

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

WRIT PETITION NO. 9117 OF 2018

**TEJAL BALASAHEB KALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr. A.N. Kakade, Advocate for the petitioner
Mr. R.B. Bagul, AGP for the respondent/State
Mr. M.D. Narwadkar, Advocate for respondent No.4.
Mr. D.G. Nagode, Advocate for respondent No.5.

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

DATED : 09.08.2018

P.C. :-

Heard Mr. A.N. Kakade, learned counsel appearing for the petitioner. The petitioner is before this Court with a prayer that the respondent authorities be directed to consider the petitioner's application for the II year of 4 years degree course in the Engineering Technology for year 2018-19 for the option form of CAP round 3 from the OBC category as per the merit.

2. We have referred to the submissions of the learned counsel in our order dated 07.08.2018 while issuing the notice. The submission was that the petitioner approached the facilitation center for filling up her application form by way of online process. Though the petitioner attended the facilitation center with requisite documents and filled up the application form and was expecting that her name would appear in the merit list, on perusal of the merit list the petitioner found that the her name is not appearing

in the merit list. It was the submission that for no fault of the petitioner, petitioner would be deprived of seeking admission. Our attention was invited to the documents, namely, the copy of the application form submitted by the petitioner for State Common Entrance Test with the State Common Entrance Test Cell for admission to direct II year of 4 year degree course in Engineering Technology for the year 2018-19. Copy of the application is placed on record at Exh. "C", page 35 of the petition. Then there are certain documents i.e. the certificate issued by the Maharashtra State Board of Secondary and Higher Secondary Education, Pune, the certificate issued by the office of the Tahasildar known as Domicile Certificate, the Caste Certificate and the Certificate of Validity issued by the Competent Scrutiny Committee. A certificate is also placed on record to submit the Annual Income of the father of the petitioner issued by the Tahasil office, Karjat.

3. In view of the submissions of learned counsel Mr. Kakade, we had directed respondent authorities to file reply.

4. The learned counsel appearing for the respondent No.5 invited our attention to the affidavit in reply filed at the instance of Shri. Anil Jadhav, Assistant Professor attached to the facilitation center and Coordinator who is working as Professor in faculty of Engineering at Swami Chincholi. The respondent authority is not disputing about the process of filling up of the application form through online process and

having made the availability of facilitation centers for the students. Our attention is invited to the factual scenario at the facilitation center and the procedure. We took place at this facilitation center, it would be relevant to refer to the statements in the affidavit in reply and the same reads thus:

"It is admitted fact on record that, the petitioner has come with this centre for verification as at first stage she has already fill up the form online herself at outside the F.C. and accordingly her documents were verified original documents with xerox copies (ii)and accordingly sign and stamp by the table no.(ii), i.e. verification team on 14.07.2018 and she has been handed over original documents alongwith Xerox copies with application form, which is verified by the team at table no.(ii) and she was told to go to the table no.(iii) and (iv) for uploading documents and confirmation of application form, however, without following said procedure she had left the premises of the facilitation centre."

5. Thus it is the submission of the authority that there is neither negligence or any mistake on the part of the respondent authority and the petition is only misconceived. It is not in dispute that the admission procedure is made known to the students at Exh."D". The notice is placed on record. It may be relevant to refer to third part of the notice, which deals with the activity and schedule.

Sr. No.	Activity	Schedule	
	For Maharashtra State/All India Candidates	First Date	Last Date
1.	Online registration of application and uploading of required documents by the Candidate for admission on website (For Maharashtra State/All India)	06-07-2018	20-07-2018

	Note:-\$ Candidates claiming category reservation and do not possess Caste/tribe Validity, Non Creamy Layer Certificates (as applicable) shall upload the receipt of submission of application for obtaining such certificates from the respective authority.		
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6. The learned counsel appearing for the respondent authority as well as the learned AGP submitted that it is made known to the students that confirmation of the application form is an important and material formality of the process.

7. The said notice also refers to important notes and clause (1) of the note reads.

"1. All types of candidates aspiring for admission under CAP seats shall register, get Documents Verified & Application Form confirmed at any designated Facilitation Center. Such eligible registered candidates shall be considered for CAP Merit and admission through CAP."

(Emphasis supplied)

8. The learned counsel appearing for respondent No.5 submitted that the petitioner left the facilitation center without waiting for completing the formality of confirmation of the application which is a prerequisite and is the most important condition as stated in the notice. Then it is stated that the petitioner is now blaming the authorities whereas a mistake is committed by the petitioner herself and as the prerequisite i.e. the confirmation of application is not obtained by the petitioner. The respondent authorities are unable to consider the request of the petitioner at this stage.

9. Learned AGP invited our attention to the instructions provided to the Government Pleader by communication dated 07.08.2018. It may not be necessary to refer to these instructions as they are about the prerequisites and then the only relevant part of these instructions is that upon confirmation of application form, information cannot be changed by candidate meaning thereby reiterating that the confirmation is the most important prerequisite while submitting the application form. The instructions are taken on record and marked "X" for identification. Now these application forms are take on record and marked "X-1" for identification. Now the first document is the application submitted by the candidate. It bears signature of the candidates and second is the receipt of confirmation which refers to the details such as confirmation. Thus, it is the submission of the learned AGP that this is a procedure which is to be followed scrupulously by the authorities and the students are expected to fill up the application form and get confirmation as soon the application form is confirmed. The confirmation receipt is generated and the student is entitled to get such a confirmation receipt. Thus, the learned counsel appearing for respondent No.5 and learned AGP submitted that in case of the petitioner, the petitioner left the facilitation center without complying with part formalities and without complying with the requisite and material formality of confirmation of the application form. As such her name could not have been appeared in the merit list.

10. Considering all these aspects we find considerable merit in the submission of learned counsel appearing for respondent No.5 as well as learned AGP. Considering the document placed on record alongwith the affidavit in reply filed for respondent No.5 and more particularly the application forms as an example submitted by the learned AGP, we are of the opinion that a serious mistake is committed by the petitioner herself for which she cannot blame to respondent-authorities.

11. The petition thus being meritless deserves to be dismissed and the same is accordingly disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]