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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION (L) NO. 427 OF 2016
IN
WRIT PETITION NO. 2082 OF 2015

Forum of Minority Management Institutes
(FMMI) and ors. ... Applicants-Petitioners
Vs.
State of Maharashtra and ors. ... Respondents

Mr. Rafiq Dada, Senior Counsel with Mr. S.C. Naidu, Mr. C.K. Thomas, & Mr. Aniket Poojari i/b C.R. Naidu and Co. for the Petitioners-Applicants.

Mr. Shrihari Aaney, Senior Counsel with Mr. Rohit Dev, AG, Mr. L.M. Acharya, Mr. H. Svenaonkar for Respondent Nos.1 to 3-State.

CORAM : V. M. KANADE, AND
M. S. SONAK, JJ.

DATE : JUNE 22, 2016

P. C.

1] Heard Mr. Rafiq Dada, learned senior advocate for the applicants and Mr. Shrihari Aaney, learned senior advocate for the State of Maharashtra.

2] By this notice of motion, the applicants (original petitioners in Writ Petition No. 2082 of 2015) seek the following reliefs:

a] That pending the hearing and final disposal of this Petition this Hon'ble Court clarify that Minority Educational Institutions are entitled to admit students belonging to the minority community to which the institution belongs (including Maharashtra State and outside Maharashtra State) at institute level and in the event the Minority Educational Institution is unable fill seats earmarked for minority category or a student belonging to minority community after selection leaves the institution then the Minority Educational Institution may surrender unfilled vacant seats to the Competent Authority for adding such surrendered seats for admission through CAP as open category seats in the immediate subsequent CAP Rounds.

b] That pending the hearing and final disposal of the Petition this Hon'ble Court be pleased to stay the requirement of production of original Domicile Certificate as contained in the Information Brochure, as a mandatory condition, for treating a minority candidates being eligible for applying for minority quota seat.

c] That pending the hearing and final disposal of the Petition it be declared that a student belonging to

minority community be considered eligible for seeking admission to minority quota seats on the strength of the receipt issued by the Tahsildar acknowledging that application for Domicile Certificate has been accepted and issuance of Domicile Certificate is in process by the office of the Tahsildar.

d] Costs of this Notice of Motion be provided for;

e] For such other reliefs as this Hon'ble Court deems fit and proper.”

3] Insofar as the interim reliefs in terms of prayer clauses (b) and (c) are concerned, the same relate to certain projected difficulties which may be faced by candidates applying for admission to the minority institutions. None of the applicants are themselves candidates seeking admission. In any case, in Writ Petition (L) No. 1603 of 2016 instituted by some of the candidates seeking admission, this Court granted interim reliefs on 16 June 2016, in the following terms:

“3. After hearing both the parties and after considering the Rules as well as brochure conditions, at this stage in the interest of justice and to avoid further complications and as the admission process is already in progress, and that it may not be possible for the candidates to get the domicile certificates produce immediately on the date of verification of the documents as required, as some of the

Petitioners' application for such domicile certificate is pending with Tahasildar. They do possess receipt of such application endorsing of filing of their applications for domicile certificate. We are inclined to observe that the Respondent-State Government, subject to further orders of this Court and subject to production of the documents so required basically the domicile certificate, as early as possible preferably within four months, the applications so filed by such minority candidates be treated provisionally as applications under the minority quota, subject to final decision. However, we are inclined to observe that at the stage of verification of documents, the Petitioners and/or such candidates may submit either of the following documents: (i) Birth certificate, (ii) School or College leaving certificate, (iii) receipt of application made to Tahasildar or domicile certificate.

4. *It is made clear that such students who have not applied for domicile certificate to the respective Tahasildar, may apply within one week to able to produce the requisite receipts and/or the domicile certificate on the date of verification in the respective facilitation centers.*

5. *It is made clear that the concerned Respondent-Department needs to give adequate publicity of this order and notify the same on the Website also.*

6. *It is made clear that this order so passed today is in view of the urgency as there is no time available for the candidates/students to get domicile certificate. We are inclined to observe that this order will be applicable only for this Academic year 2016-17."*

4] In view of the aforesaid, there is no necessity to consider the grant of any reliefs, in terms of prayer clauses (b) and (c) of this

notice of motion.

5] Insofar as prayer clause (a) is concerned, we note that this Court by order dated 2 May 2016 has already declined interim relief by way of stay upon the provisions contained in Section 6(2) of the Maharashtra Unaided Private Professional Educational Institution (Regulation of Admission and Fee) Act, 2015 (said Act) and Rules 3,7 and 9 made thereunder. There was no clarity on the part of the applicants as to whether admission process, which has already commenced, is being undertaken consistent with the provisions which have been challenged in the main petition. At one stage, it was urged that the Central Admission Process, may not be consistent with the provisions. At another stage, it was urged that admission process is not consistent with the observations made by this Court in order dated 2 May 2016. Mr. Aaney, learned senior advocate for the State, has submitted that the admission process, which has reached at an advanced stage is quite consistent with the provisions, which have been impugned in the petition. He submitted that since the interim relief has already been declined, there is no question of re-seeking the same, by seeking “*clarification*”.

6] We are satisfied that this is not a matter which requires any clarification. The applicants have neither applied for any review of the order dated 2 May 2016 nor challenged the same. In the order

dated 2 May 2016, it has been observed that the grant of interim relief will possibly throw out of gear elaborate admission process devised under the said Rules. Further in case, the applicants regard the admission process as being in violation of the provisions of the said Act or the Rules made thereunder, including the provisions, which have been impugned in the main petition, it is for the applicants to challenge the process substantively. However, there is no case made out for seeking any clarification or for that matter any reliefs under the guise of clarification.

7] Accordingly, this notice of motion is dismissed. There shall however, be no order as to costs.

[M. S. SONAK, J.]

[V. M. KANADE, J.]