

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2400 OF 2015

WITH

CIVIL APPLICATION NO. 1321 OF 2017

Akash Bhagvanbhai Solanki

.... Petitioner

vs

1 State of Maharashtra

2 Divisional Caste Certificate

Scrutiny Committee No.1

3 Director of Technical Education

4 Principal,

Vidyavardini College of Engineering

and Technology, Vasai Road

.... Respondents

Mr. C.K. Bhangoji for the petitioner/Applicant.

Mr. A.I. Patel, Addl. G. P. for respondents 1 to 3.

Mr. C.K. Thomas i/by C.K. Thomas & Associates for respondent No.4.

Mr. Asadwlah Shaikh for Mr. R.A. Rodriques for respondent No.5.

**CORAM: B. R. GAVAI &
RIYAZ I. CHAGLA, JJ.****DATE : June 30, 2017**

P.C. :

1 Rule. Rule is made returnable forthwith. Heard finally by
consent of parties.

2 Though the Petitioner had initially approached this Court

being aggrieved by order dated 31 December 2014 passed by Respondent No.2-Committee thereby invalidating the claim of the Petitioner of belonging to Mochi-Scheduled Caste, the Petitioner has given up the said claim and restricting the claim in the present Petition only for the protection of the education undertaken by him.

3 The perusal of the various orders passed by this Court would reveal that by virtue of the interim orders passed by this Court, the Petitioner has been permitted not only to pursue the course but also to appear for the examinations. The result of the appearance of Petitioner's examination is also declared and the Petitioner is successful in the examination. However, only on account of the pendency of this matter, the Petitioner has not yet been awarded the degree in B. E. (Electronics and Telecommunication).

4 We find that even if we direct the admission of the Petitioner to be set aside, at this stage no-one would be benefited inasmuch as no-one can be granted admission against a seat for which the Petitioner was admitted and which course now he has fully completed. Apart from that the case of the Petitioner would fall in

the gray area which is covered by the judgment of the Apex Court in *Sudhakar Kumbhare v. State of Maharashtra*¹.

5 In that view of the matter, we find that in the peculiar facts and circumstances of the case, it is just and necessary that the Petitioner's admission needs to be protected. It is not in dispute that the Petitioner has paid the entire fees as payable by a candidate belonging to the open category and has not been given the benefit in so far as the payment of fees is concerned.

6 In this view of the matter, Rule is made absolute in the following terms:

ORDER

(a) The admission of the Petitioner for the course in Respondent No.4-College for the B. E. (Electronics and Telecommunication) is directed to be regularised. However, the same shall be treated as from the open category and not from the reserve category.

1 (2004) 9 SCC 481

(b) The Respondent/University is directed to issue a degree certificate in favour of the Petitioner within a period of four weeks from today.

(c) Writ Petition is disposed of accordingly.

(d) In view of disposal of Writ Petition, Civil Application No.1321 of 2017 is also disposed of accordingly.

(RIYAZ I. CHAGLA J.)

(B. R. GAVAI J.)