

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.7270 OF 2016

The Association of the Managements
of Unaided Engineering Colleges &
Ors.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

...

Ms Chandana Salgaonkar i/b. Mr. S.R. Waghmare for the Petitioners.
Mr. L.M. Acharya, Spl. Counsel with Mr. V.M. Mali, A.G.P. for the
Respondent -State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : 18th JULY, 2016.

P. C. :

Heard the learned counsels appearing for the respective parties.

2. The petition is filed for following reliefs:

“a) That this Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction in the nature of Mandamus under Article 226 of the Constitution of India directing the 3rd Respondent to hold the CET for Engineering and Technology (M.E. and M. Tech.) Course for the academic year 2016-17 and to conduct the CAP on the basis of merit obtained in the said CET.

b) that this Hon'ble Court may be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India calling for the records, papers and

proceedings pertaining to the impugned clause (iv) of Rule No.7(7) i.e. Eligibility Criteria for Engineering and Technology (M.E. and M. Tech.) of Centralised Admission Process (CAP) Information Brochure 2016-17 for Post Graduate Technical Courses for the academic year 2016-17 published by 3rd Respondent and clause 4(4) of Schedule 'C' of Notification dated 11-3-2016 published by 1st Respondent (Exh.-F and G hereto) respectively stating 'Graduate Aptitude Test (GATE) Common Entrance Test (CET) in Engineering mandatory for the admissions of Engineering and Technology (M.E. and M.Tech.) Courses for the academic year 2016-17 and after examining its legality, validity and propriety be pleased to quash and set aside the same.

c) that this Hon'ble Court be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction in the nature of Mandamus under Article 226 of the Constitution of India directing the 3rd Respondent to permit the member Engineering Institutes of 1st Petitioner Association to admit students for M.E. and M. Tech. Courses for the academic year 2016-17 on the basis of 50% marks in Bachelor of Engineering for Open Category candidates and 45% marks in Bachelor of Engineering for Reserve Category candidates as was permitted in the academic year 2015-16.

3. The grievance of the Petitioners is that the students were not aware about the notification dated 24th September, 2015 and the brochure was published in the month of April-2016 and the students, who wanted to take admission to Post Graduate Technical Courses could not appear for the GATE examination, which was held in the month of February-2016. Ms Salgaonkar, the learned counsel for the Petitioners contends that in that view of the matter many seats are

lying vacant and therefore, reliefs as stated above are sought.

4. Mr. Acharya, the learned counsel for Respondent Nos.2 and 3 opposed this petition vehemently. He contended that the procedure adopted in this year was also adopted in the last year and students were aware about the eligibility criteria for admission to Post Graduate Technical Courses. He has submitted that none of the students has approached this Court with such grievance. He has also submitted that though the brochure was published in the month of April-2016, the Petitioners approached this Court belatedly only in the month of June-2016. He further submits that the notification dated 24th September, 2015 issued by the Government in exercise of powers conferred by the proviso to sub-section 4 of Section 10 of the the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Act, 2015, was published in the newspaper and was given wide publicity. He lastly submits that the cut off date for carrying out all kind of admissions in Engineering and Technology Courses, as stipulated by the Hon'ble Apex Court in *Parshvanath Charitable Trust v. All India Council For Technical Education, (2013) 3 SCC 385* is 15th of August and therefore, the petition should not be entertained.

5. Having considered the rival submissions, we are not

inclined to entertain this petition, it is not in dispute that in terms of section 4 of the Maharashtra Un-Aided Private Professional Educational Institutions (Regulation of Admission and Fees) Act, 2015, admission to all seats in a Private Professional Educational Institutions, excluding the institutional quota, shall be made on the basis of merit secured by the students in a common entrance test conducted in a manner prescribed. Admission to such institutions are carried out by the competent authority through Centralised Admission Process on the basis of Common Entrance Test. Sub-section 4 of section 10 of the said Act permits the State Government to conduct admissions through a Common Entrance Test conducted by the authorities of the Central Government.

6. Pursuant to the proviso to sub-section (4) of section 10 of the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admission and Fees) Act, 2015 the State Government issued notification dated 24th September, 2015. By this notification it was made clear that the admissions to the Post Graduate Courses in Engineering and Technology would be on the basis of GATE. Accordingly GATE examination was held between 30th January, 2016 to 7th February, 2016. The Government of Maharashtra published an

Information Brochure in the month of April-2016 for admission to the Post Graduate Technical Courses (First Year of Engineering and Technology, Pharmacy, Architecture and Hotel Management and Catering Technology, Management, Computer Applications And Direct Section Year of Computer Applications) for the academic year 2016-2017. It is made clear in this brochure that admission to these courses would be on the basis of the marks obtained in GATE conducted by Indian Institute of Technology.

7. Mr. Surendra Bhaurao Shirbhate, Assistant Director (Tech) in Directorate of Technical Education, who has filed the affidavit dated 5th July, 2016, on behalf of Respondent Nos.1 and 2, has specifically stated in his affidavit that all the stake holders including students community were put to notice about the said fact. It is further stated that in the last academic year also i.e. 2015-2016 admission for Post Graduate Courses for M.E. M.Tech. was conducted on the basis of merit and marks derived from the GATE examination. These statements are not specifically denied by the Petitioners in its affidavit-in-rejoinder. Furthermore none of the students have approached this Court with a grievance that they were not aware of the eligibility criteria for Post Graduate Technical Courses or of examination schedule of GATE

conducted in February-2016.

8. It is further to be noted that though the Petitioners were aware of the said notification as well as the notification dated 11th March, 2016, as it is evident from the averments from the petition, they approached this Court belatedly in the month of June-2016 when the cut off date for carrying out admission in Engineering and Technology as stipulated by the Hon'ble Supreme Court is 15th of August.

9. In the above circumstances, we are not inclined to entertain the petition. Hence, the petition is dismissed.

10. All parties to act on authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)