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

WRIT PETITION NO. 8672 OF 2018

1. Shivdatt s/o Vishnupant Khode,
Age: 22 years, Occu: Student,
R/o. Gugal Pimpri, Tq. Segaon,
Dist. Hingoli
2. Shrutika d/o Sadashiv Mulavekar,
Age: 30 years, Occu: Student,
R/o. Venkatesh Colony,
Chetak Ghoda Chowk,
Tq. & Dist. Aurangabad ..PETITIONERS

VERSUS

1. The State of Maharashtra,
through the Secretary,
Higher and Technical Education,
Mantralaya, Mumbai-32
2. The Joint Director,
Technical Education Regional Officer,
Near Govt. Polytechnic, Peer Bazar,
Osmanpura, Aurangabad
3. Director,
Directorate of Technical Education,
3, Mahapalika Marg, Mumbai,
Maharashtra
4. The Commissioner of
Competent Authority CET,
Fort, Maharashtra ..RESPONDENTS

Mr V. P. Kadam, Advocate for petitioners;
Mr S. M. Ganachari, A.G.P. for respondent/State;
Mr S. G. Karlekar, Advocate for respondent No.4

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**CORAM : PRASANNA B. VARALE &
S. M. GAVHANE, JJ.**

DATE : 31st JULY, 2018

ORAL ORDER :

Heard Mr. Kadam, learned Counsel appearing for the petitioners at length.

2. As the matter is urgently circulated by the learned Counsel appearing for the petitioners, on 30th July, 2018 we issued notice to the respondents making the same returnable forthwith. Mr. Karlekar, learned Counsel appearing for respondent No.4, on oral instructions, submitted that there is notification issued. Considering the submissions referred to by us in the order dated 30th July, 2018 we directed Mr. Karlekar, learned Counsel to file short affidavit. Today, reply is filed on behalf respondent Nos. 2,3 and 4.

3. Mr. Kadam, learned Counsel appearing for the petitioners submitted that the petitioners are the meritorious students and have completed basic

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degree of Bachelor of Technology in Food Technology. The petitioners were desirous of seeking admission to post graduation course and as per common entrance test programme submitted their applications. He invited our attention to the documents placed on record in support of his submissions. He then submitted that the petitioners could find place in the merit list and submitted copy of the application at Exhibit-B. He further submitted that as per time table of the rounds for admission of the desirous candidates for post graduate course, the first round concluded on 25th July, 2018, second round starts from 31st July, 2018 and concludes on 1st August, 2018.

4. Mr. Kadam, learned Counsel then submitted that the petitioners, who were placed in the merit list, were desirous of taking their admission to the institutions as per their choice claimed in the list of preference, as such, submitted their candidature against the institutions of their preference by way on line process. He then

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submitted that while doing so, the petitioners found that the system was not responding for giving their choice of their institutions. It was submission of learned Counsel for the petitioners that while exercising such choice by way of online process, window to put claim for the choice of the institution was not getting opened. As the petitioners were not receiving positive response in online process for 'select course name', the petitioners being apprehended that they may lose their claim for choice of institution and ultimately may not get the admission for the post graduate course in the online process, immediately approached this Court by filing present petition. The contention to the effect that system was not responding to the petitioners is raised in paragraph-5 of the petition.

5. Learned Counsel appearing for the petitioners then submitted that other similar situated student namely Narwade Vijaykumar Marotrao also submitted his application and claimed choice

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for institute. In the case of Narwade Vijaykumar, there was positive response from the system. Narwade Vijaykumar Marotrao gave choice for three institutions namely University Institute of Chemical Technology, North Maharashtra University, Jalgaon, G.S. Mandal's Maharashtra Institute of Technology, Aurangabad and Department of Technology, Shivaji University, Kolhapur. The documents to that effect are placed collectively at Exhibit-F.

6. Considering the grievance, we have directed Mr. Karlekar, learned Counsel appearing for respondent No.4 to file reply. Mr. Karlekar invited our attention to the reply filed on behalf of respondent Nos. 2,3 and 4. Mahesh Dattopant Shivankar, Joint Director, Technical Education, Regional Office, Aurangabad is authorized to file reply on behalf of these respondents. Mr. Karlekar and learned A.G.P. invited our attention to the document placed on record along with affidavit of respondent No.4. Said document is placed on record

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with affidavit as annexure R-1. This is an admission notice published by the State and the title of the document reads as 'State Common Entrance Test Cell, Maharashtra, Mumbai, Admission notice for M.E./M.Tech for academic year 2018-19.

