

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 3506 OF 2015
IN
WRIT PETITION NO. 5420 OF 2014**

Omkar Gopal Yenchewad .. Applicant

Versus

The State of Maharashtra and others .. Respondents

Shri Sunil M. Vibhute, Advocate for the Applicant.

Smt. M. A. Deshpande, A.G.P. for Respondent Nos. 1.

Shri K. D. Bade Patil, Advocate for the Respondent No. 2.

Shri V. D. Hon, Senior Advocate i/by Shri A. V. Hon, Advocate for the Respondent No. 3.

Shri D. S. Pawar, Advocate h/f Shri K. C. Sant, Advocate for the Respondent No. 4.

Shri P. S. Patil, Advocate for the Respondent No. 5.

**CORAM : S. V. GANGAPURWALA AND
A. I. S. CHEEMA, JJ.**

DATE : 25TH MARCH, 2015.

PER COURT :

. Mr. Hon, the learned senior counsel for the non applicant No. 3 submits that, if the validity is not issued in favour of the applicant, the applicant is not entitled for reimbursement of fees and as such has to deposit the fees. Unless, he deposits the fees, the applicant cannot be allowed to sit in the exam.

2. Mrs. Deshpande, the learned A. G. P. submits that, as per

the Government Resolution dated 07.11.2012, issued by Tribal Development Department, the reimbursement of fees is admissible only after validity certificate is obtained.

3. Mr. Vibhute, the learned counsel submits that, the applicant is ready to give an undertaking that, in case his tribe claim is invalidated, then the applicant will pay the fees of the Ist year to the institution and will not prosecute further studies if allowed without paying requisite fees of the institution.

4. In fact, it is expected by the State that the validity proceedings should be decided within a period of six months. The period of six months is already over. This Court has already directed the Committee to decide the proceedings expeditiously and preferably within a period of one year from the date of order passed. To get the proceedings decided within stipulated period is not within the hands of litigant. In case validity is issued in favour of the applicant, then the applicant would be certainly entitled for the reimbursement of the fees. The issue would be between the applicant and the State and in case the tribe claim is invalidated, the applicant naturally will have to pay the fees. The applicant has shown bonafides of filing undertaking to that effect.

5. In the light of above, we pass the following order. This order is in continuation of the order dated 12.12.2014 passed in

Writ Petition No. 5420 of 2014.

6. The respondents shall allow the applicant to appear for the examination without insisting for the fees subject to condition that the applicant will file an undertaking with the institution and State that, in case his tribe claim is invalidated, then the applicant will deposit fees required as per the institution within fifteen (15) days of the invalidation of his tribe claim in respect of Ist year and if the applicant is allowed to appear for further examination by the Court, then he will deposit the entire fees for all such years. In case such undertaking is given, the examination form of the applicant be accepted. The civil application is disposed of.

Parties to act on authenticate copy.

[A. I. S. CHEEMA, J.]

[S. V. GANGAPURWALA, J.]

bsb/March 15