

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

WRIT PETITION NO. 12418 OF 2017

Hashmi Syed Hamed Syed Mohsin .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri Ajinkya Reddy, Advocate for the Petitioner.

Shri P. S. Patil, Addl.G.P. for Respondent Nos. 1 and 4.

Shri R. C. Bora, Advocate for the Respondent No. 2.

The Respondent No. 3 is served.

**CORAM : S. V. GANGAPURWALA AND
S. M. GAVHANE, JJ.**

DATE : 29TH NOVEMBER, 2017.

FINAL ORDER :

. Mr. Reddy, the learned advocate for the petitioner submits that, the petitioner was admitted to IInd year B. E. Mechanical course for the academic year 2014-2015. The petitioner was given admission from the general open category. The petitioner had filled in form from general open category and even the petitioner was allotted seat of general open category. The State of Maharashtra had issued an ordinance specifying fifty castes of Muslim community as Special Backward Class (S.B.C.). The petitioner claims to belonging to Muslim Sayyed caste, which was one of the caste notified as S.B.C. The ordinance which was

issued never culminated into an Act. The ordinance was never laid before the House and the said ordinance after six months lapsed. Only because after the petitioner was admitted, the petitioner had submitted an application and certificate of S.B.C., the proposal of the petitioner was referred to the Committee for validation and on that basis result of the petitioner is withheld. The learned advocate submits that, the petitioner having been allotted general open seat, the petitioner also having paid the full fees as applicable to the general category candidate and the petitioner not having taken benefit of reservation of S.B.C., there is no propriety in withholding the result.

2. The learned advocate in alternate submits that, as the ordinance has lapsed and it has never taken shape of an Act/statute, even the Committee would not be in a position to verify the certificate issued to the petitioner of S.B.C. The position would become irreversible. Even if the petitioner would have been admitted from S.B.C. category, the admission of the petitioner still would have been protected. The learned advocate refers to the judgment of the Apex Court in a case of **Krishna Kumar Sing and another Vs. State of Bihar and others** reported in (2017) 3 SCC 01.

3. The learned advocate for the university accepts that the petitioner has been allotted general open seat and not a seat

meant for 5% S.B.C. reservation.

4. We have also heard the learned Assistant Government Pleader for respondents/State.

5. Considering the fact that, the petitioner was admitted to IInd year B. E. Mechanical course from general open category and had not taken benefit of 5% reservation meant for S.B.C. as per the ordinance promulgated by the State of Maharashtra, no further question would arise of withholding the result of the petitioner. The ordinance itself is not in force. In view of that, there would be no propriety for the Committee to decide the validation proceedings. The petitioner has also paid full fees as contended by him.

6. In the light of the above facts, there would be no impediment for the respondent Nos. 2 and 3 to declare the result of the petitioner's examination and if the petitioner is otherwise eligible for issuance of degree certificate. The writ petition accordingly is disposed of. No costs.

[S. M. GAVHANE, J.]

[S. V. GANGAPURWALA, J.]