7. It would be relevant even refer to opening part of the said communication and this reads, 'this notice is being issued for Online Registration & uploading of documents, Documents Verification and Application Form Confirmation at Facilitation Centres (FC) by candidates aspiring for admissions to First Year of Full Time Post Graduate Courses in Engineering and Technology (M.E./M.Tech) in the Government, Government Aided, University Managed Institutes, University Managed Departments and Unaided private professional educational institutes for the Academic Year 2018-19 in the Maharashtra State'. Then the document refers to eligibility criteria for various types of candidates for admission. Two categories are carved out under the title, 'Maharashtra State

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Candidates' and 'All India Candidates (AI)'. It will be again useful for our purpose to refer to the eligibility norms under the title, 'eligibility for admission, which read thus:

(i) The candidate should be an Indian National;

(ii) *Passed Bachelor Degree in the relevant field of Engineering and Technology or Pharmacy or Architecture from All India Council for Technical Education or Central or State Government approved institutions or equivalent, with at least 50% marks (at least 45% marks in case of candidates of Backward class categories and persons with disability belonging to Maharashtra State only);*

(emphasis supplied)

(iii) Passed Bachelor Degree in the relevant course of Engineering and Technology or Pharmacy or Architecture as specified in the eligibility criteria for admission to a Post Graduate Degree course of the concerned University for which

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admission is being sought;

(iv) Obtained Non Zero Positive Score in Graduates Aptitude Test in Engineering (GATE) conducted by Indian Institute of Technology; or

(iv) Obtained Non Zero Score in Graduates Pharmacy Aptitude Test (GPAT) conducted by ALL India Council for Technical Education; or

(iv) For sponsored candidates, minimum of two years of full time work experience in a registered firm/company/industry/educational and/or research institute/any Government Department or Government Autonomous Organization in the relevant field in which admission is being sought'.

8. Mr. Karlekar, learned Counsel appearing for respondent No.4 placed a heavy reliance on these norms and eligibility criteria for admission and submitted that it was made clear to the candidates in general by way of this notification

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which was submitted in online process that eligibility criteria would be a candidate passing bachelor degree in the relevant field of Engineering and Technology or Pharmacy or Architecture from All India Council for Technical Education or Central or State Government approved institutions or equivalent, with at least 50% marks (at least 45% Marks in case of candidates of Backward class categories and persons with disability belonging to Maharashtra State only) and the application form submitted by the petitioner, copy of which is placed on record at Exhibit-B clearly shows that the petitioner completed his degree of Food Technology from Agricultural University. Thus, Mr. Karlekar submitted that the petitioners were not entitled to stake their claim in view of the eligibility criteria.

9. Mr. Karlekar, learned Counsel appearing for respondent No.4 invited our attention to the statement made in the reply at paragraph-7, which reads thus :

"7. I say and submit that, the petitioners do not possess Bachelor or Degree in the relevant field of Engineering and Technology or Pharmacy or Architecture from All India Council for Technical Education or Central or State Government approved institutions and hence are not eligible and for which reason they are able to fill the options."

10. Insofar as ground of discrimination raised by the petitioners by submitting documents in respect of other candidate Narwade Vijaykumar Marotrao is concerned, Mr. Karlekar invited our attention to the statement made in the affidavit at paragraph-8, which reads thus :

"8. I say and submit that, the degree possessed by the petitioners acquired from the agricultural university is not a degree as prescribed in the eligibility criteria and therefore provisional acceptance or acceptance of any form with such degree from agricultural university will not entitle any student to claim admission to M.E./M.Tech course as claimed by the petitioners."

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11. As it is the statement made before this Court on oath by the competent authority that even other candidate Narwade Vijaykumar Marotrao might have stake his claim, he would not be entitled for admission in the course, we accept this statement.

12. Learned Counsel appearing for the petitioners though made an attempt to submit before us by placing a heavy reliance on notification issued by the State Government dated 5th June, 2018 to submit that as per CAP process, the petitioners were placed in the merit list and according to clause-9 of the admission process, the petitioners submitted their application forms and the application forms are erroneously rejected.

13. We are unable to accept this submission for the reasons that merely because the petitioners submitted their application forms and they were placed in the category of meritorious students and

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then there is a clause referring to the verification of the documents of these candidates by the competent authority would not create an absolute right in favour of the petitioners to say that in no event, the petitioners' claim for selecting institution could be rejected. This submission is having fallacy inbuilt. The notification dated 5th June, 2018 is only about the norms of CAP process and the formalities which are to be completed in the process. This notification would not create an absolute right in favour of any candidates to say that even rules are not permitting the candidate for admitting the course. The candidate's claim will have to be accepted out rightly only because of exercise of verification of his documents is undertaken by the competent authority.

14. Learned Counsel appearing for the petitioners also made a submission before us that Joint Director who has filed affidavit in this Court is not the competent authority and it is only

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All India Council for Technical Education is the competent authority. Now, the petitioners themselves have chosen not to add All India Council for Technical Education as a party respondent and in this situation, the petitioners raising certain objections on the status and competence of respondent No.4. Thus, we are not inclined to accept this submission also of the learned Counsel appearing for the petitioners.

15. Considering these facts, we are of the opinion that the petition lacks merit. Resultantly, we are unable to entertain the petition and the petition is accordingly dismissed.

(S. M. GAVHANE)
JUDGE

(PRASANNA B. VARALE)
JUDGE