

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8268 OF 2017

Aalia Kausar Mohammed Shafee
Age: 18 years, Occu.: Student,
R/o 1-12-31, Aayesha Manjil,
Asad Nagar, Workshop Road, Nanded,
Tq. & Dist. Nanded.

..PETITIONER

VERSUS

1. State of Maharashtra
Through its Secretary,
Health Education Department,
Mantralaya, Mumbai-32.
2. Director of Medical and Education Research (DMER),
Government of Dental College and Hospital Building,
St. George's Hospital Compound,
Near VT, Mumbai-400001.
3. Commissioner,
Common Entrance Cell, Mumbai
CET- Cell (DMER) Government Dental College and
Hospital Building, St. George's Hospital Compound,
Near VT, Mumbai-400001.

..RESPONDENTS

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Mr. V.J. Dixit, Senior Advocate i/b Mr. A.N. Nagargoje, Advocate for petitioner.
Mr. A.V. Deshmukh, A.G.P. for Respondent Nos. 1 and 2.
Mr. M.V. Deshpande, Advocate h/f Mr. M.D. Narwadkar, Advocate for
Respondent No.3.

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**WITH
WRIT PETITION NO. 8483 OF 2017**

Juweria Naseem d/o Taher Moinuddin Akmal
Age: 18 years, Occu.: Student,

R/o Plot No.13, Amitnagar, Nandanwan Colony,
Aurangabad.

..PETITIONER

VERSUS

1. State of Maharashtra
Through its Secretary,
Medical Education Department,
Mantralaya, Mumbai-32.
2. Director of Medical and Education Research (DMER),
Government Dental College and Hospital Building,
St. George's Hospital Compound,
Near VT, Mumbai-400001.
Through its Director.

3. Commissioner,
Common Entrance Cell, Mumbai
CET- Cell (DMER) Government Dental College and
Hospital Building, St. George's Hospital Compound,
Near VT, Mumbai-400001.

..RESPONDENTS

....

Mr. V.J. Dixit, Senior Advocate with Mr. S.V. Dixit, Advocate for petitioner.

Mr. A.V. Deshmukh, A.G.P. for respondent - State.

Mr. M.V. Deshpande, Advocate h/f Mr. M.D. Narwadkar, Advocate for
Respondent No.3.

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WITH

WRIT PETITION NO. 8489 OF 2017

Sumedh Ashok Mhaske
Age: 18 years, Occu.: Education,
R/o Plot No.70, Nandanwan Colony,
Chawni, Aurangabad 431 001.

..PETITIONER

VERSUS

1. State of Maharashtra
Through its Principal Secretary,
Medical Education Department,

Mantralaya, Mumbai-32.

2. The Commissioner,
Common Entrance Cell, Mumbai
Mumbai Government Dental College and
Hospital Building, St. George's Hospital Compound,
Near VT, Mumbai-400001.

3. The Director
Medical Education,
Mumbai Government Dental College and
Hospital Building,
St. George's Hospital Compound,
Near VT, Mumbai-400001.

..RESPONDENTS

....

Mr. A.R. Rathod, Advocate for petitioner.

Mrs. M.A. Deshpande, A.G.P. for respondent - State.

Mr. M.V. Deshpande, Advocate h/f Mr. M.D. Narwadkar, Advocate for
Respondent No.2.

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WITH

WRIT PETITION NO. 8550 OF 2017

Ankita Sanjay Manore

Age: 18 years, Occu.: Education,

R/o Plot No.67, Varsha Niwas,

Vishal Nagar, Near Sai Mandir,

Latur, Tq. & Dist. Latur.

..PETITIONER

VERSUS

1. State of Maharashtra
Through its Secretary to the,
Government of Maharashtra in
Medical Education & Drugs Department,
Mantralaya, Mumbai-32.

2. The Commissionerate,
Common Entrance Cell,
CET Cell (DMER), Government Dental

College and Hospital Building,
St. George's Hospital Compound,
Near VT, Mumbai-400001.

..RESPONDENTS

....

Mr. N.P. Patil Jamalpurkar, Advocate for petitioner.

