

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3606 OF 2018

Chittiwad Kanishk Shrinivas .. Petitioner
Versus
State of Maharashtra & ors .. Respondents

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Mr.R.K. Mendadkar for the Petitioner a/w Mr.C.K. Bhangoji
for the Petitioner.

Mr.S.B. Kalel, AGP for Respondent-State.

Mr.Rajesh Kanojia i/b RES JURIS for Respondent No.5.

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CORAM: B.R. GAVAI &
SMT.BHARATI H.DANGRE,JJ.

DATED : 10th APRIL 2018

P.C :-

1 The petitioner has approached this Court, praying for a direction to the respondent nos.4 and 5 to allow the petitioner to prosecute his studies with further direction to allow the petitioner to appear for 1st MBBS examination.

2 It is the contention of the petitioner that the petitioner has been admitted to MBBS course against All India Quota in a seat reserved for Scheduled Tribe. The petitioner

submits that petitioner's caste claim is yet to be decided and till the claim of the petitioner is decided, the interim relief as sought, should be granted by this Court.

3 It would be relevant to refer to the order passed by the Division Bench of this Court at Aurangabad in Writ Petition No.8851 of 2017 dated 12th July 2017, whereby the Division Bench has directed the provisional admission to be given to the students without the validity certificates being submitted on the basis of an undertaking that they would on receipt of certificate of validity, forward it to the authorities so as to regularize their admission if obtained on merits. The said order came to be challenged before the Apex Court in Civil Appeal No.11234-48 of 2017. Their Lordships of the Apex Court while modifying the said order, issued certain directions observed thus :

“Before parting with the case, we are obliged to say that the Division Bench of the High Court has been absolutely ill-advised to pass such an interim order. The same is hereby set aside”.

4 Mr.Mendadkar, learned counsel attempts to distinguish the said order of Apex Court on the ground that the aforesaid order of the Aurangabad Bench and the Hon'ble Apex Court pertain to the admission in the State Quota and not the admissions in the All India Quota.

5 Even an obiter of the Apex Quota would bind this Court. When their Lordships have disapproved the practice of this Court in granting an interim order to admit a student, whose claim is yet to be decided on a provisional basis, be in a State against the State Quota, we are of the considered view that those observations will have to be duly respected by this Court and adhered. Merely because admission is being sought against an All India Quota, the observation of the Apex Court that this Court was wrong in directing grant of provisional admissions unless a claim is validated would be equally applicable in the present case.

6 Petition is therefore dismissed.

7 Needless to state that the Committee is directed to decide the claim of the petitioner as expeditiously as possible, and in any case, within a period of six weeks from today. Petitioner to approach before the Committee on 19th April 2018. As such, the requirement of common notice shall stand waived.

(SMT.BHARATI H. DANGRE,J)

(B.R.GAVAI,J)