

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10684 OF 2016

Farozan Ishtiyaque Ahd Ansari	.. Petitioner
Vs.	
State of Maharashtra and ors.	.. Respondents

WITH
WRIT PETITION NO.10685 OF 2016

Veda Rajan Shirke	.. Petitioner
Vs.	
State of Maharashtra and ors.	.. Respondents

WITH
WRIT PETITION NO.10686 OF 2016

Amruta Dattatraya Dabhade	.. Petitioner
Vs.	
State of Maharashtra and ors.	.. Respondents

WITH
WRIT PETITION NO.10687 OF 2016

Ketki Ashok Lavate	.. Petitioner
Vs.	
State of Maharashtra and ors.	.. Respondents

WITH
WRIT PETITION NO.10688 OF 2016

Gauri Subhash Raut	.. Petitioner
Vs.	
State of Maharashtra and ors.	.. Respondents

**WITH
WRIT PETITION NO.10702 OF 2016**

Harshwardhan Bhuvanendra Tapale .. Petitioner
Vs.
State of Maharashtra and ors. .. Respondents

Ms.Prabha Uday Badadare, for the Petitioners in WP/10684/2016, WP 10685/2016, WP/10686/2016, 10687/2016, WP/10688/2016.

Mr.PB.Shah a/w Mr.Keval P. Shah, for Petitioner in WP/10702/2016.

Mr.L.M.Acharya, Special Counsel a/w Ms.Nisha Mehra, AGP for State.

**CORAM : SHANTANU.S.KEMKAR &
M.S.KARNIK, JJ.**

DATE : 06th OCTOBER, 2016

P.C. (Per M.S.Karnik, J) :

. The petitioners have challenged the inaction on the part of the respondent No.3 – College of Engineering, Pune in granting admission for the post graduate course of Masters in Technology in Town & Country Planning. After obtaining degree certificate in Architecture from Mumbai University, the petitioners appeared for Graduate Aptitude Test in Engineering (GATE) and cleared the examination.

2. Respondent No.1 through State Common Entrance Test Cell issued admission notice for the first year full time post graduate course in ME/M.Tech 2016-17. According to the petitioners, when they tried to register themselves for the post graduate course in M.Tech (Town and Country Planning), they found that the said link was not available on the website of DTE for the said course. According to the petitioners, they are eligible for seeking admission to the said course in view of clause 4.1 of the prospectus. In the said table, for post graduate degree course of M.Tech (Civil) in Town and Country Planning, the qualifying examination is shown as B.Arch. The petitioners are thus eligible to seek admission to the said course.

3. According to the petitioners, there was no communication from the respondents in respect of their admission in the said course and on enquiries, the petitioners and other similarly situate candidates were verbally informed by DTE office that the petitioners were not entitled to get admission to the aforesaid course in view of notification issued by respondent No.1- State of Maharashtra on 11/03/2016 and

hence, the petitioners were not considered for grant of admission in the said course.

4. According to the petitioners, this Court (Nagpur Bench) in Writ Petition No. 4647 of 2016 has observed that the notification dated 11/03/2016 issued by respondent No.1 pertains to professional education diploma courses and as such, the said notification dated 11/03/2016 is not applicable to the petitioners. The petitioners, therefore, contend that as this Court in Writ Petition No. 4647 of 2016 has directed the respondent to admit the petitioner therein to the Master of Technology degree in Town & Country Planning subject, petitioners being similar situate, they also should be granted admission.

5. On the other hand, Mr.Acharya for the respondent-State has pointed out that present Petitions suffer from gross delay and latches. The eligibility criteria and the qualifying degree for seeking admission to the post graduate degree course of Masters of Technology in Town & Country Planning was declared as far back as on 11/03/2016. The process of

admission for M.Tech for 2016-17 is carried out by the Director of Technical Education who acted as a Nodal Officer to carry out the admission process under the supervision and control of the Competent Authority.