Mr. A.V. Deshmukh, A.G.P. for respondent - State.

Mr. M.V. Deshpande, Advocate h/f Mr. M.D. Narwadkar, Advocate for
Respondent No.2.

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**WITH
WRIT PETITION NO. 8571 OF 2017**

Aishwarya Shivkumar Deshmukh
Age: 19 years, Occu.: Student,
R/o Kawa Naka, Near Jindal Tower,
Basweshwar Chok, Latur,
Tq. & Dist. Latur.

..PETITIONER

VERSUS

1. State of Maharashtra
Through its Secretary,
Health Education Department,
Mantralaya, Mumbai-32.
2. Director of Medical and Education
Research (DMER), Government Dental
College and Hospital Building,
St. George's Hospital Compound,
Near VT, Mumbai-400001.
3. Commissioner,
Common Entrance Cell, Mumbai
CET-CELL (DMER) Government Dental
College and Hospital Building,
St. George's Hospital Compound,
Near VT, Mumbai-400001.

4. Medical Council of India
Pocket-14, Sector-8, Dwarka,
New Delhi – 110 077.

..RESPONDENTS

....

Mr. A.N. Sabnis, Advocate h/f Mr. V.D. Gunale, Advocate for petitioner.

Mr. V.S. Badkh, A.G.P. for respondent - State.

Mr. M.V. Deshpande, Advocate h/f Mr. M.D. Narwadkar, Advocate for
Respondent No.3.

Mr. S.K. Kadam, Advocate for Respondent No.4.

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**WITH
WRIT PETITION NO. 8592 OF 2017**

Kiran Ramesh Patil
Age: 19 years, Occu.: Student,
R/o Nimbhora, Tq. Amalner,
Dist. Jalgaon.

..PETITIONER

VERSUS

1. State of Maharashtra
Through its Secretary,
Health Department,
Mantralaya, Mumbai-32.
2. The Commissionerate,
Common Entrance Cell, Mumbai
Through CET CU 1 (DMER)
Government Dental College and
Hospital Building, St. George's Hospital Compound,
Near VT, Mumbai-400001.
3. Central Board of Secondary Education,
Through : Joint Secretary & OSD NEET.
4. The Union of India
Through : Secretary,
Health and Family Welfare Department,
New Delhi.

..RESPONDENTS

....
Mr. K.C. Sant, Advocate for petitioner.

Mr. A.V. Deshmukh, A.G.P. for respondent - State.

Mr. M.V. Deshpande, Advocate h/f Mr. M.D. Narwadkar, Advocate for Respondent No.2.

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**WITH
WRIT PETITION NO. 8593 OF 2017**

Miss Rajnandini Mahendrakumar Goenka

Age: 17 years, Occu.: Student under the guardianship
of Father Shri Mahendrakumar Dulichand Goenka,

Age: 42 years, Occu.: Business,

R/o House No. 100, Goenka Nagar,

Akhada-Balapur, Tq. Kalamnuri, Dist. Hingoli.

..PETITIONER

VERSUS

1. State of Maharashtra

Through its Principal Secretary,
Medical Education and Drugs Department,
Mantralaya, Mumbai-32.

2. The Director of Medical Education and Research,

Government Dental College Building,
St. George's Hospital Compound,
Near VT, Mumbai-400001.

3. The Commissioner,

Common Entrance Cell, Mumbai
Government Dental College Building,
St. George's Hospital Compound,
Near VT, Mumbai-400001.

..RESPONDENTS

....

Mr. A.S. Deshpande, Advocate for petitioner.

Mr. A.V. Deshmukh, A.G.P. for respondent - State.

Mr. M.V. Deshpande, Advocate h/f Mr. M.D. Narwadkar, Advocate for Respondent No.3.

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**WITH
WRIT PETITION NO. 8594 OF 2017**

Mohammed Suleman Mohammed Ibrahim
Age: 20 years, Occu.: Student,
R/o Irrigation Colony, at post Gokunda,
Tq. Kinwat, Dist. Nanded.

