

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

WRIT PETITION NO.12075 OF 2016

Ashwini d/o. Bhimrao Jadhav,
Age-20 years, Occ. Student
and 27 others

..Petitioners

Vs.

The State of Maharashtra,
through its Secretary,
Medical Education and Drugs
Department, Mantralaya,
Mumbai - 32
and others

..Respondents

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Mr.A.R.Salve, Advocate for petitioners
Mr.S.B.Joshi, AGP for respondent nos.1, 3, 5
Mr.M.V.Deshpande, Advocate for respondent no.2
Mr.C.A.Jadhav, Advocate for respondent no.6

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**CORAM : R.M. BORDE AND
SANGITRAO S. PATIL, JJ.
DATE : DECEMBER 05, 2016**

PER COURT :

Heard.

2. This petition is presented by 28 students
objecting to the decision of respondent no.2 -
Admission Regulating Authority directing
cancellation of their admissions for B.A.M.S.

degree course in the college conducted by respondent no.7.

3. Respondent no.7 - College had also presented a petition bearing Writ Petition No.11687 of 2016 raising objection to the decision taken by respondent no.2 - Admission Regulating Authority directing cancellation of admissions of 46 students. The said Writ Petition was permitted to be withdrawn by this Court vide order dated 30.11.2016 after full length hearing and considering the affidavit-in-replies presented on behalf of the the State Government and the Admission Regulating Authority. While granting permission to respondent no.7 - College to withdraw the said petition, liberty was given to the students, whose admissions have not been approved by respondent no.2 - Admission Regulating Authority, to participate in the further round of admissions. It is also worth noting that almost all the students, who are before us as petitioners

in the instant Writ Petition, had tendered an application being Civil Application No.15563 of 2016 seeking intervention in Writ Petition No.11687 of 2016 and the contentions raised by the students were also considered while disposing of the said Writ Petition tendered by respondent no.7 - College. The issues raised in the instant petition are substantially considered while dealing with the said Writ Petition.

4. The deficiencies pointed out on behalf of respondent no.2 - Admission Regulating Authority as well as the State Government needs to be reiterated. It is recorded in the affidavit-in-reply presented by respondent no.2 in Writ Petition No.11687 of 2016 as under :-

"The controversy arose when without exhausting the merit list, the petitioners College again called for the fresh applications for spot round for which they were not authorised or directed by the State CET Cell.

Getting fresh applications (means those from outside of the merit list of 132, which was initially prepared), the petitioner has thereafter prepared a separate list of candidates outside of the original list of 132, while the earlier merit list has not been exhausted is the major fault made by the petitioner College. The spot round taken for 67 applicants was not supervised by the State CET cell representative.

Moreover, the candidates were charged Rs.1000/- each as an application fee for 132 applicants and then again charged Rs.1000/- for all those candidates who applied for spot round. The list of applications received for the spot round, reveals that those applicants who were present for their regular institutional level round were also present for spot round thereby meaning that the selection of the meritorious candidates was not done on 1st place for which they ought to have been considered for admissions."

In the affidavit, it is further recorded thus :-

There were complaints regarding 7 Colleges from the candidates and parents. Enquiry committees were sent to all 7 Colleges. 3 Colleges were found to have followed the Rules and admissions were conducted in proper manner. 4 Colleges were found guilty of mal-practice or for not following the due procedure to ensure merit based admissions. The petitioner was one of those found guilty of violation of procedure laid down. It needs to be mentioned specifically that in other 3 Colleges, all the admissions done in Institutional round are also included for re-allotment. In case of this petitioner College, the Admissions Regulating Authority has approved the admission procedure of 40 candidates. However, only those which were done in spot round have been considered for re-allotment.