6. According to the learned Counsel the eligibility criteria for seeking admission to post graduate degree course are set out in Schedule 'C' of the said notification dated 11/03/2016. In Clause 4 of the said Schedule, eligibility criteria and qualifying degree for seeking admission to post graduate degree course in Engineering and Technology is prescribed. The post graduate degree course of Masters of Technology in Town and Country Planning is one of the courses falling in Engineering and Technology, therefore, the qualifying degree is the Bachelor's Degree in the relevant field of Engineering and Technology from A.I.C.T.E., or Central or State Government approved institutions or equivalent thereof. The petitioners having secured Bachelor's Degree in Architecture only, it cannot be said that they have secured Bachelor's Degree in the relevant field of Engineering and Technology. According to him, after

the enactment of the Maharashtra Un-aided Private Professional Institutions (Regulation of Admissions and Fees) Act, 2015 (for short 'Act') and the issuance of notification dated 11/03/2016 and Government Resolution dated 15/03/2016, respondent No.3 – College is not entitled to either prescribe eligibility criteria or conduct its own admission process. As regard the inclusion of the petitioners's name in the provisional merit list for the academic year 2016-17, the same is an inadvertent error crept in because of the computer programming/software of last year. However, upon realisation, the respondents have corrected the said mistake and deleted the name of the petitioners from the final merit list. The petitioners though were informed about the same, did not make any grievance of whatsoever nature until the passing of the order by the Nagpur Bench of this Court in Writ Petition No. 4647 of 2016.

7. Learned Counsel for the petitioners were at pains to point out that the issue in the present case is squarely covered by the decision of this Court in Writ Petition No. 4647 of 2016. It is pointed out that respondent No.1 had filed Review and

though the Review Application was partly allowed, nonetheless this Court still proceeded to hold that the petitioners are eligible to get admission to the M.Tech course.

8. It is pertinent to note that the present petitioners have approached this Court only after the decision in Writ Petition No. 4647 of 2016. Present Petitions are filed on 13/09/2016. The Apex Court in the case of **Parshvanath Charitable Trust and ors. VS. All India Council for Technical Education and ors., (2013) 3 Supreme Court Cases, 385** in paragraph 42 has held thus :

“The admission to academic courses should start, as proposed, by 1st August of the relevant year. The seats remaining vacant should again be duly notified and advertised. All seats should be filled positively by 15th August after which there shall be no admission, whatever be the reason or ground.”

9. As per schedule prescribed by the State Common Entrance Cell dated 18/07/2016 for full time post graduate course in ME/M.Tech for 2016-17, the cut off date for all type admission for academic year 2016-17 is 14/08/2016. First CAP round was held on 28/07/2016, Second CAP round was held on

31/07/2016 and third CAP round was held on 03/08/2016. Though the petitioners were aware that they could not secure admission in these rounds, they did not approach this Court at that relevant point of time. The petitioners approached this Court only after the cut off date and that too after this Court (Nagpur Bench) allowed the Petition of the petitioner in Writ Petition No. 4647 of 2016. Learned Counsel for the respondent pointed out that the petitioner in Writ Petition No. 4647 of 2016 had approached this Court when the CAP round was still in progress and by an interim order one seat was directed to be kept vacant.

10. We are in agreement with the submission of the learned Counsel for the respondent-State that present Petitions suffer from gross delay and latches as in view of law laid down by the Apex Court in **Parshvanath Charitable Trust** (*supra*), the present Petitions are filed after the cut off date for admission.

11. Learned Counsel for the petitioners have relied upon the decision of the Apex Court in the case of **Asha Vs.**

Pt.B.D.Sharma University of Health Sciences and ors., (2012)

7 Supreme Court Cases 389 to contend that the cut off date cannot be used as technical instrument or tool to deny admission to meritorious students. The petitioners having approached this Court only after the decision in Writ Petition 4647 of 2016, that too after the cut off date cannot be said to have pursued their rights expeditiously and diligently. The petitioners though well aware after 3 CAP rounds that they were not admitted to the said course, have failed to approach this Court expeditiously. In view of the decision of the Apex Court in the case of **Parshvanath Charitable Trust** (*supra*), we decline to exercise our writ jurisdiction and accordingly, present Writ Petitions are dismissed with no order as to costs.

(M.S.KARNIK, J.)

(SHANTANU.S.KEMKAR, J.)