..PETITIONER

VERSUS

1. State of Maharashtra
Through its Secretary,
Medical Education Department,
Mantralaya, Mumbai-32.
2. Director of Medical and Education Research (DMER),
Government Dental College & Hospital Building,
St. George's Hospital Compound,
Near VT, Mumbai-400001.
3. Commissioner,
Common Entrance Cell, Mumbai
CET-Cell (DMER), Government Dental College
and Hospital Building,
St. George's Hospital Compound,
Near VT, Mumbai-400001.

..RESPONDENTS

....

Mr. Zia Ul Mustafa, Advocate for petitioner.
Mr. A.V. Deshmukh, A.G.P. for respondent - State.
Mr. M.V. Deshpande, Advocate h/f Mr. M.D. Narwadkar, Advocate for
Respondent No.3.

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**WITH
WRIT PETITION NO. 8624 OF 2017**

Tejas Deepak Jagtap
Age: 18 years, Occu.: Student,
R/o Yeshwant Society, Udgir,
Tq. Udgir, Dist. Latur.

..PETITIONER

VERSUS

1. State of Maharashtra
Through its Secretary,
Health Education Department,
Mantralaya, Mumbai-32.
2. Director of Medical and Education Research (DMER),
Government Dental College and Hospital Building,
St. George's Hospital Compound,
Near VT, Mumbai-400001.
3. Commissioner,
Common Entrance Cell, Mumbai
CET-Cell (DMER), Government Dental
College and Hospital Building,
St. George's Hospital Compound,
Near VT, Mumbai-400001.
4. Medical Council of India,
Pocket-14, Sector-8, Dwarka,
New Delhi – 110077.

..RESPONDENTS

....

Mr. A.N. Sabnis, Advocate for petitioner.

Mr. A.V. Deshmukh, A.G.P. for respondent - State.

Mr. M.V. Deshpande, Advocate h/f Mr. M.D. Narwadkar, Advocate for Respondent No.3.

Mr. S.K. Kadam, Advocate for Respondent No.4.

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**CORAM : ANOOP V. MOHTA &
SUNIL K. KOTWAL, JJ**

DATED : 05th JULY, 2017

ORAL JUDGMENT (Per : ANOOP V. MOHTA, J.)

1. Rule. Rule made returnable forthwith and heard finally by consent of the parties. In view of urgency so expressed, as the issues in all the petitions are

common and so also respondents and rule in question, therefore this common judgment.

2. All petitioners who are students have filed the writ petitions and raised challenge revolving around Clause 4.5 of NEET UG-2017 information broucher of health science courses (the “courses”) as though they are in possession of domicile certificate of State of Maharashtra (the “State”) issued by the competent authority and have passed (11th and 12th standard) H.S.C. examination from the institutions within the State and as they are eligible to apply for admission to the health science courses for this academic year 2017-18, yet in view of the clause so introduced for the first time in this academic year/session, the State website is not accepting their admission forms, for the courses.

3. Petitioners are deprived of their education and/or admission in the concerned courses for this year because of following Clause Nos. 4.2 and 4.5:

“4.2 Domicile of Candidate:- The Candidates must be Domicile of Maharashtra (Except candidates undercloused 4.1.3, 4.7, 4.8, Annexure C and E).

4.5 The candidate must have passed the SSC or equivalent examination from an institution situated in the state of Maharashtra. (Please refer 4.7, 4.8, Annexure “C” and Annexure “E” for exception)”

4. Admittedly, all these petitioners/students have passed the S.S.C. examination from respective boards out of State, during the academic years 2012 to 2016, though they are residents of the State. We are not concerned with the circumstances which compel them to complete S.S.C. examination outside the State.

5. The relevant factors which goes to the root of the matter is that the information broucher of MHT-CET 2015, specifically Clause 4.6 permitted such candidates to pass S.S.C. examination from the institute out of the State also. Only rider was he or she should domicile of the State for getting admission in such courses. We are not concerned here that there are exception granted to the State/Union of India employees. All the students must have proceeded and completed their respective S.S.C. examination out of the State based upon the representation so given in the respective years by the concerned authorities.

6. In similar broucher for admission to private un-aided medical and dental institutions (NIIT – UG – 2016) for health science courses, the same eligibility criteria for the State candidature was provided.

