IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CAW NO. 702/2017 AND WRIT PETITION NO. 7094 OF 2016

(Anupama d/o Asaram Shelke vs. State of Maharashtra thr. Secretary, Department of Medical Education & Ors.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's Orders.	Court's or Judge's orders.

CORAM : B.P. DHARMADHIKARI &
ROHIT B. DEO, JJ.
JULY 04, 2017.

Civil Application No. 702 of 2017 is disposed of as not pressed.

2. Heard sufficiently Shri B.W. Patil, learned counsel for the petitioner, Mrs. K.S. Joshi, learned AGP for respondent No. 1, Shri N.S. Khubalkar, learned counsel for respondent No. 2 and Shri A.A. Naik, learned counsel for respondent No. 3.

3. It appears that one seat available in Government of India quota for admission with Respondent No. 3 – College, till the last date for filling-in the same i.e. till 28.11.2016, was later on filled-in at College level by Respondent No. 3. The petitioner was accordingly admitted. However, on 13.12.2016, her admission has been cancelled on the ground that seat was not available for her on 30.11.2016, when admission was given.

4. It is not in dispute that 30.11.2016 was the last

date for filling-in seats remaining vacant in State quota or Government of India quota.

5. The effort of the learned counsel for respondent No. 2 is to demonstrate that when within time i.e. before 28.11.2016, by following proper procedure, papers of a student from Iran were forwarded to Respondent No. 3 – Dean for scrutiny, Respondent No. 3 – Dean should have completed that scrutiny and reported compliance therewith so as to enable further steps to be taken. If the documents furnished by that student from Iran were found in order, the student could have been admitted against only vacant seat in Government of India quota with Respondent No. 3 – College before 28.11.2016. As respondent No. 3 avoided to look into those documents and did not respond, this situation has cropped up. The learned counsel submits that thus even after 28.11.2016 there could not have been a vacant seat in Government of India quota and there was, therefore, no vacant seat available for the petitioner.

6. The learned counsel has also pointed out that the petitioner has annexed with the petition an incomplete chart to demonstrate availability of vacant seat. He has for that purpose compared document at Annexure P-2 with the document at Annexure 3, filed by respondent No. 2.

7. The learned counsel for respondent No. 3 has stated that the documents necessary for scrutiny were never received by Respondent no. 3 and as such, there was no

question of reporting any compliance to Respondent No. 2. As the seat was lying vacant, appropriate guidance was sought from respondent No. 2 and in the light of that guidance, seat has been filled-in.

8. The learned counsel for the petitioner submits that the petitioner has been admitted validly as per law and is not at fault in the matter. The dispute inter-se between respondent No. 2 and respondent No. 3 can be resolved by them but for that the petitioner cannot be made to suffer.

9. The document alleged to be incomplete document, is filed by the petitioner as Annexure P-2. It is a list of vacant seats published by Respondent No. 2 on 28.11.2016. There, one general seat is shown vacant in Government of India quota. The petitioner claims that he has been admitted against that vacancy as it was not filled-in by last date. This contention, therefore, militates with the submission of respondent No. 3 that an incomplete document has been filed by the petitioner to mislead this Court. The position emerging from page 31 (Annexure 3) filed by said respondent and Annexure P-2 mentioned supra, is same.

10. At this stage, the learned counsel for respondent No. 2 has invited our attention to a document filed at Annexure P-4. It is a bonafide certificate issued by the Dean to the petitioner on 30.11.2016. Total eight documents submitted by her are acknowledged there. At the bottom,

Respondent No. 3 has put a remark that admission was given against Government of India vacancy and if any orders of Government to the contrary were received, it was liable to be cancelled. The Dean also directed that an undertaking be obtained accordingly from the student.

11. This direction or undertaking furnished by the petitioner does not make the admission given to her after expiry of last date for filling-in quota at institute level illegal. Respondent No. 2 has not pointed out to this Court any provision which did not permit respondent No. 3 o fill-in seats remaining vacant in Government of India quota after last date i.e. 28.11.2016. The said respondent also does not plead that seat was occupied by any other student.

12. In this situation, we find the order of cancellation of admission of the petitioner dated 13.12.2016 unsustainable. It is quashed and set aside. We direct respondent No. 3 to readmit the petitioner to the course and to permit her to prosecute her studies as per law.

13. Writ Petition is accordingly allowed and disposed of. However, there shall be no order as to costs.

JUDGE **JUDGE**

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