

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

**CIVIL APPLICATION NO.3091 OF 2019
IN WP/8435/2017**

**MAYUR ANAND MHOLE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

Mr.Umakant U. Wagh, Advocate for the applicants.
Mr.A.R.Kale, AGP for respondent/State.
Mr.A.P.Deshmukh, Advocate for respondent No.5.

**CORAM : PRASANNA B.VARALE &
S.M.GAVHANE, JJ.
DATED : 22.02.2019**

P.C. :-

1. Heard learned Counsel appearing for applicants. Learned AGP for respondent Nos.1 to 4 and Mr.Umakant Wagh, learned Counsel appears for respondent No.5 - Institute. The applicants/petitioners are students prosecuting their studies in MBBS course. The applicants completed their course as well as internship. The applicants/petitioners in the petition challenge the notice dated 07.02.2017 issued by respondent No.5, whereby respondent No.5 is claiming fees from the applicants. While issuing notice dated 18.07.2017, the Division Bench of this Court by way of interim order directed the respondents not to take coercive action against the applicants/petitioners.

2. Learned Counsel invited our attention to time-table placed on record at Exh."A" to submit that the applicants are completing their course and are desirous of seeking admission for the further course of education/post graduation. Learned Counsel also placed on record today a document under caption "Notice No.2" dated 20.02.2019. Same is taken on record and marked "X" for identification. Perusal of the document further shows that the document bears other caption and same reads "Online Registration and Submission of information by the candidates for Preparation of Provisional Merit List for State Quota Seats". Needless to state that the notice also refers to post graduate, medical and dental admission/registration. As per this document Notice No.2 - online registration starts from 25.02.2019.

3. Learned Counsel for the applicants invited our attention to the statements made in the application, more particularly paragraph 4,5 and 6. It is submitted by the learned Counsel that if the necessary documents, namely, original documents, internship completion certificate are not made available to the applicants/petitioners, the applicants would be deprived of taking their claim for the post graduate course and such loss in academic career of the applicants/petitioners would be irreparable.

4. Learned Counsel also submitted that the applicants are willing to submit undertaking to this Court that if at all the petition goes against the applicants/petitioners, they would pay entire fees to the college. In our opinion, this willingness expressed by the applicants/petitioners takes care of the interest of respondent No.5 - institute and in a way this undertaking also balances equities of the parties. Learned Counsel was also justified in submitting before us that any failure to receive the necessary documents from respondent No.5, the applicants/petitioners would be deprived of an opportunity of taking their claim for post graduate course and such loss would be certainly an irreparable loss.

5. Considering these aspects, we are inclined to allow the application subject to applicants/petitioners submitting undertaking in this Court within one week that if at all the petition goes against them, the applicants would pay fees of entire course to the college i.e. respondent No.5 and their admission to the post graduate course is subject to final outcome of the petition, on submitting undertaking within stipulated period i.e. one week. The applicants/petitioners to approach respondent Nos.3,4 and 5 providing them copy of undertaking

submitted to this Court. On receipt of copy of undertaking, respondent No.5 to immediately handover the necessary documents, such as original documents, internship completion certificate and other necessary documents to the applicants/petitioners.

6. With the above directions the Civil Application is disposed of.

[S.M.GAVHANE, J.]

[PRASANNA B.VARALE, J.]