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

WRIT PETITION NO.9971 OF 2017

Sharadchandra s/o Marotirao Kagane,
Age: 45 years, Occu: Business,
R/o. At post Ahmedpur, Tal. Ahmedpur,
Dist. Latur ..PETITIONER

VERSUS

1. The State of Maharashtra
through the Secretary,
Animal Husbandry, Dairy Development
and Fisheries Development Department,
Madam Kama Road, Hutatma Rajguru Chowk,
Nariman Point, Churchgate, Mumbai,
Maharashtra – 400 032
2. The Registrar,
Maharashtra Animal and
Fishery Science University,
Futala Lake Road,
Nagpur – 440 001 ..RESPONDENTS

Mr B. K. Patil, Advocate for petitioner;
Mrs M. A. Deshpande, A.G.P. for respondent No. 1
Mr P. G. Rodge, Advocate for respondent No.2

**CORAM : SHANTANU S. KEMKAR &
N.W. SAMBRE, JJ.**

DATE : 10th AUGUST, 2017

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ORAL ORDER :

The petitioner's son (candidate for short), since aspirant of getting admission to B.V.Sc. and A.H. degree course, applied to respondent No.2 in the prescribed format seeking admission.

2. The petitioner claims that, he is project affected person, since his land was acquired for project in the public interest before 1965, for which, certificate being project affected person came to be issued in his favour vide certificate dated 4th October, 1999.

3. It is also claimed that the petitioner belongs to NT-D category. Accordingly, his son also steps in to the shoes as project affected person in view of the policy of the Government.

4. According to the petitioner, his son passed out 12th Standard examination from Latur Divisional Board in first class and cleared

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National Eligibility cum Entrance TEST (UG)-2017, which result was declared on 23rd June, 2017, wherein his percentile is 82.199553. It is alleged that petitioner's son filled in admission form for B.V.Sc., and A.H. degree course-1917-2018 and claimed admission from project affected person category. He further claimed that he belongs to NT-D category also.

5. As per programme provided by respondent No.2 University, candidate submitted his application form and received e-mail with remarks "PAP INVALID-ISSUED AFTER LAST DATE OF SUBMISSION OF APPLICATION FORM, HENCE PAP CLAIM REJECTED." Before aforesaid development, admission programme prescribed that if candidate uploaded deficient or wrong documents, list of such candidates will be displayed on 19th July, 2017 and by 22nd July, 2017 the concerned candidate is required to upload indicated deficient or wrong documents.

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6. The competent authority i.e. District Rehabilitation Officer, Nanded issued project affected certificate in favour of son of the petitioner namely Onkar who was seeking admission to B.V.Sc. Course on 17th July, 2017. The said certificate was duly uploaded by the candidate before 22nd July, 2017. It is claimed that inspite of above, the claim of the candidate was discarded from project affected person category, hence this petition.

7. According to learned Counsel for the petitioner, if the admission form of the candidate is evaluated, the admission to B.V.Sc. Course-2017-2018, in the application form, he has claimed admission from project affected person category. He would then urge that as per policy of the Government, the project affected person benefit are continued till same are exhausted, as neither the petitioner himself, nor his son i.e. candidate or his grandfather has taken benefit thereof anytime before. According to learned Counsel for

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the petitioner, since candidature of son of the petitioner, in the beginning disclosed the intention to seek admission as project affected person, the respondent authorities are neither taken by surprise because of his candidatures, nor if granted benefit will cause any prejudice to any other students, particularly when it is policy of the Government to confer benefit in perpetuity till the claim is exhausted. Learned Counsel would then urge that petitioner's certificate was produced alongwith the application under impression that father's certificate will suffice the claim of candidature of his son, however, before cut-off date for production of correct documents, son of the petitioner has produced certificate dated 17th July, 2017 of project affected person. As such, before provisional list of selected candidates is declared, there is subjective compliance alongwith documentary evidence. According to him, as such, directions needs to be issued to the respondent to consider the claim of the candidate from project affected person.

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8. Per contra, learned Counsel for respondent No.2 submits that admission brochure contains clause, which deals with re-submission of deficient documents, which reads thus :

"A list of candidates who failed to upload or have wrongly uploaded the desired documents will be displayed on website. These candidates will be required to upload only the indicated documents within the due date specified by the University. However, the required documents shall have been issued before last date of submission of application form.

Additional documents will not be accepted after due date specified for the purpose of resubmission of deficient documents."

9. According to him, on the date of application, candidate was not holding the

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certificate as project affected person. According to him, last date of application as per prescribed schedule is 7th June, 2016. Apart from PAP claim, candidature of son of petitioner is considered by Admission Committee under NT-D category and as such, petitioner's son is not debarred from participating in the admission process. According to him, perusal of rule contemplates a mandatory compliance, as such, the petition is devoid of merit and be rejected.

10. What is required to be gathered from the record is, son of the petitioner has cleared requisite examination i.e. NET Examination/2017, which formed to be basis for applying for admission to the B.V. Sc. and A.H. Course. In the application, he has disclosed in the caste and category clause that he belong to NT-D category and has also disclosed that he is project affected person. Alongwith the application form, which was submitted within time, the candidate produced certificate of project affected person of his

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father i.e. petitioner. However, having realized, pursuant to the objection of the University, within time stipulated, i.e. by 22nd July, 2017 the candidate uploaded his own certificate as project affected person.

11. From the aforesaid conduct of the petitioner, it could be noticed that the candidate claimed admission from the category of project affected person from the first date of application. For the said claim, he relied upon the certificate of his father, which upon objection by respondent, was rectified by producing his own certificate of project affected person. Such compliance is carried out by him within calender prescribed by respondent No. 2.

12. It is to be noted that, plain reading of relevant rule, particularly in regard to resubmission of deficient documents, the relevant rule itself provides for rectification by producing deficient document, with only rider that such

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document shall have to be issued before last date of submission of the application form.

13. What is gathered from the conduct of the candidate that he has produced certificate of project affected person of his father and claimed admission and said defect was rectified by him by producing his own certificate, may be of subsequent date. In such eventuality, clause that certificate has to be of prior to the date of filing of the application and as such, there exists an embargo on his right to produce such certificate to cover up the deficiency will not be attracted. The reason being, the authorities were not taken by surprise, because of claim of candidate of seeking admission as project affected person. The candidate, has produced supporting document thereof, which rule itself contemplates an opportunity to rectify the defect or shortfall.

14. In the aforesaid background, in our opinion, the claim of respondent No.2 that

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candidature of the son of petitioner for admission to B.V.Sc. course cannot be considered from project affected person category does not hold any basis and as such, liable to be quashed and set-aside.

15. In view thereof, the decision of respondent No.2 that candidature of son of the petitioner namely Onkar Sharadchandra Kagane claiming admission to B.V.Sc. Course-2017-2018 from project affected person is hereby quashed and set aside. It is directed to consider the claim of candidate from project affected person category in accordance with its merit.

16. With above observations, writ petition stands allowed.

(N.W. SAMBRE, J.)

(SHANTANU S. KEMKAR, J.)