

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12469 OF 2025

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Ragini Rajesh Kamthe
Age 20 years, Occu. Student,
R/o Flat No. 106, B-Wing, Lotus &
Lily Society, Piple Nilakh,
Pune – 411 027

... Petitioner

Versus

1. The State of Maharashtra
Through Medical Education and Drugs
Department, Mantralaya, Mumbai
2. State Commission Entrance Test Cell
Maharashtra State
Office at 8th Floor, New Excelsior
Building, A.K. Nayak Road, Fort,
Mumbai – 400 001.
3. SSPM Medical College & Lifetime
Hospital, Post. Padve, Kasal Malvan
Road, Tal. Kudal, Dist. Sindhudurg – 416 534
4. Bhargavi Chhotelal Bhairam
Age – Major, Occ. Student,
R/o Nehru Ward, Sai Colony,
Tirora, Gondia – 441 911

... Respondents

.....
Mr. Vaibhav Arage i/b Mr. Bhushan Walimbe for the petitioner.
Mr. R.P. Kadam, 'B' Panel Counsel for the Respondent – State.
Mr. Niles Chavan for the respondent No.2 – CET Cell
Ms. Pushpa Ganediwala (through VC) i/by Mr. Rugwed R. Kinkar and
Prasad Karandikar for the Respondent No.3.
Mr. Drupad S. Patil (through VC) a/w Rajvardhan S. Chaugule for the
Respondent No.4.

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**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Date : December 24, 2025.

JUDGMENT :- (Per M.S. Karnik, J.)

1. The petitioner invokes the jurisdiction of this Court under Article 226 of the Constitution of India to challenge the decision of the respondent No.2 – State Common Entrance Test Cell and respondent No. 3 – SSPM Medical College & Lifetime Hospital, dated 20th November 2025, rejecting the petitioner's admission to respondent No.3 - Medical College in the Institutional Level Stray Vacancy Round on the ground that the petitioner paid the requisite fees by Cheque / RTGS, which was not recognized as a permissible mode, as according to the respondent No.3 – Medical College, the fees should have been paid only by Demand Draft.

2. The brief facts are that the petitioner obtained 470 out of 720 marks in the National Eligibility cum Entrance Test (for short "NEET"), (UG) securing an all India rank at 90737. While the counselling process was underway, this Court passed an interim order dated 11th November 2025, directing the colleges having vacant seats to conduct institution level stray vacancy round, in which the institutions were to publish the

number of vacant seats available with them, so that the students could approach such institutions to seek admission.

3. In pursuance of the said order dated 11th November 2025, the first round of online stray vacancy round took place. However, considering that the said seats remained vacant, the respondent No.2 issued Notice No. 27 on 17th November 2025, announcing the schedule for the second Institutional Level Stray Vacancy Round, which is reproduced herein below :-

**"GOVERNMENT OF MAHARASHTRA
STATE COMMON ENTRANCE TEST CELL, MAHARASHTRA STATE,
MUMBAI**

8th Floor, New Excelsior Building, A.K. Nayak Road, Fort, Mumbai 400 001
Tele. No. 022-22016157/53/59 E-Mail cetcell@mahacet.org Website www.mahacet.org

No.MED-1025/CR.No.58/MBBS-BDS/Insti Level Round/3389

Date: 17/11/2025

**NOTICE NO.27
NEET UG-2025
MBBS/BDS (Group A) Courses only**

**Schedule for Institutional Level Stray Vacancy Round
(Private Unaided/Minority Medical/Dental Colleges)**

Ref: Hon'ble High Court, Bombay order passed in Writ Petition No.15047/2025 Dated 11/11/2025

In compliance with the Interim order passed by Hon'ble Bombay High Court in Writ Petition No.15047/2025 dated 11/11/2025, regarding Institute Level Stray Vacancy Round.

The vacant seats after Online Stray Vacancy Round-1 in the Private Unaided/Minority Medical & Dental Colleges will be filled by the Institute Level Stray Vacancy Round as per the schedule given below.

