER 2020 EXAMINATION PERTAINING TO THE 1ST AND 2ND PETITIONER'S GRANDSON, DATED NIL.
EXHIBIT P7 (a)	TRUE COPY OF ADMIT CARD OF JEE (MAINS) APRIL/SEPTEMBER 2020 EXAMINATION PERTAINING TO THE 3RD PETITIONER'S GRANDSON, DATED NIL.

EXHIBIT P7 (b)	TRUE COPY OF ADMIT CARD OF JEE (MAINS) APRIL/SEPTEMBER 2020 EXAMINATION PERTAINING TO THE 1ST AND 5TH PETITIONER'S NEPHEW, DATED NIL.
EXHIBIT P8	TRUE COPY OF THE ORDER OF MINISTRY OF HOME AFFAIRS DATED 24.05.2020.
EXHIBIT P9	TRUE COPY OF THE ORDER OF MINISTRY OF HOME AFFAIRS DATED 29.08.2020.
EXHIBIT P10	TRUE COPY OF THE QUARANTINE RULES OF STATE OF KERALA DATED NIL
EXHIBIT P11	TRUE COPY OF THE REPRESENTATION DATED 09.08.2020.
EXHIBIT P12	TRUE COPY OF THE REPLY DATED NIL
EXHIBIT P13	TRUE COPY OF THE CONFIRMATION LETTER SENT BY BITSAT VIA EMAIL TO THE APPLICANT CONFIRMING HIS EXAMINATION CENTRE IN DUBAI DATED 21.08.2020.
EXHIBIT P14	TRUE COPY OF ORDER OF HON'BLE SUPREME COURT IN CIVIL APPEAL NO.2986 OF 2020 (ARISING OUT OF SLP(C) NO.8214 OF 2020)
EXHIBIT P15	TRUE COPY OF EMAIL COMMUNICATION MADE BY MANIPAL ACADEMY OF HIGHER STUDIES ABOUT THE SAFE EXAM BROWSER DATED 25.07.2020.
ANNEXURE R4 (a)	A COPY OF THE RELEVANT PAGES OF THE JEE (ADVANCED) 2020 - INFORMATION BROCHURE WHICH CONTAINS THE COMPLETE PROVISION OF CLAUSE 19
ANNEXURE R4 (b)	A COPY OF THE RELEVANT PAGES OF THE MINUTES OF THE JAB DATED 17.7.2020
ANNEXURE R4 (c)	A COPY OF THE RELEVANT PAGE OF THE JEE (ADVANCED) 2020 - INFORMATION BROCHURE WHICH CONTAINS CLAUSE 33.