7. The position of petitioners/students and their parents therefore, ought not to have been overlooked for admission to the concerned courses in the year 2017. However, as required, when they opened the website and wanted to

apply online, but in view of the impugned clause, their online application forms itself were not received or accepted by the website. This resulted into the rejection of their online applications because of the impugned clause. The last date for filing such online forms is 10th July, 2017. Petitioners therefore have immediately filed these petitions and challenged the validity of the clause.

8. Learned Counsel appearing for respondents pointed out a judgment of a Division Bench of this Court in Writ Petition No. 10158 of 2016 and others (Mahatma Gandhi Vidyamandir and Another Vs. State of Maharashtra and Others) dated 19th September, 2016 and submitted that validity of such rules of 2016-17 have been upheld. There is no question to declare said rule as illegal. Learned Counsel for petitioners submitted that they are concerned with the rules for this year and specifically their right of admission to the courses in question. We are in the present facts and circumstances of the case, dealing with the situation where the petitioners have completed S.S.C. examination/study from the institution/board out of the State prior to the year 2015/2016. The rights accrued in their favour, just cannot be taken away by bringing such impugned clause retrospectively, which ultimately denied their right of further higher education in the State, though they are residents of the State and possess domicile certificate of the State. In our view, such eleventh hour change of criteria is unjust, unreasonable and affects the rights of further study so contemplated. These rights just cannot be taken away by the State or respective

authority by implementing such condition though they have power and authority to bring in and/or amend the policy decision. Respondents require to take steps to bring such policy by giving full and/or appropriate due public notice to the concerned students, so that before joining the course or 10th standard within or out of State of Maharashtra, they would be in a position to take effective and appropriate steps/decisions, in advance..

9. In view of the admitted position on record, we are inclined to observe that the imposition of such clause in the year 2017 should not be the hurdle for getting admission to the concerned courses by the petitioners/candidates who have passed S.C.C. or equivalent examination from the institutions situated outside State specifically when they are in possession of domicile certificate of the State, based upon then existing State representation/policy.

10. In view of the above, as we are inclined to grant relief to petitioners and directing respondents to permit and/or accepting the application forms filed by such petitioners without insistence for S.S.C. Or equivalent examination certificate from an institution situated in the State. The S.S.C. Certificate which they are possessing of board and/or institution situated outside of State of Maharashtra be accepted. Petitioners' applications therefore required to be accepted by the concerned respondents without further delay and process the same in accordance with regulations so announced. Such restrictive rule cannot

be made applicable retrospectively to take away the accrued rights of petitioners/students.

11. In view of the above, as we are inclined to pass order. We are not specifically dealing with validity of the impugned clause of this academic year 2017-18. The validity issue is kept open. Same may be decided at appropriate stage if case is made out.

12. We are inclined to conclude that petitioners' prayer for admission to health science courses for the academic year 2017-18 from the State quota required to be considered on its own merits without insistence for S.S.C. examination from the institution situated in the State as they possess the domicile certificate of the State. It is made clear that in view of the above, we are inclined to observe that respondents to take note of the situation and the order we are passing today, so that apart from petitioners all other similarly situated candidates/students would be benefited and they also will be in a position to apply, accordingly. As this judgment is pronounced in the open Court, respondents to act immediately to avoid further delay and complications in the matters. Therefore following order:-

O R D E R

- (i) Respondents are directed to accept the application forms for admission to health science courses

for the academic year 2017-18 from State quota and further process admission in accordance with the regulation, without insistence of S.S.C. certificate from instituts within State of Maharashtra from the students/who have the State domicile certificate.

(ii) Respondents to take steps and make necessary arrangements so that petitioners and other students may apply online forms on websites www.dmer.org and www.mahacet.org, in view of this order.

(iii) Respondents also to give due public notice in media enabling the petitioners and other similarly situated students to apply online before 10th July, 2017, as scheduled.

(iv) All petitions are allowed. Rule is made absolute accordingly. No costs.

(SUNIL K. KOTWAL, J.)

(ANOOP V. MOHTA, J.)

SSD