Schedule for Institutional Level Stray Vacancy Round only for Private Unaided/Minority Medical & Dental Colleges Academic Year 2025-26

Sr. No.	Activity	Dates
1	Publication of Vacancy Position and Publication of list of 1 Eligible Candidates separately for State Quota & Institutional Quota	17/11/2025
2	The Eligible desirous candidate must apply in person/Online mode (email) to respective college in prescribed format separately for State Quota and Institutional Quota. The official email of the college is mentioned in the list attached. only one form should be accepted per email ID and only one form should be accepted per person.	18/11/2025 upto 05.30 pm
3	Publication of List of Applicants, Merit List and Selection List and Wait List (quota wise) separately on the notice board and the web site of respective Colleges.	18/11/2025 after 06.30 pm
4	Joining period of selected candidates with all necessary original documents and requisite fees in the form of DD/Cheque/NEFT/RTGS	19/11/2025 upto 06.00 pm
5	Publication of Residual Vacancy on notice board & on the web site of respective Colleges. The wait list published on 18/11/2025 shall be operated for filling of residual vacancy.	19/11/2024 after 06.00 pm
6	Reporting of waitlisted candidates to college for filling of Residual Vacancy. Candidate should be present in person. Proxy not allowed.	20/11/2025 upto 02.00 pm
7	Filling of Residual Vacancy from reported waitlisted candidates as per merit.	20/11/2025 02.00 pm onwards
8	Reporting of all admitted candidates on the portal of State CET Cell	20/11/2025

Note:

- 1) Candidate should apply from his registered email ID.
- 2) Candidate should attach attested copy of all documents with the application form.
- 3) Candidate should ensure they carry all original documents and requisite fees at the time of admission.
- 4) Candidates are advised to check availability of seats in the seat matrix

and also the schedule of joining and reporting to the college before applying for the seat in any college.

Sd/-
Commissioner & Competent Authority,
State Common Entrance Test Cell,
Maharashtra State, Mumbai"

4. As such, the vacancy position and eligibility criteria came to be published by the respondent No.3 – Medical College on its website on 17th November 2025. The petitioner being eligible for admission in the respondent No.3 – Medical college, applied for stray vacancy round under 85% State quota on 18th November 2025 for M.B.B.S. course. Subsequently, the respondent No.3 published merit list of the candidates on 18th November 2025 in which the petitioner's name was at Sr. No. 40 and was shown to be on waiting list.

5. Notice regarding residual vacancy came to be issued late evening on 19th November 2025 for admission on 20th November 2025. Consequently, the petitioner along with her father reached the campus to carry out admission, under *bona fide* impression that the payment of fees could be done through cheque, given that both, the information made available on the respondent No.3 – Medical Colleges's website and the Notice dated 17th November 2025 issued by the said respondent, mentioned Demand Draft, Cheque, NEFT or RTGS as the

modes of payment.

6. However, when the Petitioner attempted to undertake the payment of fees by cheque, the same came to be refused by the Staff of Respondent No. 3 - Medical College, stating that payment would only be accepted by Demand Draft. Despite repeated requests made by the Petitioner, the cheque was not accepted.

7. The Petitioner, therefore, approached the observer appointed by the College. When positive response was not received, the Petitioner addressed an email to Respondent No. 2, stating her grievance and willingness to pay the fees by cheque or RTGS, to which the Respondent No. 2 replied stating that Respondent No. 3 has agreed to accept the fees via RTGS, directing the Petitioner to contact the observer. However, it is the petitioner's case that despite the email and direction received by her from Respondent No. 2, Respondent No. 3 refused to accept payment of fees by RTGS.

8. Learned counsel Mr. Bhushan Walimbe for the petitioner submitted thus :-

(i) That, considering the Notice dated 17th November 2025 issued by

the Respondent No. 3/Medical College, at point no. 4 of which it has been clearly stated that the payment of fees could be made by DD/cheque/NEFT/RTGS, it was arbitrary and unfair on the part of Respondent No. 3 to reject payment of fees by cheque in complete contravention of the notified rules governing the said round of counselling.

(ii) That, even when Respondent No. 2 permitted payment of fees via RTGS mode vide email addressed to the Petitioner, Respondent No. 3 refused to oblige, which demonstrates deliberate non-compliance and leads to the inference that the refusal was not bonafide.

(iii) That, the petitioner is being denied admission only on hyper technical grounds, considering that her merit and eligibility are otherwise undisputed and no fault lies with her.

9. Ms. Ganediwala, learned counsel appearing for the respondent No.3 – Medical College vehemently submitted as under :-

(i) That. Respondent No. 3 - Medical College has conducted the admission process by adhering to the rules and regulation issued from time to time by Respondent No. 1-State and Respondent No. 2-CET Cell.

