

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR

CONTEMPT PETITION (CIVIL) NO. 207 OF 2016

IN

PUBLIC INTEREST LITIGATION NO. 63 OF 2014

(Bhagwan Vithuji Nannaware .vs. Dr. Pravin Shingare, Director (Education)
DMER, & another)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's orders

Mr. S.P. Khare, Advocate for petitioner,
Mrs. B.H. Dangre, G.P. for respondents.

CORAM : B.R. GAVAI & V.M. DESHPANDE, JJ.

DATED : JULY 21, 2016.

The present Contempt Petition has been filed by the petitioner contending therein that the condition has been imposed by the respondents while admitting the students to the M.B.B.S. course requiring the undertaking to be given that in the event the validity certificate is not submitted till 22nd July, the candidate's admission shall be liable to be forfeited.

The Division Bench of this Court at Aurangabad in Writ Petition No. 2136/11 decided on 25.8.2011 while considering the similar condition in the Government Resolution dated 5.11.2009 had in unequivocal terms held such a condition to be invalid on the ground of doctrine of impossibility.

Faced with this situation, the respondent no.1, who is personally present in the Court has tendered his unconditional apology. An affidavit is also filed of the even date. It is categorically stated in the affidavit that realizing the mistake, the

said condition is withdrawn and it has been substituted with a new undertaking. A copy of the undertaking is placed on record as Annexure R.4.

The new undertaking requires student to give an undertaking that the admission of a candidate seeking admission against the reserved post shall be subject to result of his validity and in the event his claim is held to be invalid, he shall not claim any equity. We find that imposing a condition requiring caste validity certificate to be given in a prescribed time was totally illegal, inasmuch as it is not in the hands of a candidate as to in how much period the Scrutiny Committee will decide his claim.

Be that as it may, the respondents have realized the mistake and issued a corrigendum. We, therefore, accept the unconditional apology tendered by the respondent no.1. However, we direct the State Government to give wide publicity to the corrigendum, so that the students are aware about the corrigendum issued by the respondents. We further direct the learned Government Pleader to instruct the Chief Secretary so that he should in turn direct all the concerned departments that no such conditions which are beyond the control of a candidate be imposed, inasmuch as imposing such a condition results in unwarranted litigation.

The Contempt Petition is disposed of with the aforesaid observations.

Judge

Judge

J.

CERTIFICATE

"I certify that this Order uploaded is a true and correct copy of original signed Order".

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