

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

WP NO.2559/2015

902 WRIT PETITION NO. 2559 OF 2015

Pooja d/o Kishoreprasad Shriwas,
Age 26 years, Occ. Student,
r/o. Shri Venkatesh S.No.908/1/19,
Plot No.19, Pathardi Shiwar,
Mauli Nagar, Nasik 10

...PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...RESPONDENTS

...
Advocate for Petitioner : Mr. Kulkarni h/f Mr. Khairnar Vinod S
AGP for Respondent State:Mr. V.H.Dighe
Mr.A.B. Girase, Adv., for R.5
Mr.kulkarni Mukul S., Adv., for R/4

...
CORAM : S.S. SHINDE & P.R. BORA, JJ.
Dated: April 23, 2015

PER COURT :-

1. This writ petition takes exception to the impugned letter / order issued by respondent no.4 dated 20th January, 2015, whereby cancelling admission of the petitioner for M.E. Course.

2. Learned Counsel appearing for the petitioner has invited our attention to various documents which are placed on record to demonstrate that B.Sc. and M.C.A. qualification / degree possessed by the petitioner, is equivalent to B.E. and, therefore, the petitioner's admission form was accepted, and as a matter of

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fact, the petitioner was admitted to the M.E. Course, and even the petitioner has appeared for the First Semester Examination. He invited our attention to various documents, hall ticket placed on record to contend that the petitioner was allowed to appear for First Semester Examination. He invited our attention to eligibility criteria laid down, Graduate Aptitude Test in Engineering (for short, 'GATE') Information Brochure and contends that even after reading introductory paragraph of the document, it is clear that the candidates like the petitioner, possessing B.Sc./M.C.A. qualification are eligible to apply for M.E. It is submitted that once the petitioner was admitted to the M.E. Course and has prosecuted the studies and, as a matter of fact, appeared for First Semester Examination, her admission cannot be cancelled. In support of said contention, learned Counsel for the petitioner pressed into service exposition of the Supreme Court in the case of **Krishnan Vs. Kurukshetra University reported in (1976) 1 SCC 311**. Therefore, relying upon the pleadings, grounds raised in the petition, and annexures therein, learned Counsel for the petitioner submits that the petition deserves to be allowed.

3. On the other hand, learned Counsel for the respondents invited our attention to the affidavit in reply filed on behalf of respondent no.4 and, in particular paragraph no.4, and onwards, and also relevant eligibility criteria laid down by the University for admission to M.E. Course. It is submitted that the petitioner should have ensured before applying for the post

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graduate course in a particular University that she is eligible for admission to the programme as per her choice and as per relevant Eligibility Rules of the concerned University. Counsel for the respondents have placed reliance on Rule 2.1 and Rule 2.2 of the eligibility criteria laid down by the University. It is submitted that the last round of admission was on 31st October, 2014. Immediately thereafter, in the month of December, 2014, the University communicated to the Principal of the concerned College that the petitioner is not eligible for admission to the course of M.E. and, therefore, the petitioner is not entitled to claim equities. Therefore, relying upon the affidavit in reply and the eligibility criteria, Counsel appearing for the respondents submit that the petition is devoid of merits and the same may be dismissed.

4. We have given careful consideration to the submissions made by learned Counsel for the petitioner, learned Counsel for respective respondents and with their able assistance, perused the grounds taken in the petition and annexures thereof and in particular the basic eligibility criteria as given in Rule 2.1 and Rule 2.2 of the Rules of admission, which read thus:

"2. Eligibility Criteria:

2.1 Basic Eligibility Qualification

The candidates should fulfill the following eligibility criteria:

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1. Candidate should be an Indian National
2. Candidate should have passed/appeared** Bachelor degree or equivalent in the relevant field of Engineering/Technology from State Governments/MHRD approved institutions, with at least 50 % Aggregate marks* (at least 45% marks in case of candidates of Backward class categories and persons with disability belonging to Maharashtra State only)
3. The candidate should possess Bachelor degree in the relevant course of Engineering/Technology as specified in the eligibility criteria of the concerned University for which admission is being sought to a particular Post graduate degree course/specialization.

... ..

Important Note:-

- The candidates must ensure before applying for admission to the post graduate degree courses/specialization in Master of Engineering/ Technology in a particular University that he/she is eligible for admission to the programme of his/her choice as per the relevant Eligibility Rules of the concerned University.

2.2 Eligibility Criteria for Admission through CAP

2.2.1 Eligibility Criteria for admissions to Maharashtra state and OMS candidates.

1. Basic educational qualification as specified in Rule No. 2.1.
2. Having Positive GATE Score valid for the period 15th March 2014 to 14th March 2015 in respective qualifying branch."

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5. Upon careful perusal of the basic eligibility criteria for admission to M.E.Course, it is apparent that the candidate should possess Bachelor degree in the relevant course of engineering and in the present case B.E. Admittedly, the petitioner possesses B.Sc., MCA degree, and not B.E. Counsel for the respondent is right in contending that, it was for the petitioner to ensure, before applying for admission to the post graduate degree course i.e. M.E. in the present case, that in respondent no.5 University she is eligible for admission to the programme of her choice as per the relevant eligibility of respondent no.5 University.

6. Upon perusal of Exh.R-2 to the affidavit in reply filed by respondent no.4 at page no.180 of the compilation, it appears that the Director, College and University Development Council, has immediately communicated to the Principal of respondent no.4 that the petitioner lacks eligibility criteria for admission to M.E. course since she is not B.E., she was declared ineligible for admission to M.E. Therefore, viewed from any angle, in our considered view, the decision taken by the respondents needs no interference.

7. Hence, petition (No.2559/2015) stands rejected.

8. It is needless to observe that respondent no.4 College shall refund entire amount of fees collected from the petitioner, and respondent no.5 should ensure that the said amount is refunded by respondent no.4 within four weeks from today.

(P.R. BORA, J.)

(S.S. SHINDE, J.)

AGP/-