(ii) That, on the date of filing of the present Petition, all seats of Respondent No. 3-College have been filled up and thus, there is no vacancy.

(iii) That, the Petitioner was provisionally selected for the MBBS course for the Academic Year 2025-26, subject to the following conditions:

- a. Payment of prescribed fees in full within the stipulated time period as mandated by the Respondent No. 2-CET Cell.
- b. Submission of all required original documents for verification
- c. Compliance with the reservation norms and merit criteria.
- d. Physical presence for completion of admission formalities.

(iv) That, Clause No. (4) of the Notice No. 27 only applied to the selected candidates who were directed to join before 06.00 p.m. on 19th November 2025. That, nevertheless, the Petitioner's conduct was not in accordance with Clause (4) of the Notice, which states that the candidates are to ensure that they carry the requisite fee and original documents at the time of admission.

(v) That, the Petitioner attempted to pay the fees via cheque, inspite of the Respondent No. 3- Medical College issuing clear directions on the website for payment of fees via Demand Draft. Considering that cheque does not account for immediate payment and is but, a conditional payment subject to realisation, Respondent No. 3- College

did not have sufficient time to verify whether the cheque can be encashed or not, given that they had to complete the said admission process strictly by 20th November 2025.

(vi) That, the questions of facts regarding conduct of the Petitioner and Respondent No. 3 - Medical College need to be adjudicated upon by the Admission Regulatory Authority and are not amenable to Writ Jurisdiction of this Court.

10. We have heard learned counsel. We have perused the memo of the petition and the relevant exhibits. From the materials on record, it is seen that the petitioner is a meritorious student. Notice No. 27 issued by the respondent No.3 – Medical College clearly stipulates four modes of payment of fees for securing a seat in the Second Institutional Level Stray Vacancy Round, one of which is by cheque. The Petitioner was called upon to fill a residual vacancy on 20th November 2025, pursuant to a notice issued on 19th November 2025 in the evening. However, upon the Petitioner reporting to Respondent No. 3 – Medical College, the staff informed the Petitioner that payment would be accepted only by Demand Draft. All subsequent attempts made by the Petitioner to tender payment of fees by cheque or by RTGS failed, as Respondent No. 3 - Medical College refused to accept payment through either mode, notwithstanding the fact that Respondent No. 2–

CET Cell informed the Petitioner at 17:57 hours, vide email dated 20th November 2025, that Respondent No. 3–Medical College had agreed to accept payment by RTGS.

11. It is not the case that the Petitioner did not fulfil the eligibility criteria for admission, nor that cheque was not specified as an accepted mode of payment in Notice No. 27 issued by Respondent No. 3 – Medical College. A plain reading of the said Notice makes it abundantly clear that cheque, along with NEFT, RTGS, and Demand Draft, were permissible modes of payment for eligible candidates.

12. The contention of learned counsel for the respondent No.3 – Medical College that Clause (4) of the said Notice, which states the four acceptable modes of payment of fees, applied only to candidates directed to join before 6:00 p.m. on 19th November 2025, and therefore the same did not apply to the Petitioner, cannot be accepted, given that no separate instructions pertaining to the mode of payment of fees were issued for the candidates called upon to fill the residual vacancy on 20th November 2025. So also, the contention that the fee structure published on the website mentioned only Demand Draft as the mode of payment is untenable, as a plain reading of the said fee structure merely sets out the particulars required for drawing a

Demand Draft and does not, in itself, restrict the permissible modes of payment exclusively to Demand Draft. The Petitioner could not have been denied admission merely on the ground that payment was not tendered by Demand Draft, especially when the Petitioner was ready and willing to make payment by cheque or RTGS, both of which were expressly mentioned by Respondent No. 3–Medical College as acceptable modes of payment.

13. The petitioner is a meritorious student. The petitioner is much higher in merit as compared to the respondent No.4, who has been given admission only because of the respondent No.3's insistence that the payment of fees has to be by Demand Draft, which the petitioner could not fulfill. When the petitioner was ready and willing to make payment by Cheque / RTGS, denial of admission on the ground that the payment was not tendered by Demand Draft has to be regarded as hyper technical and on a flimsy ground. The action of the respondent No.3 refusing to admit the petitioner is arbitrary and unfair.