I submit that in Exhibit-D of the petition is the notification

given by the State CET cell which declares guidelines and time table for admission for filing of the seats at Institutional level. The Row No.7 of the table, clearly states that after exhausting of waiting list only, the Spot Round should be done. The College violated this Rule as the list of 132 eligible candidates had not exhausted. Only 40 admissions were made and still fresh applications were called for spot round. Surprisingly, some candidates in the fresh applications for spot round were present who were also a part of eligible 132 candidates, which shows that eligible candidates were ignored initially and then admitted in the evening for reasons known to petitioner College only. Further the intention of the Institution is mala fide which is proved from the fact that they unduly charged Rs.1000/- as an application fee for spot round again. The advertisement given by the petitioner College in Writ Petition mentioned as

Exhibit-E (Pg.No.30,31) also does not mention anything for inviting the application for spot round was illegal and against the guidelines given by the State CET Cell.

5. In the affidavit-in-reply presented on behalf of the State Government by the Dean, Government Ayurvedic College, Nanded, it is recorded in paragraphs 5 to 8 as noted below:-

"5. I say and submit that as per procedure prescribed, 132 students approached to the petitioner college. The merit-wise list was published and 40 students taken admission in institutional level round in presence of Observer/Supervisor. There is no dispute in respect of validity of admission of 40 students as admitted in accordance with law.

6. I say and submit that as per the procedure, it is mandatory on the part of the petitioner college to declare vacant seats after first

round of admission and call the students from the merit list published on 30.10.2016. Unless and until earlier merit list exhausted, petitioner institution cannot start spot admission round. Contrary to the said procedure the petitioner college charged Rs.1,000/- as additional fee from the students who applied for spot round. The list of the applications received for the spot admission clearly reveals that the students who were present for said regular institution level round admission were also present for spot round. It means that instead of merit-wise selection in the institution level round, the petitioner institute granted spot admission to the students in absence of Observers/Supervisors. Therefore, admission of 46 students admitted in absence of Observer/Supervisor and contrary to the procedure prescribed by the Competent Authority/State CET Cell is null and void and therefore the Competent Authority/State CET

Cell declared those 46 admissions as null and void.

7. I say and submit that after receiving complaint, a Committee was appointed on 05.11.2016 by the Competent Authority/State CET Cell, which visited institution on 07.11.2016 and verified all available documents and record and also given hearing to the petitioner institution authorities.

8. I say and submit that admission regulatory authority forwarded complaint to petitioner institution and called their explanation on the said complaint on 11.11.2016. The petitioner institution vide its letter dated 17.11.2016 denied alleged complaint and submitted their submission. After considering entire things, the Competent Authority/State CET Cell found that petitioner college violated mandatory procedure prescribed in law for admission and

as such decided to approve admission of 40 students admitted in accordance with law and in view of further explanation received decided to conduct round to fill up vacant seats in the colleges. The said round conducted after following due procedure between 25.11.2016 to 28.11.2016 and considering the merit the students were selected as per the said merit list and names were forwarded for admission. The copy of the said list is annexed herewith and marked as EXHIBIT R-1.

6. Considering the deficiencies in the admission process adopted by respondent no.7 – College, which is found to be non-transparent by respondent no.2 – Admission Regulating Authority, a decision has been taken directing cancellation of admissions of 46 students. It must be reiterated that the students whose admissions have been cancelled, have liberty to participate in the further round of admission process and such,

observation has already been recorded while disposing of Writ Petition No.11687 of 2016 by order dated 30.11.2016.

7. The issue of cancellation of admissions of 46 students has been dealt with. Since this Court was not satisfied with the merits of the contentions raised by respondent no.7 - College, Writ Petition No.11687 of 2016 presented by the respondent no.7 was permitted to be withdrawn and the decision rendered by this Court has attained finality.

8. In this view of the matter, instant Writ Petition presented on behalf of the students raising the same challenge regarding admission process does not deserve to be entertained. The Writ Petition, as such, stands rejected.

[SANGITRAO S. PATIL, J.]

[R.M. BORDE, J.]

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