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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (Stamp) No. 22085 of 2017.

Swaraj Sanjay Bhise,
age 21 years, presently residing at
Nave Nagar, Mahad, Shedav Road,
District Raigad.

..Petitioner.

Vs

- 1) State of Maharashtra
Through it's Department of Higher
Technical Education, Mantralaya,
Mumbai.
- 2) State CET Cell,
Directorate of Technical Education,
3, Mahapalika Marg,
Opp. Metro Cinema, Dhobi Talao,
Chhatrapati Shivaji Terminus Area,
Mumbai, Maharashtra 400 001.
- 3) Kolhapur Institute of Technology's
College of Engineering,
Gokul Shirgaon,
Kolhapur, Maharashtra 416012.

..Respondents.

Ms. P.V. Thorat, Advocate for the Petitioner.
Mr. C.P. Yadav, A.G.P. for Respondent No.1.

**CORAM : ANOO V. MOHTA, & SMT.
BHARATI H.DANGRE JJ.**

RESERVED FOR ORDER ON: 28th August, 2017

PRONOUNCED ON : 8th September, 2017.

JUDGMENT (Per:- Smt. Bharati H. Dangre, J)

1) The petitioner is aspiring to secure admission in Engineering Course in the year 2017-18 and claims to be belonging to Hindu-Mahar caste which is recognised as a Scheduled Caste. He has passed his 12th Standard Examination in the year 2013 by securing 48.67% marks. The petitioner appeared in Common Entrance Examination (CET) conducted in the year 2013 and on the basis of his score of 59 marks out of 200 secured admission in Kolhapur Institute of Technology's College of Engineering via Centralized Admission Process (CAP) round. The petitioner is now prosecuting his studies in the III year of Engineering. However, he has been refused to keep terms and has been asked to appear for the first year examination, since on the alleged ground of ill health he did not appear for some of the examinations or failed to clear examinations.

2) However, the petitioner appeared for Maharashtra CET again in the year 2017. The Government of Maharashtra through Directorate of Technical Education had framed Rules in the form of information brochure for admission to undergraduate technical courses (2017-18). As per the said Rules in order to secure a seat belonging Maharashtra State, a candidate is required to have passed H.Sc. or its equivalent examination with Physics and Mathematics of compulsory subjects along with Chemistry or Bio-Technology, Biology or Technical or Vocational subject and obtain at least 50% & 45% marks (in the case of backward categories and persons with disabilities) noted above subjects taken together and obtained score in CET conducted by the Competent Authority.

3) The present writ petition is filed by the petitioner seeking a direction to the Respondents Authorities to relax the eligibility criteria from 45% to 40% to the petitioner who belongs to backward class category and to consider the petitioner eligible for admission to Bachelor of Engineering Course for the Academic year 2017-18. The petitioner has

further sought a declaration that the eligibility criteria prescribed by the Respondent State for the academic year 2013-14 shall be made applicable to the petitioner for admission to Bachelor of Engineering Course for the Academic Year 2017-18. The petitioner has also filed another Writ Petition No. 1753 of 2017 in which he prayed for directions to the University to relax the norms framed by the University and permit him to keep terms for his B.E.Course. The said writ petition came to be disposed of by this Bench (Coram: Anoop V.Mohta and Smt.Bharati H.Dangre,JJ) on 28th August, 2017 by permitting the petitioner to withdraw the same and make representation to the respondents.

4) The petitioner is a student who was admitted to B.E. (1st year) on the basis of CET score in the year 2013 and on account of his alleged ill health did not clear the engineering examinations for three years. Apprehending that he will have to appear for first year examination of engineering with all subjects, he appeared for CET 2017 desirous of seeking fresh admission in the engineering course. However, the

Directorate of Technical Education displayed the eligibility status of the petitioner's candidature as follows:-

“As you have less than 44.50% marks in subject Physics, Chemistry, Mathematics added together and Physics, Mathematics and Information Technology (97) added together in Hsc. So you are not eligible for admission.”

5) Being aggrieved, the petitioner has approached this Court and want this Court to apply the eligibility criteria which was in existence in the year 2013-14 when he passed his H.Sc. Examination and want to fall back to the said year when the Respondents Authorities had taken a conscious decision to reduce the eligibility criteria for the candidates who appeared in H.Sc. Examination in that particular year, in the light of overall result of the candidates appearing for H.Sc. Examination in that year which was found to be relatively poor.

6) It is noteworthy to mention that in the year 2013-14 when the petitioner had passed his H.Sc. Examination and had scored 48.67% marks, he was held eligible by relaxing the

required score. The petitioner wants to turn the clock back to the year 2013 and seek the same relaxation for the year 2017 by relaxing the eligibility criteria from 45% to 40%. We see no reason to do so nor do we see any justification for doing so. The petitioner has passed his H.Sc. Examination in the year 2013 and got admitted in the Engineering Course but for some reason he has not been able to clear terms in Engineering and, therefore, after three years he again appears in CET-2017 when the norms and the eligibility minimum qualification have been raised to 50% in case of open category candidates and 45% in case of backward category candidates and since the petitioner falls short of that he wants to relax the said norms as was done in the year 2013. The petitioner has not been able to clear the Engineering of Examination and has approached this Court seeking relaxation of the rules permitting to keep terms framed by the University. We do not find any justification for relaxing norms in favour of the petitioners as there may be many students who might have been deprived of admissions by applying yardstick of minimum score who have appeared in

2017 CET and who did not score the minimum marks as required and they might have been ousted from the admission process. In such circumstances, we do not find it fit to grant benefit of the norms in existence in the year 2017 when they were relaxed by the authorities on a peculiar ground restricting it that year and it cannot be made applicable to the petitioner after three years.

A need for prescribing the minimum eligibility criteria has already been upheld by this Court by which one of us (Anoop V. Mohta,J) was Party in case of Akash Laxman Sakat vs. State of Maharashtra & Ors reported in 2014 (5) Mh.LJ 576 when this Court has recognised the power of the State Government to fix rules and to frame the policy of higher eligibility criteria. Fixing of minimum qualifying marks was upheld by the Hon'ble Apex Court in case of Visviewaraiah Technological University & Anr Vs. Krishnendu Halder & Ors (2011) 4 SCC 606, wherein the Apex Court has held that in spite of the vacancies in existence, the higher eligibility criteria needs to be given a weightage to maintain better standards, the

same being part of academic policy of the University and it is beyond the purview of judicial review unless and until it is established that such standards are arbitrary and adversely affecting standard, if any, fixed by the Central Government in the Central Enactment. Thus, when the State Government has fixed the minimum eligibility criteria to maintain standards of a particular curriculum, it is not expedient in the interest of justice to interfere with the same and to relax the said standards in favour of the petitioner who has not made out any exceptional case and rather is intending to take advantage of his own wrong as he is not able to clear the engineering examinations and wants to compete again after three years on the basis of norms which were in existence prior to three years.

We do not find any merit in the writ petition and the petitioner do not deserve any relief as claimed. The Writ petition is dismissed. No order as to costs.

(SMT. BHARATI H.DANGRE J) (ANOOP V. MOHTA, J).