14. As a consequence of admitting the respondent No.4 in a seat which otherwise the petitioner was entitled to, presently there are no vacant seats available in the current academic year in the respondent No.3 – Medical College. Learned counsel for the petitioner submitted

that a supernumerary seat be created. We are not inclined to issue such a direction to create a supernumerary post. In our humble opinion, the petitioner, a meritorious student, should not be deprived of the prospects of a medical career on account of the respondent No.3 – Medical College adopting such a rigid approach and at the same time we strongly feel that the hopes of the respondent No.4, who has now secured admission should not be shattered.

15. The petitioner as well as the respondent No.4 both are not at fault. They are young students and, therefore, in order to find out as to how their interest could be balanced, we need to seek guidance from what Their Lordships observed in ***Mridul Dhar (Minor) and Anr. Vs. Union of India & Ors.*** (2005) 2 SCC 65. The Hon'ble Supreme Court in paragraph 35 (more specifically sub paragraph 11) held thus :-

"35. Having regard to the aforesaid, we issue the following directions:-

1. All participating States and Union Territories, Board of Secondary Education shall declare 10 + 2 result by 10th June of every year and make available the marksheet to the students by 15th June.

The aforesaid condition would not apply to West Bengal for the year 2005. As already noticed, the West Bengal would make available to the concerned students the marksheets by 15th June, 2005 Heads of Boards would be personally liable to ensure compliance.

2. The time table mentioned in Notification dated 25th

February, 2004 shall be strictly adhered to by all concerned including States and Union Territories and results of State Medical/Dental Entrance Examination shall be declared before 15th of June.

3. The States/Union Territories shall complete the admission process of first round of State Level Medical/Dental College admission by 25th July i.e. a week before start of second round counseling or allotment of seats under All India Quota. The correct vacancy position shall be intimated by the Chief Secretary to the DGHS by 26th July. It shall be verified by the Head of the Institution/or Head of the Medical Institution/Health Department in the State.

4. It shall be the responsibility of all concerned including Chief Secretaries of each State/Union Territories and/or Health Secretaries to ensure compliance of the directions of this Court and requisite time schedule as laid down in the Regulations and non- compliance would make them liable for requisite penal consequences.

5. All seats in All India Quota must be fully disclosed giving details of the date of recognition/renewal to DGHS before a date to be notified by DGHS and the same shall be duly published.

6. By 31st October, the State through Chief Secretaries/Health Secretaries shall file a report in regard to admissions with the DGHS giving details about the adherence to a time schedule and admission granted as per the prescribed quota. The recalcitrant States, particularly officers personally will have to face consequences for violation.

7. The DGHS shall file by 31st January, 2005 report in regard to feasibility of conducting counseling through the process of video conferencing.

8. The DGHS shall file report within three months on the aspect of Section 10-A seats being subjected to 15 per cent All India Quota and about the increase of the quota from 15 per cent to 20 per cent.

9. The DGHS shall also file a report within three months on the

aspect of constitution of high-power Committee/Ombudsman.

10. The seats allotted upto 15th July, shall also be subjected to respective State Quotas.

11. If any private medical college in a given academic year for any reason grants admission in its management quota in excess of its prescribed quota, the management quota for the next academic year shall stand reduced so as to set off the effect of excess admission in the management quota in the previous academic year.

12. The time schedule for grant of admission to postgraduate courses shall also be adhered to.

13. For granting admission, the merit determined by competitive examination shall not be tinkered with by making a provision like grant of marks by mode of interview or any other mode.

14. time schedule for establishment of new college or to increase intake in existing college, shall be adhered to strictly by all concerned.

15. Time schedule provided in Regulations shall be strictly adhered to by all concerned failing which defaulting party would be liable to be personally proceeded with.

16. Copy of the judgment shall be sent to Chief Secretaries of all States/Union Territories for compliance."

(emphasis supplied)

16. We, therefore, are of the view that it would be in the interest of justice if such a course of action is adopted by us in the peculiar facts of this case, following *Mridul Dhar* (supra). The petition is, therefore, allowed. The impugned action denying admission to the petitioner is quashed and set aside. The respondent No.3 – Medical College is

directed to admit the petitioner in the current batch for the Academic Year 2025-26. The respondent No.4's admission not to be disturbed.

17. The seat of respondent No.4 shall be regarded as an additional admission granted in the Academic Year 2025-26 be adjusted against the total sanctioned intake in the immediately succeeding Academic Year by effecting one lesser admission therein.

18. The Writ Petition is accordingly allowed. No order as to costs.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]