

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION (ST) NO. 10308 OF 2018

Dr. Agrima Anand Thakur ...Petitioner
Versus
The State Of Maharashtra And Ors. ...Respondents

Mr.G.S. Godbole i/b Mr.P. M. Tilak for the Petitioner.

Mr.S.B. Kalel, AGP for Respondent Nos.1 to 3.

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

DATE : 12th APRIL 2018

P.C.

1] Rule. Rule made returnable forthwith.

2] Heard by consent.

3] The petitioner has approached this Court being aggrieved by the decision of the respondent Nos.2 and 3 thereby declaring that the petitioner is not eligible for admission to NEET-MDS-2018, since, the petitioner was not admitted to the BDS in Army College of Dental Sciences (ACDS), Secunderabad under 15% of the AIPMT quota.

4] The facts of the present case are peculiar. The petitioner is a daughter of an Army personal. The petitioner passed 10th Standard from Uttarakhand and the petitioner passed 12th Standard from the State of Punjab. The petitioner appeared in the AIPMT examination conducted in 2012 and was allotted the Army College of Dental Sciences (ACDS) at Secunderabad.

5] Undisputedly the petitioner's father originally belongs to State of Maharashtra and is domiciled in the State of Maharashtra. He is presently posted at Pune. On successful completion of her BDS course the petitioner applied for admission under the category of All Maharashtra State Candidate. The said application is rejected at a scrutiny level with the following remark.

“ELIGIBLE (YEST/NO & FINAL Category)

REMARKS :FIRST LEVEL SCRUTINY :

Not Eligible Open

AIPMT letter for 15% quota is submitted

REMARKS :SECOND LEVAL SCRUTINY:

BDS Admission to Army College of Dental Sciences, Secunderabad, under “All India Quota for Wards of Army Personel”. This is other than 15% AIPMT Quota. Hence not eligible.”

Thus, the said remarks declares the petitioner as ineligible under State Quota.”

6] Being aggrieved thereby the petitioner has approached this Court.

7] Heard Mr.Godbole, learned counsel for the petitioner and Shri.Kalel, the learned AGP for the Respondent-State.

8] For appreciating the rival contention it would be relevant refer to the Rule 8.4 of the Information Brochure for Registration counseling and performance form, filing and admission process of NEET and MDS 2018. The said brochure describes procedure for selection and admission to Dental post graduate process (MBBS at Maharashtra State Government/Cooperation/Unaided Private/Minority Dental Colleges. The said Rule 8.4 reads as under:-

“8.4 A) All Maharashtra State candidature: who have passed final B.D.S. Examination from the college situated in Maharashtra and completed / completing one year internship training by **31st March, 2018** from a recognized dental college (**Annexure-F**) included under section 10(2) of the Dentists Act, 1948 are eligible. The Dental College should have been affiliated to the Maharashtra University as per University Grant commission Act of 1956 under section 13/A, situated in Maharashtra. The candidate should have obtained registration either from the Dental Council of India or Maharashtra State Dental Council (MSDC). Such a candidate will be eligible to fill registration for NEET-MDS 2018.

Following candidates who have passed BDS from out of State of Maharashtra, will also be eligible provided that, the candidates who are domiciled in the State of Maharashtra and -

a) who have obtained admission under 15% All India Quota for Bachelor of Dental Surgery (BDS) course in the dental colleges situated outside state of Maharashtra and who have obtained degree from University situated outside the State of Maharashtra.

Such candidates should submit certificate from the Dean of respective dental college stating that the candidate was admitted under 15% AIPMT quota for BDS course.”

9] It can thus be seen that under the said rules the candidates who have passed from the college situated in Maharashtra and have completed or will be completing one year internship training by 31st March 2018 from recognized Dental college are held to be eligible. However, a proviso thereto would reveal that certain additional categories are permitted to compete against the said seats. Category A would relate to the candidates who have obtained admission under 15% All India quota for Bachelor of Dental Surgery (BDS Course) in the dental colleges situated outside State of Maharashtra and who have obtained

degree from university situated outside of State of Maharashtra. The only requirement is that such candidate should submit certificate from the Dean of respective dental college stating that the candidate was admitted under 15% AIPMT quota.

10] It could thus be seen that the entire issue would depend upon the question as to whether the petitioner's admission for BDS is under the 15% AIPMT quota or not. It would be relevant to refer to the communication dated 28th March 2018 addressed by the Director of Colleges of Army Welfare Education Society to the State of Maharashtra. The perusal of the said communication would clearly reveal that the admission of the petitioner is on the basis of marks secured by her in the AIMPT examination. However, the only distinguishable feature appears to be that, since this is the only Army College of Dental Sciences in the country, 85% seats are reserved for wards of army Personnels and balance 15% are reserved for wards of State of Telangana. It could thus be clearly seen that the admission of the petitioner is on her successful completion of AIPMT examination. It is not as if that the petitioner was admitted in management quota or so.

11] Insofar as the reliance placed by the learned AGP on the

order passed by the Division Bench of this Court in WP No.3374 of 2018 dated 04th April 2018 is concerned, in the said case the candidate seeking the admission was admitted against a management quota and not through the AIPMT. The other factor that weighed to the Court was also with regard to the conduct of the petitioner therein. In the present case, as already discussed herein above the perusal of the communication dated March 2018 addressed by the Director Colleges of the State of Maharashtra clearly reveals, that the admission of the petitioner was on the basis of her ranking in the AIPMT quota.

12] No doubt that the rule prescribes that a candidate should submit a certificate from the Dean of respective college that the candidate has been admitted under 15% AIPMT quota for BDS course. However, in view of the communication which we have already reproduced herein above, the said appears to be an empty formality. The counseling for the admission has already commenced. We are of the considered view, that if the petitioner is made to wait further to undergo counseling on account of non-submission of the certificate, she may unnecessary lose her career.

13] In that view of the matter, we direct the respondents to

consider the claim of the petitioner from the category under Clause 8.4, without insisting upon the certificate as required under the said rule. This shall be however subject to the condition that the petitioner submitting a certificate within a period of one week to the effect that the admission of the petitioner to B.D.S. Course was on the basis of her clearing AIPMT examination.

(SMT.BHARATI H. DANGRE, J.)

(B.R. GAVAI, J.)