

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11402 OF 2016

Vina Anudanit Shikshanshastra Mahavidyalaya
Pracharya, Pradhyapak va Shikshaketa
Karmachari Association ...Petitioner

Versus

State of Maharashtra Through Secretary
and Others ...Respondents

WITH

WRIT PETITION NO.11458 OF 2016

Khude Vikas Dinesh ...Petitioner

Versus

State of Maharashtra and Others ...Respondents

Mr. N.R. Bubna, for the Petitioner in WP. No.11402 of 2016.

Mr. C.K. Thomas a/w. Mr. Manoj Mane, for the Petitioner in WP. No. 11458 of 2016.

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

CORAM : SHANTANU KEMKAR &
MAKARAND KARNIK, JJ.

DATE : **OCTOBER 14, 2016**

P.C.:

. Parties through their counsel.

2. The Petitioner in Writ Petition No. 11402 of 2016 claims to be an Educational Institution and the Petitioner in Writ Petition No.

11458 of 2016 are the students aspiring to get admission in B.Ed., M.Ed. and B.P Ed. Courses.

3. The grievance of the Petitioners is that after holding Common Entrance Test (CET) still large number of seats are vacant. According to the Petitioners, in B.Ed. course about 74% seats are vacant, in M.Ed. 90% seats and in B.PEd. about 80% seats are vacant. According to the Petitioner, because of such huge vacancy of the seats in the Institution, not only there would be waste of infrastructure, the interest of the students would also be affected adversely. It is the case of the Petitioner that State Government is empowered to issue general/special direction to the Regulating Authorities under Section 25 of the Maharashtra Unaided Private Professional Educational Institutions (Regulation of Admissions and Fees) Act, 2015 (in short "*the Act of 2015*"). It is also the case of the Petitioner that for any difficulties the powers are also available to the State Government under Section 25 of the Act of 2015 as two years period has not expired from the date of commencing the Act. In the circumstances, the prayer has been made to issue direction to the State either to conduct one more CET or to allow the Petitioner-Institution and

student to have one more round of registration through Online counseling. According to the Petitioner, in the present year, the admission have been granted under 'zero' percentage in the CET, as a result all the students who appeared in the CET got admission irrespective of their merits.

4. Mr. Acharya, the learned Special Counsel for the State Government has filed reply and opposed the prayer. He submitted that the prayer made in the Petitions cannot be granted as CET has already been held and only the participants of that CET can get the admission and none others. He contended that to hold further CET would not be a solution as it would be a never ending process. He also pointed out that the State Government is repeatedly trying to impress upon the N.C.T.E. that there is already large number of Institutions and no more permission be granted. As a result, N.C.T.E has recently issued a letter Dt.13th February, 2016 accepting the position that there is more number of Institutions than the requirement for these courses.

5. During the course of argument, the learned counsel

appearing for the Petitioners made a prayer that instead of deciding this issue, the Petitioners may be permitted to withdraw the Petitions with liberty to the Petitioners to make a detailed representations with relevant data before the Competent Authority of the State for allowing the prayer as aforesaid. They further submits that the State may be directed to consider the entire facts and circumstances of the case as also the fact that this year it was the first year of the CET and that in this year only one CET was held whereas, earlier one CET was being allowed by State authorities and one by the Management.

6. In view of the aforesaid prayer, we are inclined to allow the Petitioners to withdraw the Petitions with liberty to submit their representations before the Competent Authority (Respondent No. 1) within a week from today.

7. On receipt of such representation, Respondent No. 1 shall examine the same and shall take appropriate decision keeping in view all the facts and circumstances of the case and pass a reasoned order on it within 10 days thereafter without being influenced by the stand taken by them in the reply of the Petition.

8. Needless to say that we have not opined on the merits of the case and the Competent Authority is free to decide the same in accordance with law.

9. Both the Petitions accordingly stand disposed of.

(MAKARAND KARNIK, J.)

(SHANTANU KEMKAR, J.)