

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9717 OF 2017

Mr. Avishkar Sanjay MorePetitioner
V/s.
The State of Maharashtra & Ors.Respondents

Mr. Uday P. Warunjikar, Advocate for Petitioner.
Mr. C.P.Yadav, AGP for the Respondent-State.
Mr. Mihir Desai, Senior Counsel i/by Mr. Rahul Gaikwad, Amit Karkhanis i/by KAY LEGAL & Associates, Advocates for Respondent No.4.

**CORAM :- B.R.GAVAI &
SANDEEP K. SHINDE, JJ.**

DATE :- 12TH OCTOBER, 2017.

PC. :-

Rule. Heard by consent.

2 The Petition arises out of peculiar facts and circumstances. The Petitioner had, in response to admission notice published by the Respondent No.2, applied for textile engineering group which has main group code as '7'. In the said main group, he had applied for course of Textile Manufacture (Cotton) which has subject group code as '701'. It appears that after the second round of admission was over, in the third round, the Petitioner received on-line intimation on 23.8.2017 that he was found eligible to be

admitted against the said post. College which was assigned to the Petitioner was the Respondent No.3-College. Accordingly, when the Petitioner went to the Respondent No.3-College for securing his admission, he was informed by SMS that he could not be admitted and that additional round allotment is revised and that allotment of the college which was done earlier stands cancelled. In enquiry, the Petitioner was informed that the Respondent No.4 had made representation to the effect that he had written Code '702' erroneously whereas he intended to apply for code '701'. It was informed that on the basis of his representation, admission to the Petitioner was cancelled and it was granted to the Respondent No.4. Hence, the present Petition.

3 When the matter was listed before this Court on 10.10.2017, the learned AGP was put a pertinent query as to whether Rules provide for change in admission, once on-line applications were submitted. The learned AGP fairly conceded that there is no such provision in the Rules, however, since the Respondent No.4 was more meritorious than the Petitioner, representation of the Respondent No.4 was considered on humanitarian ground.

4 On the said date when we had started dictating the

matter for allowing the Petition, the Respondent No.4 appeared in person. We were of the view that the Respondent No.4 is also meritorious student and his career should not be adversely affected as such, we had requested the learned AGP to take instructions from the Competent Authority as to whether the Respondent No.4 can be accommodated in any college. The learned AGP on instructions stated that the Petitioner can be accommodated in Guru Gobind Singhji Institute of Engineering and Technology, Nanded in the subject group code '701'. The Respondent No.4, however, sought time to engage lawyer as such we kept the matter today.

4 Mr. Mihir Desai the learned counsel for the Respondent No.4 states that the Respondent No.4 is willing to accept admission in Guru Gobind Singhji Institute of Engineering and Technology, Nanded.

5 We are, therefore, of the considered view that action of the Respondent-Authority in cancelling allotment to the Petitioner after second round was complete only on the basis of representation of the Respondent No.4 was erroneous. It appears that the Respondent No.4 waited till second round of admission was over and only thereafter made representation. Undisputedly, same is not permissible in law.

6 In any case, now since the Respondent No.2 has agreed to offer admission to the Respondent No.4 in the same subject though at Nanded College, we find that interest of both the Petitioner and the Respondent No.4 shall be taken care of. In the result, Rule is made absolute in the following terms:

- (1) The decision of the Respondent No.3 of cancelling allotment of the Petitioner to the Respondent No.3-College for group code '701' is quashed and set aside.
- (2) The Respondent No.3 is directed to admit Petitioner for subject group code '701'.
- (3) The Respondent No.2 shall admit the Respondent No.4 for subject group code '701' in Guru Gobind Singhji Institute of Engineering and Technology, Nanded.
- (4) No order as to costs.

7 Parties to act upon an authenticated copy of this order.

(SANDEEP K. SHINDE, J)

(B.R.GAVAI, J)