

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 5719/2015

(BONNY SHEKHAR NAIK **VERSUS** STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri P.S. Khubalkar, counsel for the petitioner.
Shri D.B. Patel, A.G.P. for the R-1 & 2.
Shri Rohit Masurkar, counsel for the R-5.

CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATE : OCTOBER 27, 2015.

By this petition, the petitioner seeks a direction to the respondent no.2-Director of Medical Education, to grant admission to the petitioner in the first year M.B.B.S. course against the vacant seat reserved for the Scheduled Castes in the respondent no.4-College. The petitioner seeks a direction to the respondent no.4-College to grant admission to the petitioner in the first year M.B.B.S. course from the Scheduled Castes Category for the Academic Year 2015-16. In the alternative, the petitioner seeks a direction to the respondent no.5-College to grant admission to the petitioner in the first year M.B.B.S. course from the Scheduled Castes Category for the Academic Year 2015-16.

The petitioner had appeared in MH-CET examination for seeking admission to the first year M.B.B.S. course. The petitioner was not selected in the CAP rounds. According to the petitioner, on 23.09.2015, it was notified that a seat was vacant in the respondent no.5-College. The petitioner applied for the said seat on 23.09.2015 and supplied the documents in support of his application on 25.09.2015. It is the case of the petitioner that one Ashwajit Waghmare was transferred from the respondent no.4-College to the respondent no.5-College, as a result of which one seat meant for the Scheduled Castes became vacant in the

respondent no.4-College. The petitioner has sought the aforesaid direction in this background.

The respondent nos.1 and 2 have filed the affidavit-in-reply. It is stated in the affidavit-in-reply that no seat was vacant in the respondent no.5-College in the Scheduled Castes category on 23.09.2015. It is stated that as the Government Medical College at Ambejogai had erroneously reported one false vacancy, the competent authority had to rectify the error and the vacant seat at the respondent no.5-College in the Scheduled Castes category was reduced to zero. It is stated that the vacancy was wrongfully shown in the respondent no.5-College on 23.09.2015 and the error was rectified. It is stated that Ashwajit Waghmare has secured 153 marks and the petitioner has secured only 152 marks and the petitioner, therefore, cannot complain about the selection of Ashwajit Waghmare.

After the affidavit-in-reply was filed by the respondents, the petitioner has filed the rejoinder stating therein that it appears from the list of students admitted to the Health Science course in the year 2015-16 that two candidates, viz. Shashank Avinash Pawar and Shubhangi Nanarao Jadhav have been admitted though they have secured only 143 marks.

On a perusal of the affidavit-in-reply filed on behalf of the respondent nos.1 and 2, it is clear that there is no vacant seat either in the respondent no.4-College or in the respondent no.5-College. The vacancy in the respondent no.5-College appears to have been shown mistakenly on 23.09.2015 and the error is rectified. The last date for admitting the students as per the directions of the Hon'ble Supreme Court was 07.10.2015. It would, therefore, not be possible to direct the respondents to consider the case of the petitioner for admission in the respondent no.4 or respondent no.5-Colleges, specially when no seat meant for the Scheduled Castes is vacant in the said colleges. Though the petitioner has stated in the rejoinder that Shashank Avinash Pawar

and Shubhangi Nanarao Jadhav have secured admission to the M.B.B.S. course despite having secured lesser marks than the petitioner, the said submission cannot be considered in the absence of any details, more so, when the petitioner has not joined Shashank Avinash Pawar and Shubhangi Nanarao Jadhav as parties to the petition.

In the circumstances of the case, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

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